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The World's Warden

Crime, Punishment, and Politics in the United States

Marie Gottschalk

THROUGHOUT American history, politicians and public officials have exploited public anxieties about crime and disorder for political gain. The difference today is that these political strategies and public anxieties have come together in the perfect storm. They have radically transformed U.S. penal policies, spurring an unprecedented prison boom. Since the 1970s, the U.S. prisoner population has increased by more than fivefold. Today, the United States is the world's warden, incarcerating a higher proportion of its people than any other country—or about one out of every hundred adults. A staggering seven million people—or one in every thirty-two adults—are either incarcerated, on parole or probation, or under some other form of state supervision.

These figures understate the enormous and disproportionate impact that this unprecedented social experiment has had on certain groups in U.S. society. If current trends continue, one in three black men and one in six Hispanic men will spend some time in jail or prison during their lives.

Public dismay over the crushing economic burden of incarcerating and monitoring so many people is growing. But does this dismay herald the beginning of the end of the prison boom? The answer is not simple.

Severe budget deficits in the wake of the 2001 recession forced some states to close prisons and lay off guards. Since then, dozens of states have experimented with new sentencing formulas, mostly directed at nonviolent offenders. Fiscally conservative Republicans previously known for being penal hard-liners have championed some of these recent relaxations in penal policy. This has fueled speculation that

law-and-order Republicans, troubled by mounting costs, could reverse the country's prison boom, much as red-baiter Richard Nixon was ideally situated to breach the great political wall with China.

We cannot assume that mounting fiscal pressures will spur communities, states, and the federal government to empty jails and prisons. A little more than three decades ago, reformers hoped that shared disillusionment on the right and the left with indeterminate sentences and prison rehabilitation programs would lead to shrinking the inmate population. Instead, although crime rates have even declined in the last ten years, the prison population has exploded.

Economic Pressures and the Prison Boom

The race to incarcerate began in the 1970s at a time when states and the federal government faced dire financial straits. It persisted despite wide fluctuations in the crime rate, public opinion, and the economy over the next thirty years. As criminologist Norval Morris warned in the early 1980s, fiscal concerns are “an extraordinarily weak reed to rely on” because “states and the federal government are capable of the most extraordinary absorption of increased numbers.”

Recent developments in California and Arizona are sober reminders of that. Several years ago, voters in both states approved modest but pioneering ballot initiatives to divert some drug offenders from prison to treatment. Yet the thirst for more prison beds appears insatiable. Faced with a state of emergency in its severely overcrowded prisons, the California legislature approved an unprecedented \$8 billion prison-building spree last year. California plans to add a whopping 53,000 beds to the state's penal system, which already warehouses 250,000 people—or about one out of every hundred and fifty Californians. Thirty-five years ago, California's entire penal population was only

50,000 or so. This planned expansion is equal to adding a prison system the size of France's—a country with roughly twice as many people. In late 2007, Governor Arnold Schwarzenegger floated the idea of early release of about 20,000 so-called low-risk offenders to help relieve the state's giant budget deficit, but his plan faced stiff opposition and died months later.

"Fiscal conservatism" is Arizona's unofficial state motto. Yet the state spends three times the amount per capita on corrections (after adjusting for inflation) that it did three decades ago. Shortly after taking office in 2003, Democratic governor Janet Napolitano, mentioned as a possible attorney general in an Obama administration, called a special legislative session to deal with the prison bed shortage. On the eve of the session, she indicated that sentencing reform was not on the table and laid out plans to construct thousands of new beds, the very solution she had opposed months earlier, according to Mona Lynch in a forthcoming book on Sunbelt justice in Arizona. Arizona's prison population continued to grow under Napolitano at a much faster clip than the national growth rate for state prison populations.

The recent spurt of sentencing and drug law reforms has not made any real dent in the total number of people incarcerated in the United States, which tops 2.3 million. Although some states have relaxed their drug laws, the penalties remain very stiff. Many states recently toughened up their sanctions for sex crimes, which will likely result in a rapid explosion in the number of incarcerated sexual offenders over the next two decades. An ominous 2007 report commissioned by the Pew Charitable Trusts predicts that the growth rate of the state and federal prison population will accelerate over the next few years unless legislators enact major policy changes.

Public officials and penal authorities are under pressure to do something about escalating corrections budgets, which totaled \$44 billion at the state level last year. Most prison costs are fixed ones that are not easily cut. So public officials make mean-spirited symbolic cuts that do not significantly reduce the incarcerated population—or save much money—but do render life in prison and life after prison leaner and meaner. For example, budget cut-

ters have eliminated some weekend meals for prisoners. They also have targeted so-called nonessential prison services, such as educational, substance abuse, and vocational programs that help reduce recidivism. Between the late 1970s and the mid-1990s, the number of educators employed in state prisons fell slightly, despite a threefold increase in the state prison population.

MAJOR BUDGET savings will only come about by sending fewer people to prison and closing correctional facilities. But here many states run up against powerful interests that profit politically and economically from mass imprisonment. The prison-industrial complex initially was not a central factor in propelling the prison boom in the 1980s and early 1990s. But prison guards' unions, private prison companies, and the suppliers of everything from telephone services to Taser stun guns now make up a "motley group of perversely motivated interests" that has coalesced "to sustain and profit from mass imprisonment," explains Tara Herivel in the new book *Prison Profiteers*.

Reformers can help neutralize these vested interests by alerting the public to the real costs of incarceration. By identifying nearly three dozen "million-dollar blocks" in Brooklyn, where so many residents have been sent to prison that the annual cost of incarcerating them exceeds a million dollars per block, advocates helped build support for penal reform in New York State. Coded maps showing how much Connecticut and Texas spend on prison, probation, and parole for people living in certain urban neighborhoods were powerful visual aids that helped build momentum for major penal reforms in these states. Connecticut, which had one of the fastest growing prison populations, experienced one of the steepest declines. Two horrendous crimes last year in Connecticut may reverse this trend. In their wake, the state has tightened up parole eligibility and considered new get-tough measures, such as three-strikes legislation.

Recent public opinion research indicates that Americans have a much more nuanced view of spending on criminal justice than the popular media or public policy debates suggest.

The public overwhelmingly favors spending more on policing, crime prevention programs for young people, and drug treatment for non-violent offenders. But it strongly opposes additional funding for prisons.

Developments in Texas last fall bear this out. Voters in Harris County, Texas, the death penalty capital of the country, narrowly rejected a bond proposal to build a new \$245 million jail in downtown Houston. Harris voters turned down the measure despite the sheriff's strong support and the absence of any organized opposition to a new jail. In Smith County, Texas, traditionally a hard-line county, a spirited anti-jail coalition helped defeat a local jail bond for the second year in a row. Texas voters did approve a statewide bond measure that included about \$260 million for three new prisons and a new juvenile lockup. But this prison construction plan was slickly packaged as part of a billion-dollar bond measure that included money for state parks and homes for the mentally handicapped.

Penal reformers have underscored which school does not get built, which hospital closes, and which public health program is curtailed because some prison had to be built and maintained. They also are successfully pressing the point that prisons do not necessarily bring economic prosperity to the local communities in which they are built. In a surprising shift, California's correctional guards' union, long seen as the Darth Vader of progressive penal reform, denounced the state's new multibillion dollar prison expansion plan. Union spokesman Ryan Sherman said, "We shouldn't be spending so much locking up more and more people. Other things impact our members, not just in prison but in the community. Better schools. Better roads. A lot of things are important."

Important as economic arguments are against mass imprisonment, opponents of the prison boom need to resist the temptation to reduce this mainly to a question of dollars and cents. Resistance to building prisons doesn't translate automatically to funding for social programs or job development. Historically penal reform movements, like other successful social movements in the United States, have had strong moral and religious overtones. In the early nineteenth century, the Quakers pro-

moted the first penitentiaries by casting them as humane alternatives to whipping posts, branding, and other horrific physical punishments. The movement against capital punishment has had deep roots in religious organizations since its origins in the nineteenth century.

Today, some prominent conservatives associated with the religious right are starting to embrace the cause of prison reform. Their conversion raises some disquieting issues about the separation of church and state in faith-based prison initiatives backed by government dollars. But the right's newfound interest in penal reform should not be dismissed as merely a cynical gesture to promote the broader conservative agenda. Purely dollars-and-cents arguments may not be enough to harness this potentially important constituency to help empty the nation's prisons and jails.

Civil Rights, Human Rights, and Mass Imprisonment

Like slavery, which was not defeated by economic arguments, mass incarceration is fundamentally a moral, social, and political question. Without some broader vision and movement for change, the country's massive penal system, trimmed down a little by a few modest sentencing and drug law reforms, is here to stay.

The idea that the vast and growing racial disparities in U.S. prisons are a cause for alarm has not taken hold with the wider public. Opponents of mass imprisonment need to portray the country's penal system as an unprecedented civil rights issue. Many of today's crime control policies fundamentally impede the economic, political, and social advancement of the most disadvantaged blacks and members of other minority groups in the United States. Prison leaves them less likely to find gainful employment, vote, participate in other civic activities, and maintain ties with their families and communities.

Nevertheless, African Americans have been slow to enlist in the battle against mass imprisonment. Historically, black leaders have had a persistent unease about focusing on criminal justice issues. Some of the same factors that prompted leading African Americans to dis-

tance themselves from the AIDS crisis in its early years may be pushing them to turn a blind eye to the crisis of blacks and mass imprisonment.* Their reluctance to embrace and publicize the plight of the disproportionate number of incarcerated African Americans may be rooted in fears that this will reflect unfavorably on blacks as a whole. Caught up for a time in the unfounded national hysteria over crack, many black legislators and other black leaders initially were enthusiastic recruits when the war on drugs was launched in the mid-1980s. They even supported the enormous sentencing disparity between crack and powder cocaine, which disproportionately affects African Americans, sending more blacks than whites to prison for possession of small amounts of drugs.

But the winds are shifting. Some black leaders and civil rights groups have made ending the crack-powder cocaine disparity a top priority. They also have indicted the war on drugs for decimating poor urban neighborhoods and families. The massive mobilization on behalf of the Jena 6 in Louisiana last year riveted national attention on the enormous injustices of the country's expansive penal system.

Requiring "racial impact statements" for any proposed change in sentencing policy is gaining popularity. Similar to fiscal or environmental impact statements, racial impact statements alert legislators and the public to what, if any, racial or ethnic disparities would result from a change in sentencing legislation. In April, Iowa became the first state to enact such legislation. Connecticut followed in June.

Strategies to reverse the prison boom by highlighting the stark racial and ethnic disparities could provoke an increase in the number of incarcerated people and in those sentenced to death. Penal conservatives could respond with another wave of what James Q. Whitman of Yale Law School calls "leveling down" in penal policy. Instead of lessening the punishments for blacks and other minorities, they may attempt to subject more whites to tougher sen-

tences and invoke the death penalty more often for whites in another expression of brute liberal egalitarianism. Last fall the Ohio Senate did just that, raising the sentences for powder cocaine offenses to make them as harsh as those for crack. On a more positive note, last October the U.S. Sentencing Commission modestly lowered the federal sentencing guidelines for crack offenses. In December, the commission decided to make the new guidelines retroactive, permitting nearly 20,000 inmates sentenced under the old guidelines to request reduced sentences.

Reformers can also cite international human rights laws and norms to challenge the U.S. penal system. Human rights organizations such as Amnesty International and Human Rights Watch and leading penal reform groups such as the Sentencing Project and the American Friends Service Committee have drawn increased national and international attention to how U.S. penal practices are out of line with those of other Western countries. Their reports on capital punishment, supermax prisons, the widespread use of life sentences, abuse of female prisoners, prison rape, and other disturbing conditions are searing indictments of the U.S. penal system.

Public Health and Mass Incarceration

Mass imprisonment is not only a menace to civil and human rights but to public health. Despite record spending, many U.S. prisoners are housed in overcrowded, disease-infested facilities where they are subjected to violent, unhealthy, even deadly, conditions. Many prisoners are released back into the community with infectious diseases that have not been identified or properly treated.

Prisons and jails have become the health providers of last resort for the mentally ill, the poor, and the disadvantaged. The shortcomings of prison health care and the wider impact they have on public health will likely grow in the near future as state and federal budget-cutters continue to target correctional health services. Moreover, the size of the elderly inmate population is poised to explode. For the first time, states and the federal government face the burden of caring for large numbers of geriatric prisoners with expensive

*For a development of these points on the AIDS crisis and African Americans, see Cathy J. Cohen, *The Boundaries of Blackness: AIDS and the Breakdown of Black Politics* (Chicago University Press, 1999).

chronic and debilitating illnesses.

Feminism and Law-and-Order Politics

The prison boom is not only a pressing public health issue but also a major women's issue. Millions of women are the mothers, daughters, wives, partners, and sisters of men entombed in U.S. jails and prisons. Although the overwhelming number of inmates are men, since 1977, the number of women in prison has increased at nearly twice the rate of incarcerated men, according to Silja J.A. Talvi in *Women Behind Bars*, her remarkable account of how incarceration affects imprisoned women and their families.

Mass imprisonment may force feminists and women's groups to reexamine their approaches to issues of law enforcement and the state. The campaigns against domestic violence, rape, and pornography in the 1970s and 1980s made exceptional strides in addressing the problem of violence against women. But by focusing so heavily on criminal justice solutions, feminists and women's groups helped foster a more punitive climate that eased the enactment of a slew of tough sanctions, many of them unrelated to violence against women.

Over the last decade, many feminists, crime experts, academics, and social workers have voiced concerns about mandatory arrest, presumptive arrest, and no-drop policies (in which prosecutors decide whether to pursue a domestic violence case regardless of a victim's preferences), and about tougher sentencing. These legal remedies do not necessarily reduce violence against women and have contributed to greater state control of women, especially poor women. Low-income and minority women who are abused are at greater risk of being arrested for domestic violence under mandatory arrest policies. They also are more likely to have their children taken away because of reports of violence in the home. A 2003 report by the Ms. Foundation for Women denounced this overreliance on the legal system. It also conceded that the criminalization of social problems like domestic violence has contributed to the mass incarceration of poor men and men of color and has destabilized marginalized communities.

African-American and Hispanic women have been establishing important grassroots

and statewide organizations to reverse the prison boom. Mothers Reclaiming Our Children, founded in California in the early 1990s, emphasizes how each prisoner is someone's child. Mothers ROC and other organizations also stress the devastating impact that incarceration is having on the children and communities that offenders leave behind. As Ruth Wilson Gilmore poignantly observes in her new book, *The Golden Gulag*, prisons "wear out places by wearing out people, irrespective of whether they have done time."

Compromise and Capital Punishment

As penal reformers attempt to knit together broader coalitions, they need to be vigilant about striking compromises that leave the penal system slightly leaner and less mean but more entrenched. For example, the recent push by the Innocence Movement to undermine the death penalty by focusing on the plight of the innocent on death row could paradoxically help to fortify the penal system.

By focusing so intently on the injustice of sending innocent people to death, abolitionists have illuminated just how fallible and unfair the criminal justice system is. In this respect, the latest wave of abolitionism may complement efforts to shrink the prison system. But recent legislative reforms, such as mandatory DNA preservation and testing and improved legal representation for capital offenders, could help legitimize the death penalty. As Carol Steiker of Harvard and Jordan Steiker of the University of Texas at Austin suggest, these reforms offer "the appearance of much greater procedural regularity than they actually produce, thus inducing a false or exaggerated belief in the fairness of the entire system of capital punishment." By extension, this could help bolster public confidence in the criminal justice system overall and thus enhance the legitimacy of the vast penal system.

Some abolitionists—not all—have been promoting life in prison without the possibility of parole as an alternative to the death penalty. Here they risk legitimizing a sanction that is at odds with human rights and sentencing norms in other Western countries, where "life" sentences typically mean fifteen or fewer years unless someone poses a major threat to soci-

ety. The number of people serving life sentences in the United States has almost doubled over the past decade, far outpacing the overall growth of the prison population. Today, one in ten prisoners is serving a life sentence, many for noncapital crimes.

Impact on Democratic Institutions

Another promising frontier in the battle against mass incarceration is growing recognition that it degrades our political institutions. The penal system has grown so huge that it has begun to metastasize and imperil some of our cherished democratic institutions, like fair and inclusive elections.

The voting irregularities of the 2000 and 2004 presidential elections drew enormous public attention to the maze of state laws that deny nearly five million people with criminal records the right to vote, sometimes temporarily, sometimes permanently. Felon disenfranchisement is a stark blemish on the promise of universal suffrage. Jeffrey Manza and Christopher Uggen calculate that if Florida had not banned an estimated 800,000 felons from voting in the 2000 election, Al Gore would have handily carried the state and won the White House. In 2007, Maryland, Florida, and Rhode Island adopted potentially far-reaching measures that could restore the voting rights of hundreds of thousands of people who have completed their sentences or are on probation or parole.

Felon disenfranchisement is just one example of how mass incarceration perverts the electoral process. Another concerns the U.S. Census. How to tabulate prisoners is emerging as perhaps the most vexing issue for the U.S. Census Bureau as it prepares for the 2010 census. The Bureau considers prisoners to be residents of the towns and counties where they are incarcerated. But most inmates have no personal or civic ties to these communities and almost always return to their home neighborhoods upon release. The Bureau has raised numerous objections to tabulating prisoners in the next census based on where they lived prior to their arrest.

The way prisoners are currently counted has enormous political consequences. Every state except Maine and Vermont bars imprisoned felons from voting. Yet these disenfran-

chised prisoners are included in the population tallies used to reapportion congressional seats and redistrict state legislatures, city councils, and county-level governing bodies. This practice dilutes the votes of urban areas and of rural areas without prisons.

The evidence of political inequities in redistricting due to how the Census Bureau counts prisoners is "compelling," according to a 2006 report by the National Research Council. A provocative analysis by the Prison Policy Initiative suggests that several Republican Senate seats in New York State would be in jeopardy if prisoners in upstate correctional institutions were counted in their home neighborhoods in New York City.

The current census practice also grossly distorts demographic and socioeconomic data, leading to misleading information in vital areas such as economic growth, migration, and household income. For example, in the 2000 census, fifty-six counties nationwide—or one in fifty—with declining populations were misleadingly reported to be growing, thanks to the inclusion of their captive populations.

Last fall, dozens of elected officials from New York, Illinois, and Texas sent a letter to the director of the Census Bureau requesting that the agency collect the home addresses of all inmates and count those addresses in the next national census. The Bureau's current practice is reminiscent of the ignoble compromise of the Constitutional convention, when the Founders agreed to count each disenfranchised slave as three-fifths of a white person. This decision allowed the slaveholding South to maintain its dominance in national politics for decades.

The vast penal system raises other troubling issues about political participation and citizenship as it helps legitimize the idea of creating a very separate political and legal universe for whole categories of people. These "partial citizens" or "internal exiles," be they felons, ex-felons, legal resident aliens, or undocumented immigrants, are now routinely denied a range of rights and access to state resources. Former felons risk losing not only the right to vote, but are subject to other acts of "civil death" that push them further to the political, social, and economic margins. Many former felons forfeit

their right to serve on a jury, secure public housing, and receive pensions, student loans, and food stamps. Employers routinely discriminate against job applicants with criminal records, especially black applicants, as Devah Pager powerfully shows in her new book, *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration*.

In the case of immigrants, documented and undocumented, a whole new penal apparatus has been quietly under construction for decades. It operates under the auspices of U.S. Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service) but has been largely shielded from public and legal scrutiny. The number of immigrants held in special detention centers and elsewhere has increased more than elevenfold since the early 1970s. During the debate over the immigration bill that imploded last year, an amendment was even proposed that called for the mandatory detention of anyone who overstayed his or her visa. Ironically, because people who cross the border illegally are not technically "criminals," they have fewer legal protections and rights when confined in U.S. jails, prisons, and detention centers than citizens charged with crimes. People held under suspicion of immigration violations are not even entitled to have their injuries, illnesses, or deaths in custody routinely reported to family members in a timely fashion.

"Governing Through Crime"

The criminalization of immigration policy is just one example of how the United States is increasingly "governing through crime." The "technologies, discourses, and metaphors of crime and criminal justice" have been migrating to all kinds of institutions and public policies seemingly far afield from crime fighting. The war on crime has created imbalances in the political system, argues Jonathan Simon of Berkeley in his new book *Governing Through Crime*. The Department of Justice and the office of the attorney general have swollen at the expense of other parts of the federal government. The power of the prosecutor has expanded at the expense of judges, defense attorneys, and other actors in the criminal justice system. The all-powerful, largely unac-

countable prosecutor has become the new model for exercising executive authority in the United States. In word and deed, mayors, governors, and presidents increasingly fashion themselves as "prosecutors-in-chief." They "define their objectives in prosecutorial terms," frame "political issues in the language shaped by public insecurity and outrage about crime," and push for vast expansions of executive power, according to Simon.

The language of criminality permeates schools, homes, and workplaces. Principals, teachers, parents, and employers all gain authority and legitimacy by redefining family, education, or workplace issues as criminal matters. Criminal accusations increasingly govern family life, everything from divorce proceedings to the termination of parental rights, where charges of physical or sexual abuse of children or of substance abuse are more common than before. With the decline of organized labor and collective bargaining and the retreat of the state in regulating the workplace, more employers are using the trumped-up crime issue to establish their dominance on the job, as with widespread screening for drug use.

Decades ago, "racial inequality was the pivot around which the federal government mandated a vast reworking in the way schools were governed at the state and local levels," according to Simon. Now it is crime. The federal Safe Schools Act of 1994 and the copycat legislation it spawned at the state level singled out crime control as the main vehicle for improving public education. In introducing his "No Child Left Behind Act" in 2001, President George W. Bush cast educational failure and crime in the schools as parallel problems. As a result of these and other measures, educational policy has been criminalized. Schools have been "prisonized" with the proliferation of school-based police officers, drug sweeps, uniforms, metal detectors, zero-tolerance rules, and sanctions like detention and expulsion.

"Governing through crime" has transformed the everyday lives of not just the poor and disadvantaged but also the middle class. In *Punishing Schools: Fear and Citizenship in American Public Education*, William Lyons and Julie Drew describe in chilling detail how paramilitary police and menacing, drug-sniffing K-9 units carry

out “lockdowns” and random drug searches at an affluent suburban high school in Ohio. Students, teachers, and communities internalize the “zero-tolerance culture” foisted on them. They have difficulty resisting the “transformation of schools from sites of democratic education to sites of social control and punishment.” This helps explain why spending on corrections as a percentage of Ohio’s state budget more than doubled from 1976 to 2001 while expenditures on education fell perilously.

Political Leadership and Penal Reform

Prisons mark not just the person who serves time, but also his or her family, community, and the broader society. Experts on criminal justice, prison activists, and public officials concerned about mass imprisonment need to figure out how to make jails, prisons, and the lives they mark more visible to the wider society. In the nineteenth century, prisons opened their doors to the public and were a popular destination for gawking domestic and foreign tourists. In the 1960s and 1970s, prisoner memoirs and gripping accounts of life behind bars regularly turned up on best-seller lists. Today, prisons are a mystery to the wider public.

Last October, Senator Jim Webb (D-VA) held a remarkable hearing on mass incarceration in the United States. In his opening statement, Webb noted that “the United States has embarked on one of the largest public policy experiments in our history, yet this experiment remains shockingly absent from public debate.” In June, Webb held a hearing on the economic and social costs of the failed war on drugs. He noted that the number of people imprisoned on drug charges has increased thirteenfold over the past twenty-five years, “yet the flow of drugs remains undiminished.” In his recent book, *A Time to Fight*, Webb argues, “The time has come to stop locking up people for mere possession and use of marijuana.”

Webb’s focus on the perils and inequities of mass incarceration is all the more surprising because he represents a traditionally hard-line red state. Webb has taken a stand against mass incarceration, even at the risk of being called “soft on crime.” At the October hearing, he underscored a basic truth sidelined in most discussions of crime and punishment: the explosion

in the prison population wasn’t driven so much by an increase in crime but by how we chose to respond to crime. Even Bill Clinton, whose administration was a key accomplice in the largest prison buildup in U.S. history, recently conceded, “Most of the people who went to prison should have been let out long ago.”

Politics—not crime patterns—explain why the United States is more punitive than other countries. From the 1960s to the early-to-mid 1990s, crime rates generally increased in the United States and most other industrialized countries (with some fluctuations over this period). But only the United States, the Netherlands, England, and New Zealand experienced sharp increases in their incarceration rates, though the U.S. incarceration rate remains in a league all its own. For more than a decade now, the crime rate has been plunging throughout much of the country, in some cases to levels not seen in decades. Yet the U.S. incarceration rate keeps inching upward. Bruce Western of Harvard calculates that roughly 90 percent of the decline in serious crime in the United States over the 1990s would have occurred even without the prison boom.

Western soberly concludes in his landmark book *Punishment and Inequality in America* that mass imprisonment has erased many of the “gains to African American citizenship hard won by the civil rights movement.” Barack Obama glancingly made some similar points in an address at Howard University last September. But he did not focus on the perils of mass incarceration in the primary contest. Neither did Hillary Clinton.

Since locking up the Democratic nomination, Obama has sought to burnish his law-and-order credentials. In a Father’s Day appearance at a black church in Chicago, he chastised African American fathers for failing their children and thus bequeathing higher rates of crime and violence to their communities. The structural obstacles that make it so much harder to be a good father in some communities than others—poor jobs or no jobs, failing schools and a failing health system, the scarlet letter of a criminal record—got short shrift in his speech. In late June, Obama denounced the Supreme Court’s decision outlawing executions of people who



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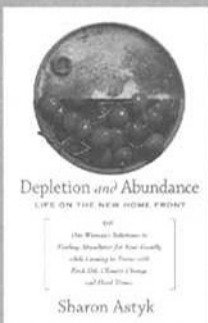


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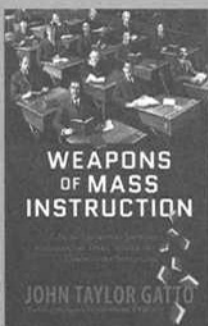


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rape children. He also embraced the Court's endorsement of the right to bear arms as it eviscerated Washington, D.C.'s handgun laws.

As for John McCain, civil rights and criminal justice policy were not among the fifteen issues the Republican presidential nominee highlighted on his Web site in late July. But America's space program did make the top cut.

In rare instances, public officials have been moved by strong personal beliefs to empty their prisons. During his brief tenure as Britain's home secretary early in the twentieth century, Winston Churchill expressed deep skepticism about what could be achieved through incarceration, and he began releasing prisoners.

Political leadership has been critical for major reductions in incarceration in other countries. In Finland, the small group of experts involved in criminal justice in the 1960s and 1970s became convinced that Finland's high incarceration rate was a national disgrace. They provided the critical research to demonstrate that Finland's rate was out of line with other European countries and unrelated to the level of crime. They reached out to politicians, civil servants, and the public by arguing that criminal justice policy had to be seen in a wider societal context. That view was captured by their slogan: "Criminal policy is an inseparable part of social development policy."

If the comparative history of penal policy teaches us anything, it is that political leadership, not expertise alone, has been responsible for major decarcerations in other countries. But politicians have to be pushed.

It is a national disgrace that the U.S. incarceration rate is five to twelve times that of other industrialized countries and the highest in the world. As Churchill once said, "The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country." ●

MARIE GOTTSCHALK is a professor of political science at the University of Pennsylvania and the author of, among other works, *The Prison and the Gallows: The Politics of Mass Incarceration in America* (Cambridge, 2006). This article is adapted and updated from a plenary address to the American Society of Criminology given in November 2007.