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Decarceration Nation? Penal Downsizing and the Human Security Framework

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Abstract: *A federal judicial panel has recently ordered the state of California to reduce its landmark prison population by 40,000 inmates over two years, from 170,000 to around 130,000. Besides addressing worrisome fiscal problems, just how California and other states deal with penal downsizing is important, both for the present needs of public safety and for future justice planning. This paper addresses what appears to be the next phase in our national experiment in mass incarceration: penal downsizing. I argue for the adoption of a restorative "human security" policy orientation. The human security framework was developed by the United Nations and has been described as "freedom from want and freedom from fear." Attending to the human security needs of individuals, families, and communities, can reorient justice systems away from largely discredited punitive justice models and provide direction for the difficult public policy choices that lay ahead.*

INTRODUCTION

Recently, a federal judicial panel ordered the state of California to reduce its prison population by 40,000 inmates over two years, from 170,000 to around 130,000. This unusual court imposition has now survived an appeal to the U.S. Supreme Court (Savage and McGreevy 2011). The reduction, sizable as it is, still would leave the system "overcrowded," in that the remaining population would put the prison system at 130% of design capacity, some 30,000 inmates over its intended incarcerated caseload. Besides addressing worrisome fiscal problems,[1] just how California and other states deal with penal downsizing is important, both for the present needs of public safety and for future justice planning. Especially at stake is the stability of poor, minority neighborhoods faced with disproportionately bearing the burden of dealing with an erratic justice apparatus (Clear 2007).

This paper is offered in the spirit of contributing to what appears to be the next phase in our national experiment in mass incarceration, penal downsizing. I argue below for the adoption of a "human security" policy orientation (Sen 1999). The human security framework, perhaps idealistically described as "freedom from want and freedom from fear," (Ogata 2002) can reorient justice systems away from largely discredited punitive justice models and provide direction for the difficult public policy choices that lay ahead. An initiative to emphasize human security might not be as radical as it first appears, since such characteristics are already implied in the recent move in corrections toward prioritizing prisoner reentry (Travis 2005; Petersilia 2003), and in specialized courts, such as homeless and drug courts (Berman and Feinblatt 2005). What remains in order to move this agenda forward is to build the conceptual linkages between the harms of punitive justice, the insights achieved through reconceptualizing reentry, and the holistic, preventative character of human security.

This is important work. Nationally, the emerging penal downsizing will serve as a multi-layered experiment

that will inform future debates on sentencing, incarceration practices, alternative sanctions, and reentry (Austin, et. al. 2007).

MASS INCARCERATION, THE NEW PENOLOGY, AND THE DEATH OF THE SOCIAL

> The case of North Lawndale, one of the most desolate zones of Chicago's West Side, gives a measure of the depth of penal penetration in the hyperghetto. In 1999 the police recorded 17,059 arrests in this bleak all-black neighborhood for a population of barely 25,800 adults; one third of these arrests were for narcotics offenses, with simple possession comprising three cases in four; of the 2,979 local residents remanded to the Illinois Department of Corrections that year, 1,909 were convicted of drug violations and another 596 of theft, these two infractions accounting for 85% of all entries in state prison from the area. The result of this relentless police and penal purge is that the number of North Lawndale men serving time in state prison (9,893) nearly equaled the male population over age 18 left in the neighborhood (10,585). (Waquant 2006:84)

From 1970 to 1988, the prison population in the U.S. tripled (Bureau of Justice Statistics 1989). In the next twelve years it tripled again, threatening to fill prisons faster than states could build them (Lynch 2000). The incarceration business is said to employ 747,000 people and involve over $37 billion in expenditures (Jacobson 2005:67-70).

Advocates for the rights of racial minorities have been especially alarmed by mass incarceration, since many argue that prison overcrowding and racial segregation have worsened prevailing conditions in prisons and in minority neighborhoods (Miller 1996). The life chances of African-American and Latino males are already diminished by their frequent interaction with the criminal justice system (Western 2006). Across the country racialized minorities continue to be over-represented in succeeding cohorts of penal detainees (Mauer 2006). Some critics of the expanding prison-industrial complex make the claim that mass incarceration is far from anomalous, but merely the latest punitive twist in the continuing legacy of America's hot and cold running fascination with race-based social engineering (Alexander 2010; Clear 2007; Wacquant 2009; Gordon1999).

Largely setting racial characteristics aside, Feeley and Simon (1992) examined the rising use of forward-looking actuarial calculations in the justice system and concluded that it marked a clear departure from established ways of doing justice. They called the current epoch of cost-centered, risk avoidance criminal justice administration,

"the new penology." Along with other writers known as "risk theorists" (Rigakos 1999), Feeley and Simon maintain that throughout the criminal justice system officials are in the business of managing dangerous groups. The penal complex's long-standing focus on the treatment of individual criminals is now peripheral. No longer are the aims of imprisonment to change the offender, either through punishing deterrence or by rehabilitation. Now prisons serve to segregate large numbers of selected criminals and thereby "rearrange the distribution of offenders in society" (Feeley and Simon 1992:458). Markedly, the groups targeted consist predominantly of blacks and Latinos (Bosworth 2010; Morin 2009).

What Nikolas Rose (1996) has called "the death of the social" offers an explanation for what is often called "punitiveness" in contemporary discourse on penality. In the 1960s and 1970s it was popular to lay much of the blame for crime on social factors such as racism, inequality, poverty, and dysfunctional upbringing. With such a perspective it made sense that society should try to cure crime collectively by ameliorating or eliminating causal social pathologies through the application of broad-based policy measures. Social programs aimed at the "underclass" sought to bring people up and out of impoverishing, debilitating "criminogenic" conditions, situational factors that were widely seen as unintended consequences of building a modern society. The perceived failure of social welfare programs in the 1980s and 1990s has relieved the populous of the obligation to purge the social of its detrimental aspects.[2]

Now that the social is deemed no longer useful as an intellectual construct, programs put forward to deal with "its" harms have lost their appeal. A pragmatic mentality has taken hold. It asks, "What can we do now to improve standardized measures of well-being?" Pragmatism-as-policy aims to manage that which troubles public spaces. The methods that are advocated to do so target "factors" that are seen as most amenable to immediate manipulation and control: persons and places. Places are made more crime proof as potential crime targets are "hardened," extra police are commissioned as guardians, and persons thought to represent the face of criminal potential are neutralized or incapacitated. In this way the progenitors of crime are dealt with on a "situation prevention" basis, effectively barring the formation of criminal opportunities.

Factors, such as the increased length of prison sentences and time served are, therefore, not expressly "punitive," but a focused attempt to suppress crime. Long-term incapacitation is a surgical strike directed against perpetrators as the prime movers of criminal activity. Imprisonment is not meant to be punishing, but debilitating, and it forms an integral part of a larger strategy that targets all three of the major ingredients in an ecological accounting of crime. The mass incarceration of criminal offenders identified by their conduct and constituted by "high risk" portfolios appears to be

depersonalized and involve homogeneous treatment, but it is based on notions of individual merit and responsibility. "Personal responsibility" as the keystone of a legal/moral system, in fact, is individualizing in the extreme. Mitigating factors, social or otherwise, are excised from explanations for actions: individuals are simply held accountable for their actions. As a legal philosophy, personal responsibility implies that punishing offenders is acceptable because their offenses are theirs alone. But this is not the only possible reading. A more parsimonious interpretation that includes elements of social justice might suggest that personal responsibility as a dictum relieves the collective of any responsibility for the lives of those who engage in criminal conduct.

Indeed, the presence of a "new penology" as constituted by Feeley and Simon (1992) can be interpreted far differently. Instead of seeing punitive incapacitation of the dangerous classes as indicative of a systematic imperative to manage risk, a totalizing agenda as grand, impersonal, and mischievous as any other Twentieth Century-ism, wholesale imprisonment can be positioned as a return to the basics of governance: upholding values and maintaining order. The massive expansion of state penality arguably follows the realization that those who choose crime, whatever the cause, must be dealt with. As much as our prisons are filling disproportionately with minority males and the poor, we must confess that those of us buoyed by a robust economy, occupied with marvelously varied and enticing consumer products, and otherwise enmeshed in contemporary living, have little inclination toward dealing with the underlying social or personal pathologies that lead some to crime. We want designated others to deal with "them," to act decisively, and in accordance with the now-prevalent American political conservatism, to "dispose of the new dangerous class" (Irwin 2005: 207). Just as the imperatives of a hyped-up capitalist culture urge us to shut away our elderly, tranquilize our children, and flat-out leave our troublesome spouses, few feel any obligation to serve or sacrifice for the sake of others, especially feared others. It is less painful and perhaps less costly to simply lock them up or out. In practice, policies of exclusion might ruffle or otherwise arouse a few sensitive cases of conscience, but the answer for that is out of sight, out of mind.

The scientific and quite intentional partitioning of the population into criminal and noncriminal classes calls for the incarceration of the former. And the criminogenic nature of prison, combined with the increasing lengths of sentences, exposes the poor and otherwise unsuccessful to an increased and redistributed scope of criminality in a most socially regressive way. But this reality is surely a consequence of non-policy, not its design. Something, after all, must be done with those who steal pizza, rob handbags, and traffic in illegal items. But the reflexive penality described by the new penology, race-based or not, is a retrenchment, an avoidance of trial and error schemes,

social complexity, and failed solutions. It is a negation of the notion of social justice, of progress, and a blow to the power of ideas. Technocratic, institution-driven managerialism is a denial of the human capacity to qualitatively improve. It is a turning inward and away from the political.

WHAT DO WE WANT A JUSTICE SYSTEM TO DO?

> Few sets of institutional arrangements created in the West since the Industrial Revolution have been as large a failure as the criminal justice system. In theory it administers just, proportionate corrections that deter. In practice, it fails to correct or deter, just as often making things worse as better. It is a criminal injustice system, that systematically turns a blind eye to crimes of the powerful, while imprisonment remains the best funded labour market program for the unemployed and indigenous peoples. (Braithwaite 1996).

The task of a criminal justice system is, essentially, to protect human beings and their belongings. A complaint often levied against the criminal justice system in the United States is that its pursuit of this mission is selective. The title of one enduring criminology text sums up this view: "*The Rich Get Richer and the Poor Get Prison*" (Reiman 1997. See also, Mauer 2006; Currie 1998). As Braithwaite suggests in the above quote, some persons are much more vulnerable to harm and to loss than others. These same less protected people and the places they frequent are also much more likely to bear the weight of justice system activity, and the sting of criminal justice sanctions (Clear 2007). They absorb much of the harm brought about by justice processes even as they receive few of the benefits (Mauer and Chesney-Lind 2003).

Some critics speculate that this is intentional, that the security of some is earned at the expense of others (see Gilmore 2007). These critics strongly suggest that we put our energies into tearing down the façade of justice through piercing critique and interdisciplinary critical analysis capable of exposing the true nature of this vicious cycle. Others, such as the proponents of the popular "Broken Windows" theory of crime fighting, propose that we focus our attention on extending to all, the relative security enjoyed by some (Kelling 1998). This second set of voices, often positioned as nonpartisan, appear in the public realm as "moderate." They claim that playing "the blame game" leads nowhere, serves to harden divisions, and actually, perhaps inadvertently, maintains the status quo (Weisburd et al. 2004; Bratton 1998). This stance, recently heard on the political campaign trail, seems in ascendance today.

I seek to honor both orientations, the critical and the mainstream, even as I press for the reinvention of justice in

the United States. My stance is animated by two inclinations. One is to acknowledge and address the harms visited upon so many by the lack of physical security in the U.S. Absurdly, this high level of dangerousness has not come from a dearth of criminal justice system activity, but from its opposite. Justice agencies have been particularly active in relatively poor minority communities. It is these communities that have experienced most directly the pains of criminal justice processes.

The harms have been documented by many (see Wacquant 2009; Clear 2007; Bernstein 2007; Mauer and Chesney-Lind 2003; Davis 1992) and point to a racialized state of affairs that is as ironic as it is unsupportable.

My second inclination is toward the aspirations to unity so eloquently spoken of by the current U.S. President, and, for that matter, by his predecessor. The spirit of the day seems to suggest that if we are to achieve the promises of America we must come together in our efforts toward sound public policy, accentuate our commonalities, and ease off our differences.

What can criminal justice contribute to a reduction of harm and a quest for unity in public affairs? How can the justice system come to be aligned, indisputably, with broader societal goals like equality, proportionality, and fairness? Can the criminal justice system reasonably be expected to make a meaningful and lasting contribution to change?

Recent scholarship by Wacquant (2009; 2002) is especially pessimistic in this regard as it traces the oddly macabre progression of America's most "peculiar institution." From slavery, to Jim Crow, to the hyperghetto and mass incarceration, this analysis strongly suggests that race-based, and even class-based, bias within the law is simply too profoundly embedded to change. Race-based "reforms" enacted by the U.S. political system have been profound, and in their day "game changers." They have brought about the end of slavery, the demise of Jim Crow, and the enactment of the Civil Rights Act.[3] Presently, we may be seeing the beginnings of a legislative movement away from mass incarceration. Still, a pattern of reform, compromise, and accommodation leaves much to be desired. The abolition of slavery, as remarkable as it was, did leave Jim Crow, whose final throes with the passage of the Civil Rights Act were accompanied by the rise of the prison-industrial complex. What might the end of mass imprisonment bring? I do not know, but America's history in such things, especially, when seen from below, is not one to inspire much hope (Zinn 2003).

REDUCING THE SOCIAL-ECOLOGICAL FOOTPRINT OF PENALITY

Today we easily accept the notion of a criminal justice system working on our behalf to prosecute and punish criminals, but the concept is a relatively young one.

Malcolm Feeley (1979) informs us that the "criminal justice system" concept was a byproduct of a generalized "systems thinking" spread throughout the government by its widespread use in planning and promulgating the war in Vietnam. The military-industrial complex is characterized by a "systems analysis" approach noted by Eisenhower as a threat to be contained, because of its tendency to spiral out of control. A smaller but equally daunting and insidious prison-industrial complex has risen and threatens to reproduce the same inexorable logic. Still, the existence of a complex or network of organizations with converging and complementary interests does not a system make. The myth of an integrated and effective criminal justice system has cost us much, and nowhere more than in our conception of prisons.

The attempt to join prisons to the law enforcement function has distorted their usefulness and influenced us to assign them roles in a crime control project that they cannot perform. Then, when prisons fail to excel in these roles, we are disappointed and tend to react in drastic ways. Everyone involved pays for our anger and disappointment, as it periodically appears in the form of chaotic "prison reform."

An important question that we might ask ourselves is whether or not prison reform ought to mean reducing the harm caused by the operation of penal institutions or whether we might actually rekindle the hope of our (perhaps) more inspired predecessors, and actually attempt to extract unmitigated good from the operation of our "systems" of correction.

Perhaps it is time to admit that mass incarceration is not a response to crime at all, or at least not the general category of crime. The general category would include white-collar crime, the type of criminality engaged in disproportionately by executives such as those at Enron, Tyco, the White House, or Wall Street, few of whom are ever pursued, brought to trial, or incarcerated.

Mass incarceration is targeted not at crime, violence, or victimizations, or costs to society, for that matter, but at those deemed "street" criminals. With this clarification in mind I suspect that within the term "street crime" the more important variable for reform is "street" not "crime." When the focus is on "crime," as it usually is, we soon concentrate on "offenders" and "victims," objects of theft, substances of abuse, and so on. This approach has brought us to the present crisis. Focusing on "streets" however, might draw our attention to the neighborhoods and communities that serve as unwitting hosts to crime, its precursors and collateral events.

We know that not all streets give rise equally to crime. Street crime is mostly concentrated in poor communities. Those same streets are scenes of myriad social problems besides crime. Further, it is my contention that attending to these other known and preventable social problems will bring many more benefits and far fewer harms than do today's conventional street crime fighting strategies, where

what is fought is both crime and the streets, a battle that is fought, it seems, at cross purposes.

How can we fight crime without battling the streets? There is no answer to this paradox within the traditional crime-fighting paradigm. If we are to lower incidences of street crime without disabling neighborhoods we must build neighborhoods that support lawful behavior and discourage criminality.

THE GLOBAL TURN TOWARD "SECURITY"

The field of security studies remains largely neglected by criminal justice scholars,[4] probably because security studies traditionally focus on national-level threats emanating from outside the nation-state, while criminal justice is tasked with public order maintenance within far narrower territorial boundaries. This dichotomy is changing, especially with the formation of the U.S. Department of Homeland Security and its enormous funding mechanisms and emphasis on interagency collaboration.

But thus far, the meeting places for criminal justice and security studies have been around topics such as offender profiling (e.g. Who is a terrorist? A criminal?) and defensible space (e.g. How to harden borders and other "high-value" targets?). I believe that the conceptual space holding the greatest potential impact remains largely unexplored, however, and that is the area known as "human security."

Human Security

Human security comes to us from the fields of foreign affairs and international development, where it was developed to provide some meaningful carrots to accompany, and perhaps ultimately replace, the world's military sticks (Etzioni 2007; 2004). Definitions of human security revolve around "safety from chronic threats such as hunger, disease and repression," and "protection from sudden and hurtful disruptions in the patterns of daily life – whether in jobs, in homes, or in communities" (United Nations 1994). The inquiry into human security came into sharper focus with the emergence of the United Nations Millennium Development Goals (United Nations 2005) program and its mission of ending extreme poverty. This emphasis became a global mandate to reduce the vulnerability of the most disadvantaged to calamity, natural disasters, violence, and radicalism. Indicators of disadvantage, of course, have long been of high interest to students of criminal justice.

Interestingly, the human security philosophy was exemplified by the words of former President George W. Bush when, after launching the War on Terror, he traveled to Malaysia and Indonesia to tell their leaders that they

must attend to the social and economic needs of their people if they were to undercut the appeal of so-called radical Islamic schools, madrasas, and other supposed pipelines for terrorists (Perlez 2003). This acknowledgement that vulnerable people and places can be made less dangerous by lifting their quality of life, later came to define the U.S. approach in Iraq (at least its public face), led by General David Petraeus (see Petraeus 1987; Sennott 2007).

Observers of criminal justice here in the U.S., appalled by years of reductions in the number and variety of crime-fighting carrots and the proliferation of increasingly militaristic sticks, began to wonder why, what was good enough to fight the allure of gangs in Baghdad, Jakarta, and Kuala Lumpur, could not get a tryout in Queens, Detroit, or South-Central?

The United Nations (1994) Human Development Report offers a definition of human security. The Report's authors argue that the scope of security concerns should be expanded to include threats in seven areas. As I summarize these areas in turn, I invite you to think about the places and people in the U.S. most involved with the criminal justice system, and to consider whether these threat areas are relevant to their lives and life chances:

- *Economic security* — Economic security requires an assured basic income for individuals, usually from productive and remunerative work or, as a last resort, from a publicly financed safety net. In this sense, only about a quarter of the world's people are presently economically secure. While the economic security problem may be more serious in developing countries, concern also arises in developed countries as well. Unemployment problems constitute an important factor underlying political tensions and ethnic violence.

- *Food security* — Food security requires that all people at all times have both physical and economic access to basic food. According to the United Nations, the overall availability of food is not a problem: rather, the problem often is the poor distribution of food and a lack of purchasing power. According to the UN, the key is to tackle the problems relating to access to assets, work and assured income.

- *Health security* — Health security aims to guarantee a minimum protection from diseases and unhealthy lifestyles. In developing countries, the major causes of death are infectious and parasitic diseases, which kill 17 million people annually. In industrialized countries, the major killers are diseases of the circulatory system, killing 5.5 million every year. According to the

United Nations, in both developing and industrial countries, threats to health security are usually greater for poor people in rural areas, particularly children. This is mainly due to malnutrition and insufficient supply of medicine, clean water, or other necessities for healthcare.

- *Environmental security* — Environmental security aims to protect people from the short- and long-term ravages of nature, man-made threats in nature, and deterioration of the natural environment. In developing countries, lack of access to clean water resources is one of the greatest environmental threats. In industrial countries, one of the major threats is air pollution. Global climate change, caused by the emission of greenhouse gases, is another environmental security issue.

- *Personal security* — Personal security aims to protect people from physical violence, whether from the state or external states, from violent individuals and sub-state actors, from domestic abuse, or from predatory adults. For many people, the greatest source of anxiety is crime, particularly violent crime.

- *Community security* — Community security aims to protect people from the loss of traditional relationships and values and from sectarian and ethnic violence. Traditional communities, particularly minority ethnic groups are often threatened. About half of the world's states have experienced some inter-ethnic strife. The United Nations declared 1993 the Year of Indigenous People to highlight the continuing vulnerability of the 300 million aboriginal people in 70 countries as they face a widening spiral of violence.

- *Political security* — Political security is concerned with whether people live in a society that honors their basic human rights. According to a survey conducted by Amnesty International, political repression, systematic torture, ill treatment or disappearance was still practiced in 110 countries. Human rights violations are most frequent during periods of political unrest. Along with repressing individuals and groups, governments may try to exercise control over ideas and information.

As a policy paradigm, then, human security is something we have prescribed for others. And, when one thinks of Roosevelt's New Deal[5] and Johnson's Great Society, echoes sound of the same prescriptions. What of the Obama era? Might a heightened concern for the security of individual human beings and the communities they live in rise again to the fore?

Lest you think this approach is radical and unrealistic, please bear in mind that over the past generation or two justice makeovers have been plentiful. On the one hand, we have as an example the case of mass incarceration and its unprecedented, epoch-making growth. On the other hand—and there is another hand—we should not lose sight of the fact that many police agencies have renamed themselves public safety organizations, along the way altering their guiding philosophies (e.g. community policing, problem-oriented policing) and color schemes (in terms of vehicle and personnel adornment, as well as sworn officers' ethnic backgrounds); many courts have discarded robes and elevated benches and relocated themselves into their communities; and most of our prison systems have sought to reorient themselves as correctional agencies (see Clear and Cole 2005; Pranis, Stuart and Wedge 2003). And even though these makeovers remain incompletely realized, and can be a source of cynicism (Mobley 2005), I suggest that such efforts give evidence to a collective progressive desire.

In discussing the future, it is especially important to remember the past. Today, in poor minority communities in the U.S. it is not uncommon to hear residents speak of criminal justice as genocide (Alexander 2010). And whether or not you agree with this characterization, it is impossible to deny the devastating effects in these places of crime and society's response to crime. I think it is essential to acknowledge the harms and pains of people hurt by justice. Looking forward with hopeful empowerment is impossible without a deep recognition of the past and its casualties and survivors.

REENTRY AS LEVER FOR CHANGE

Prisoner reentry into society emerged several years ago as a field open to varied interpretations. Many were (and remain) skeptical of its potential for meaningful innovation and feel its introduction akin to "rearranging deck chairs on the Titanic." Focusing on successful reentry can bring us to a fuller understanding of the causes and conditions of criminality, recidivism, and all of the collateral consequences of incarceration. This focus on societal context rather than particular crimes or criminal offenders takes the onus for success away from the relative few, the returning prisoners, their families, and neighborhoods, and places it at the door of the many—those of us in society at-large who put them away, carry on with our lives, and then receive them. How we structure their trials, sanctioning, actual reentry, and the terms of their post-release lives, has profound potential for change, and could well bring about a restructuring of the entire criminal justice endeavor.

The current great interest in prisoner reentry suggests a way forward. Reentry emphasizes and acknowledges the

vast public safety implications of corrections by admitting that anyone—guilty, innocent, addicted, or indifferent—set loose in society without essential provisions presents an elevated risk to health, safety, and well being. Government, the legal custodian of prisoners, bears responsibility for the fate of such persons since government facilities are the institutions from which prisoners are severed. Withholding adequate severance packages and expecting sustainable, lawful living is as counterfactual as it is unconscionable.

If we are to explore a new justice paradigm through prioritizing reentry and resettlement of former prisoners, our questions would then concern the contents of the severance package, and whether it ought to contain literacy, physical and mental wellness, housing, and reasons to believe in the possibility of a positive, productive future. Such an inquiry might be guided by notions of human security.

If a prisoner were to leave confinement functionally literate, healthy, with a safe and comfortable place to go, and with a justifiably positive attitude on life, when would their preparation begin? Would anything be gained by delaying it past initial introduction into the prison system? And, if the prison system itself was held to be criminogenic, then might the imprisonment experience itself be best deferred?

And what of prisoners' reception back into the community? Currently, as a society, we think it reasonable to distrust and stigmatize former prisoners, to restrict their employment options and mobility, their civil rights, and to punish their future infractions much more harshly than similar misdeeds committed by non-felons. If we consider the possibility that this rather cool reception undoes much of any good accomplished via prison rehabilitation services, at great expense, might we work to alter the reception? Could such changes involve the recomposition of the reception committee, and their attitudes and behaviors? In other words, if successful resettlement becomes everyone's business, the very logic of incapacitation and punitive incarceration may come to be tested in profound ways. Questions will arise as to the destructive, debilitating nature of justice system processes, of widespread institutional failure, and of racially biased juridic outcomes. Popular participation in the rites of reentry may give rise to a total reexamination of American justice.

Rescuing Reentry

Prisoner reentry provides a ready case study of system reform, particularly since it can be seen as a perhaps noble attempt to change a dysfunctional system from within. (Incidentally, I would suggest that prisoner reentry serves quite well as a metaphor for those of us who have felt politically marginalized if not excluded for much of the

past generation. Now it seems is the time of our reentry. What will we make of this "second chance"?)

Prisoner reentry emerged as a field with potential to serve as a leverage point for change. Many of us troubled by our complicity in the near genocidal era of mass incarceration have invested hope and energy in this burgeoning field. As many scholars have pointed out, if justice systems were to prioritize successful reentry, then the individual welfare of each prisoner would have to be acknowledged and taken into consideration (Petersilia 2003; Travis 2005; Terry 2004). Each stage of the justice process would have to be evaluated in terms of its effects on successful reentry. Such a principled reevaluation process could reduce our outrageous levels of punitiveness, decrease debilitating stigma, improve access to helpful programs and vital treatment, and alter conditions of confinement and parole supervision.

The human beings who constitute what surely must be acknowledged as a "prisoner class" may be experiencing some positive changes and lowered levels of punitiveness due to the prisoner reentry movement. Its focus on individuals and neighborhoods, and its commitment to taking a more holistic look at successful post-release living have provoked new thinking, some pilot projects, and some real changes (U.S. Department of Labor 2009). But this nascent reform project may be short lived.

The incredibly daunting problem that we face today is that reentry planning took place in an era of economic expansion and relative (if selective) prosperity, when state coffers were filling and labor was in demand. Governments were willing to spend a little more on prisoners' well being, and employers were beginning to give them a look. Now, just when reentry plans are being piloted across the country and perhaps are on their way to wider implementation, the condition of the economy has shifted. Prosperity is replaced with fiscal caution, economic expansion with contraction, and an overall sense of security has been replaced by general insecurity.

What will this mean for the 700,000 or so leaving prison each year and returning to hard pressed communities? The pattern of public and private policies reflecting least eligibility suggests that they will be left to their own devices. Government claims of lowered revenue accompany lowered property values and reduced profits accruing to private firms. After paying for the war, the Wall Street bailout, and shoring up the middle class through an economic stimulus package, precious little will be left for the struggling classes.

We should expect no major letdown in the area of public spending on safety and security, however. For generalized fear and insecurity is always looking for scapegoats (Garland 2001). The deep economic recession of 1981 saw members of Congress smashing Japanese-made televisions with sledgehammers right on the Capitol steps. The intervening years have seen the rise of a new "enemy," the criminal. This negative archetype pushed

aside the "foreign devil" just as globalization made the world a much smaller and interconnected place. The criminal, rather than threatening us from the outside, lurks amongst us. As scholars such as Christian Parenti (2000) and Jonathan Simon (2007) note, setting up and promising to knock down the criminal has been a favored political trope since the presidency of Richard Nixon. The present financial calamity combined with anti-immigrant (i.e. Latino) xenophobia and global recession may make the polity once again vulnerable to the allure of claims to a touchstone of purity, a safe space that we can occupy, feel protected within, and know that things will be alright.

The combination of impoverished welfare and heightened insecurity means that, at precisely the time when our seven-hundred thousand former incarcerates will be looking to "go with what they know" to make ends meet, the security state will be most geared up to apprehend them. It doesn't take much in the way of prescience to see that reentry as a corrections initiative may well be replaced by a new round of warehousing. Particularly if the prison-industrial complex has indeed become "too big to fail" in economic terms, the prospects are strong for a reverse engineered reentry, where jobs are saved, the public is protected, and the polity is made pure.

SUSTAINABLE JUSTICE, RESTORATIVE JUSTICE

Although they used the term "community justice" Clear and Karp express many of the challenges and prospects of adopting the human security approach. The move from traditional punitive justice "requires a change in purpose from a narrowly conceived agenda of crime control to a broadly determined mission of enhancing the quality of community life" (Clear and Karp 2000:107). Human security, like community justice, aims to undercut the very likelihood of criminal events through responsiveness "to criminogenic community conditions—the conditions that facilitate criminal events" (Clear and Karp 2000:107).

The present call for human security is for a fundamental rethinking of the purpose and practice of justice. A shift toward holistic security would open up the justice system to include a deeper involvement of victims and other citizens, and it would set its sights upon improving the quality of community life. The isolation of the justice professions would be replaced by more interdependent relationships. Undoubtedly, a concerted pursuit of human security would precipitate changes in almost every aspect of today's justice traditions (Mobley 2011).

The emergent paradigm of restorative justice also resonates with human security. Restorative justice has implications for radical justice reform as it highlights a forthright assessment of the needs of individuals, families, and communities (Braithwaite 2002). Restorative justice has already moved us conceptually away from a hard-and-fast focus on determination of guilt and punishment, and toward reconciliation. Human security entails a holistic approach to public safety and security. It empowers residents to take responsibility for their communities and to make claims upon resources, both public and private, for help in doing so. In short, human security appears a good fit for holistic, community-based reentry strategies.

CONCLUSION

Dee Hock, Founder and CEO of Visa, foresaw the conditions underlying many of today's difficulties. As he says in *Birth of the Chaordic Age:*

> We are living on the knife's edge of one of those rare and momentous turning points in human history. Livable lives for our grandchildren, their children, and their children's children hang in the balance.
>
> The Industrial Age, hierarchical, command-and-control institutions that, over the past four hundred years, have grown to dominate our commercial, political, and social lives are increasingly irrelevant in the face of the exploding diversity and complexity of society worldwide. They are failing, not only in the sense of collapse, but in the more common and pernicious form—organizations increasingly unable to achieve the purpose for which they were created, yet continuing to expand as they devour resources, decimate the earth, and demean humanity. The very nature of these organizations alienates and disheartens the people caught up in them. Behind their endless promises of a peaceful, constructive societal order, which they never deliver, they are increasingly unable to manage even their own affairs while society, commerce, and the biosphere slide increasingly into disarray. We are experiencing a global epidemic of institutional failure that knows no bounds. We must seriously question the concepts underlying the current structures of organization and whether they are suitable to the management of accelerating societal and environmental problems—and, even beyond that, we must seriously consider whether they are the primary cause of those problems. (Hock 1999)

In preparing individuals for better futures, we find ourselves tasked with nothing less than restructuring our bureaucracies and altering our perceptions of justice, self, and other. Are convicted criminals worthy of our concern?

Do their families and communities deserve more than simply serving as dumping grounds for "social junk" and "social dynamite"? Are felons deserving of our investment even when non-felons face cutbacks in social services?

These are some of the core questions we will have to thoughtfully address if we are to take the present justice system reality and flip it from perpetual harm production to actual harm reduction.

The past 200 years have provided much evidence both for the harmful effects of prisons and for their utility to democratic societies. Few today, however, consider them to be much more than necessary evils. Is incarceration a necessary evil? We know that the penitentiary was birthed with great optimism. From Jeremy Bentham onward, adherents of a rehabilitative philosophy advocated for the prison and championed its redeeming potential. Indeed, the prison was designed to lead its inhabitants to salvation. Far from saving souls, however, the prison has become a mechanism of social insecurity. As the era of mass incarceration begins its decline, a key question will be: How can we reclaim our mandate to achieve justice equitably?

Globally, examples of justice reformation have included, as integral elements, public hearings known as truth and reconciliation processes, where expressions of trauma and victimization have been offered both as cathartic recrimination and as necessary to reconciliation (Graybill 2002; Magarrell, Wesley and Finca 2008). Criminologists have recently come to categorize the work of truth and reconciliation commissions as valuable tools of transitional justice, a scheme most commonly applied to nation-states seeking to recover from political revolution and civil war. It is in this spirit that I offer the suggestion that our justice reinvention efforts follow the lead of peoples in more extreme circumstances and that we apply their hard-earned lessons and valued principles to our pressing, even if less severe, justice-related problems.

Acknowledgements

Endnotes

[1] California, like many states, is in the midst of fiscal crisis. According to the Legislative Analyst's Office, as of February, 2011 the budget deficit estimate stands at twenty-six billion dollars. The prison budget accounts for ten billion dollars of state spending (LAO 2011).

[2] Irwin (2005) and others have noted the fallacy of claims regarding the failure of poverty reduction programs and the efficacy of incarceration in reducing crime rates.

[3] Yet some argue that in recent years it has become evident that both slavery and Jim Crow have returned with new names, but with similar results and the gains of the Civil Rights Movement have been slowly rescinded. (See Alexander 2010).

[4] With some notable exceptions, such as the scholars associated with the Australian Research Council Centre of Excellence in Policing and Security.
See http://www.ceps.edu.au.

[5] In fact, the Human Security slogan, "freedom from want, freedom from fear," is drawn from FDR's famous "Four Freedoms" speech, best known for the phrase, "We have nothing to fear but fear itself."

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