

Introduction to “Criminal Justice and Globalization at the New Millennium”

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FOR THE U.S. RULING CLASS AND ITS ASSORTED POLITICIANS, WALL STREET pundits, academic apologists (especially economists and political scientists), and media lackeys (including the editorial pages of *The New York Times*), the new millennium is cause for celebrating the apogee of the American Century. “This is no fluke,” asserts Mortimer B. Zuckerman (1998: 18), chairman and Editor-in-Chief of *U.S. News and World Report*. “The unique American brand of entrepreneurial bottom-up capitalism is made up of structural elements that have wrought the stunning economic success of the 1990s and are likely to provide the basis for extending America’s comparative advantage over...a Second American Century,” he boasts. What Zuckerman is celebrating in “bottom-up” capitalism is the “winner-take-all” mentality, the exaggerated inequality and heightened punitiveness that forms the core of America’s distinctive character. The structural elements central to American hegemony are “free trade” and “unregulated” markets in labor, economic forces that dichotomize the community of nations into extravagant winners and abject losers. Thus, although national self-determination and individual liberty are in the constellation of American hegemonic values, they must be honored more in the breach. Astute observers point out that economic globalization is actually the reestablishment of the late-19th-century Gilded Age enterprise, which was rudely interrupted by a 60-year backlash of isolationism and war-inflicted fragmentation of the international economy.

Today, largely under the aegis of the U.S., *laissez-faire* globalization is hitting its stride again as a powerful economic and political doctrine. The Soviet menace has been vanquished. China has turned away from Communism as an economic doctrine. Third World resistance groups are in disarray and retreat, western European social democracies (with the bold exception of Denmark and The Netherlands) are shrinking their welfare states, and governments in Latin America, the former Soviet bloc countries, and much of Asia are busy deregulating,

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downsizing, privatizing, contracting out, reducing taxes, and cutting social spending. On the cultural front, people throughout the world are emulating the voracious consumerism of Americans. The ascendance of capitalist values and social standards among former peasants, apparatchiks, and state industrial workers is helping to finish off the old social orders in China, Eastern Europe, and Latin America.

The evidence of the social triumph of neoliberalism seems everywhere: a slightly smaller proportion of people live in dire poverty (measured as the number of people living on less than one dollar a day, stable at 1.2 billion people); global per capita income has tripled in the last 35 years; the gross domestic product (GDP) has risen in some long-stagnant regions; life expectancy has increased significantly; under five mortality is lower and adult literacy is increasing; the percentage of nations adopting liberal democracy doubled in the last 20 years, and the number of organizations concerned with human rights has expanded. Communication costs have plummeted, and the Internet promises to put people in the far reaches of the world in instant intercommunication (providing they have electricity).

Yet globalization has been Janus-faced. Consider the less publicized ugly side of neoliberal globalization: disease, hunger, and poverty are intensifying for those living in countries marginalized by the global marketplace. The polarization of wealth and income has widened the gap between rich and poor countries. For those industrial countries on the winning side of the global divide, per capita consumption has risen at a steady annual rate of 2.3% over the last 25 years, and in East Asia, more than a whopping six percent annually. According to U.N. development studies, the upper fifth of those living in high-income countries account for 86% of all of the world's private expenditures on consumption. For the vast majority at the dismal pole of welfare, life is a daily preoccupation with obtaining safe water, rudimentary health care, basic education, and sufficient nutrition. Tens of millions succumb annually to famine and preventable diseases.

Polarization of rich and poor citizens within individual countries is also taking place, affecting millions living in Organization for Economic Co-operation and Development (OECD) nations as well as in the "developing" world. Inadequate health care, high youth unemployment, and general income poverty afflict every industrialized country. According to the U.N.'s 1998 *Human Development Report*, 100 million people in the OECD countries are income poor. In the booming U.S., over 18% of the non-elderly population lack health insurance, including 17% of its children, a vulnerability that has increased with the nation's welfare retrenchment and growing labor force casualization. While its Silicon Valleys are said to produce a new millionaire every hour, the U.S. anchors the First World in terms of negative social indicators: general poverty rates and child poverty, income inequality, incarceration rates, and environmental damage and destruction.

While globalization generates new social stresses, intensifies social fragmentation, and increases personal insecurity, governments are becoming less able to affect social and economic outcomes within their own political jurisdictions, let alone globally. Even if political leaders wished to do more to mitigate the extremes of globalization, they are confronted with the threat of economic isolation if government intervention is perceived by multinational corporations to make labor less “flexible” or to increase taxes or duties. Capital mobility, enhanced by financial deregulation and digital telecommunications, threatens to withdraw or withhold investment and finance from regions deemed to be unsuitable investment climates. The mantra of neoliberalism is that the market is superior to government. “Small government is better,” except in one messy detail: repression. States are willing to spend enormous sums of precious tax money to control the losers of casino capitalism. In terms of policing, when governments seem unable or unwilling to protect the property and lives of the rich, wealthy individuals, businesses, and corporations hire their own security. The poor resort to vigilantism.

This special millennium issue of *Social Justice* focuses on criminal justice under neoliberal globalization, the guiding political economy of the new millennium. Neoliberalism has great impact on criminal justice everywhere because this free-market doctrine precludes the need for any program of social justice. The losers in globalization who are unwilling to accept degradation and hunger are left with three choices: (1) enter “shadow” economies (Fleming et al., 2000) of crime, child labor, undocumented work, and a variety of legal but illicit activities; (2) migrate in search of work, and (3) engage in insurrection and rebellion. Globalization has widened the gap between rich and poor everywhere, with an especially serious increase in poverty for Latin Americans and those in former Soviet bloc countries, where the *nouveau riche* join the established economic elites in flaunting their wealth in close proximity to the downtrodden. The “poverty amidst plenty” anomic conditions of global capitalism undermine genuine democracy and generate new patterns of crime, protest, and repression.

The nature of the resistance and reaction to global capitalism by the disenfranchised and alienated varies with a country’s level of development and degree of commitment to neoliberal ideology: mass demonstrations in western Europe and America; protests, strikes, and riots by workers and students in China, Korea, Indonesia, and western Europe; political resistance and open rebellion in Latin America; and, everywhere, informal (and untaxed) economies, including the underground economy of gang rackets, local and international drug dealing, as well as predatory and violent acts that reflect the discouragement and social pathology of underclass life. Latin America has experienced an especially egregious increase in drug activity, rising street crime, and rebellion. With the decline of postwar social liberalism, state reactions have been harsh: repression without possibility of redemption.

Our first section begins with a discussion of the globalized structural and cultural forces that create “shadow economies” (*Ibid.*), with a focus on Russia. The second article analyzes the struggle for visibility and social justice by unregistered immigrants in France.

Shadow Economies

Globalization as Americanization is most commonly seen in the spread of a “global consumer culture” comprised of Disney, Nikes, and Wal-Mart. Hollywood and Madison Avenue help foster an insatiable desire to acquire and consume the American way, that is, beyond reasonable means. Today’s severe disjunction between American-sized wants and economic reality is an enormous problem for most Americans, let alone for the people of poor nations. Nikos Passas, in his article, “Global Anomie, Dysnomie, and Economic Crime: Hidden Consequences of Neoliberalism and Globalization in Russia and Around the World,” argues that globalism propelled by neoliberalism is an inherently destabilizing and criminogenic force. Although globalization creates a plethora of illicit opportunities and illegal motivations, it weakens control structures. Merton’s concepts of relative deprivation and anomie, which so well captured mid-century American culture, are becoming increasingly applicable to large swaths of the “developing” world. The disjunction between goals and means fuels the corruption, drug dealing, transnational prostitution and sexual slavery of shadow economies such as Russia’s (which experienced complete and abrupt privatization), as well as rioting, rebellion, and other collective action. The recreational appetites of the incipient bourgeoisie of southern China, Latin America, and former Soviet bloc countries provide occupational opportunities for those in the shadow economies of illicit sex and drugs. Paradoxically, First World demand for drugs and globalized competition in illegal drug marketing provide money for the “insurrection economy” of Colombian guerrillas (Suárez, 2000). The estimated size of the shadow economy in Central and South America is 40 to 60% of the GDP; for the “transition” economies of Central Europe, around one-quarter of its GDP is in the informal sector; moreover, 10 to 30% of the GDP of industrialized countries involves clandestine activities (Fleming et al., 2000).

Migration

Several contributions discuss the effects of labor migration on criminal justice. Displaced by economic reorganization, technological developments, and political turmoil, and drawn by the allure of life in advanced industrial countries, over 120 million people migrate annually in search of work or for better-paying jobs. The pressure for domestic and foreign migration will also greatly increase. Stalker (2000) estimates that within 25 years, the workforce in low-income nations should reach 2.2 billion people. Surplus populations pose a threefold threat to the low-

wage workers of industrialized countries: industrial flight, cheap imports, and immigrant labor competition (especially undocumented workers). Because newly arrived immigrants accept high levels of exploitation and deprivation, immigration generally erodes the living standards of urban residents in developing and developed countries alike (Fainstein and Fainstein, 1996; Aghion and Williamson, 1998), generating popular resentment, political tensions, hostilities, and attempts to criminalize outsiders. Illegal immigrants make up a large and increasing proportion of European Union prisoners (Tournier, 1997).

Vincenzo Ruggiero's study in section one, "The Fight to Reappear," examines the fight for official French recognition by unregistered immigrants, whose cheap and flexible labor nearly all E.U. nations desperately need. Fear of criminalization helps to keep migrants and other occasional workers confined within social areas "where marginalized activities and precarious jobs intermingle with overt illegal activities," areas Ruggiero (1998: 228) characterizes elsewhere as the *carceral social zone*. In his study of French migrants in this issue, Ruggiero argues that the indignity of having to live a life of stealth serves to lower the expectations of migrant workers. This is by official design. The illegal status of undocumented migrant workers, and their perpetual insecurity and vulnerability, enhance the likelihood of their exploitation. Yet Ruggiero argues that neoliberal globalization is not monolithic. The excluded are fighting back. The *sans-papiers* movement he documents is an encouraging instance of collective action to gain the rights of citizenship for migrant workers.

Policing the Contradictions

Not only does globalization generate vast transnational migrations across Europe, from Mexico to the U.S., and in Southeast Asia, it has also intensified rural to urban migrations in search of work within countries. Our articles on policing in Brazil and China discuss the implications of domestic migration for policing. China provides a good example of the destructive effect of unbridled capitalist market forces on established citizenship. The introduction of market forces in China has set in motion a floating population some 75 million strong, "unofficially" migrating to cities in search of work and wealth. Solinger (1999: 9) identifies an interactive process among markets, migrants, and declining regulatory institutions wherever marketization is introduced, not just in China. "The switch from a planned economy involves an institutional dislocation that has much in common with the decline of the welfare state in the West. Both transformations were departures from systems that had protected their recipients from the force of the free market," Solinger observes (1999: 10). Shock and uncertainty of old beneficiaries create resentment and scapegoating of immigrant newcomers (aggravated by the lower status of the farming class under the Maoist state). In China, the market-engendered competitive mentality among the original urbanities obstructs peasants "from becoming regular, state-endorsed citizens in cities."

Viewing underclass outsiders primarily in terms of financial gain promotes a state of mind that enhances “discrimination and xenophobia against outsiders who threatened city people’s own accustomed shares of goods,” especially those entitlements and benefits that were constructed to buffer urbanites from the free market’s most threatening consequences.

In our “Policing the Contradictions” section, Michael Dutton’s “The End of the (Mass) Line? Chinese Policing in the Era of the Contract” takes up the issue of how the money-making ethos and increased social mobility of market reform undermine the old Maoist social control structures, just at a time when the floating population has engendered new fears and realities of crime. Resentment over growing inequality has precipitated riots. The world drug trade has turned the mountains and rain forests of southwestern China into a region of rampant crime, drug trafficking, gun running, prostitution, and the spread of the AIDS virus. To combat the new “dangerous criminal class,” Chinese authorities have tried to professionalize their policing by introducing a monetary or contract incentive system. In the best neoliberal fashion, the Chinese police also introduced privatization. The commodification of policing is largely a response to pressures from foreign business investors. But don’t look for Pinkerton or Wackenhut “rent-a-cops” just yet; Chinese private security companies are wholly owned contingents of the local Public Security ministries, Dutton reports, with the circulation of personnel one would expect.

While the state tries to “modernize” policing, even introducing financial incentives, authorities are seeking to revive Maoist elements that made policing so successful during the years of the plan. Police officials are trying to employ the old form (class analysis, the mass-line, campaign-style policing) to convey new content (i.e., revolutionize the populace with a new, contractual model of social life, to replace the egalitarianism of Maoism). Dutton analyzes the “sly subversions” and mimicry used to transform revolutionary and egalitarian policing into the enforcement of laws protecting private property, and shows how the old order is reinterpreted to support its opposite. Yet the new techniques of policing with monetary incentives and mass-line appeal are actually undermining the old forms, Dutton argues.

The case of Poland, our second article in the policing section, presents a different form of privatization. If China is a case where socialist ideology penetrated too deeply for an easy transition to the market ethos, Poland is an instance where Communist ideology was not deeply ingrained. Poland’s situation made their policing transition much easier, an ultimately unfortunate occurrence. Post-Soviet Poland’s capitalist “shock therapy” generated the fastest economic growth in Europe, but it destroyed an effective health and welfare system and created skyrocketing unemployment and vast inequalities. Behind the veneer of the new democracies that the U.S. State Department proudly trumpets — in eastern and central Europe, Latin America, and East Asia — lurks a nasty authoritarianism,

a continuity from their previous regimes of exploitation. Post-Communist Poland is a prime example of the survival of authoritarianism in societies undergoing a transition from a planned economy to the unregulated market system. The Czech Republic's "Velvet Revolution," and the "smooth" transitions of Poland and Hungary, were predicated on a high degree of elite continuity (Higley et al., 1996). Poland's current President Aleksander Kwaśniewski and other apparatchiks, as well as rank-and-file police, bridged the social structural transformation rather neatly. After the fall of the Soviet bloc in 1989, Poland's planned economy gave way to a "buccaneer capitalism" and an "opportunity-to-make-a-killing" social standard that readily blurs the lines between theft and fraud and legitimate business activity, creating innumerable civil disputes, organized criminality, and rampant street crime. The Kwaśniewski government has readily responded to popular demands for "law and order" with large-scale confinement in deteriorated prisons, even though criminal justice ranked high among the revolutionary ideals of Solidarity. Political policing has been replaced by commodity policing. As Gary T. Marx points out in his essay, "The Police as Social Change Agents? The Curious Case of Poland's Transition," the police played an independent and central role in the easy transition from the collapse of Communism to the advent of capitalism as intermediaries between Polish privatization and the global economy. In this sense, Polish police are privatized. As market elites overwhelm democratic elites, police will swear allegiance to the highest bidder. With superficial adherence to ideologies other than self-perpetuation, the police are leaders in labor "flexibility."

Privatization is a rapidly growing part of state repressive arsenals everywhere, as multinational corporations and wealthy individuals assume direct control of security. As we saw in the case of Poland, police privatization can assume unusual forms; its many varieties reflect different cultural traditions, and the degree and kind of formal state sanction. Chinese private security firms operate as the wholly owned subsidiaries of the state Public Security Ministry, and Poland is a case of *de facto* state privatization. The final article in "Policing the Contradictions" analyzes Brazilian police privatization, where it supplements official policing in a variety of ways. The economy and society of Latin America have changed dramatically in the last 30 years. Rapid capitalist expansion, relentless downsizing, and market-based social relations have left most Latin Americans landless and dependent on periodic wage labor that is supplemented by informal sector work. Contrary to orthodox free-market predictions, the high growth rates of the 1990s did not benefit most Latin American workers. Growing poverty, inequality, and misery have driven countless peasants into the shadow economies. Many peasants are squeezed between drug organizations and elite and official violence and vigilantism. Paulo Sérgio Pinheiro (1996) characterizes Latin American governments as "democracies without citizenship." The new civilian governments are barely distinguishable from the authoritarian regimes of the past; they readily employ the same tactics of terror against "undesirable" street criminals that they

used against political dissidents. Yet the agents of official violence today are much murkier, and privatization contributes to their impunity. If Chinese police officials are trying to put new wine into old bottles, Brazilian policing is old wine for new bottles.

Martha Huggins' article, "Urban Violence and Police Privatization in Brazil," deconstructs the political and state-organized nature of violent social control in the world's most unequal society, where 60 million Brazilians live below the poverty line. With foreign direct investment at a record \$31 billion in 1999 (the largest emerging economy investment after China), multinationals seem convinced that "Brazil is the country of the future," in the words of a recent article in *The Economist*. GDP growth is robust and inflation tame, but Brazil's social failures alarm even some investors. The high unemployment of the 1998 to 1999 recession has not abated, the cities are full of child beggars and other homeless, the nation's health-care system is near total collapse, and corruption and violent crime seem beyond control. The breakdown of community ties from mass migration to the cities contributes to the violence, but police inefficiency and brutality are the other half of the breakdown. Moreover, Brazil's prison system is among the most degrading and brutal in the world. Little wonder that no one trusts the police, non-elites and elites alike. Huggins identifies a continuum of policing, from vigilantism and the employment of private security firms through state-sponsored terror. There is a continual and extensive circulation of personnel among private security and vigilante organizations and government agencies, which helps to ensure the invisibility of the perpetrators and victims of violence. Huggins argues that the commodification and privatization of social control help to disguise urban violence in democratizing Brazil.

Penal Exclusion

In the U.S., casualties of the informal economy in illegal drugs create a substantial share of new prison commitments. John Irwin, Vincent Schiraldi, and Jason Ziedenberg's article for this issue, "America's One Million Nonviolent Prisoners," shows us exactly where the bulk of the U.S. surplus population resides. Mass incarceration of mainly nonviolent, poorly educated young blacks and Latinos, many of whom would have been in the military in an earlier generation, serves social and economic control functions by replacing "military Keynesianism" with "penal Keynesianism," according to Marc-Andre Pigeon and L. Randall Wray's article, "Can Penal Keynesianism Replace Military Keynesianism? An Analysis of Society's Newest 'Solution' for the Hard to Employ and a Proposal for a More Humane Alternative." With globalization, individual nations are less able to act alone in maintaining full employment policies through Keynesian methods, as the U.S. had done through the 1950s and 1960s. The full employment and comprehensive welfare policies grew from a historical "context of clearly delineated, tightly organized, and highly competitive national states," whose

fierce competition increased interdependency *within* states and promoted social cooperation and democratization, Wilterdink (1995: 11) argues. This was a time when capitalism depended upon organized labor, “as did politicians on average citizens, and the higher on less educated. This generated a rise of labor incomes relative to capital incomes, an expansion of transfer incomes, and a decrease in labor inequality.” Postwar prosperity for the working class of all strata allowed for a more humane penal policy, however misguided its rehabilitation regime would prove in practice. Some prison systems even provided skilled trade apprenticeships, a measure of the sense of security free workers enjoyed in the postwar period.

A growing number of economists, politicians, correctional officials, and students of public policy support the recent movement to return prisoners to the open labor market by private contracting. They argue that prisoners would make a useful alternate labor pool, especially to ease recent tight labor markets. Globalization and transformation of the labor market have increased the potential value of prison labor as a subcontracting component of post-Fordist production systems. Although prison industry privatization would not add much to the GNP, neoliberals see prison labor liberalization as a matter of principle and they would implement it in a policy that would also eliminate “mandatory source” preferences, prison industry subsidies, and other anti-competitive policies. State and federal penal institutions would compete in the commercial market as subcontractors. To counter current opposition by labor unions and the small business sector, neoliberals suggest a “cost-benefit” policy model for weighing the various interests affected by prisoner labor competition. From this analysis, they argue that “everyone benefits” if prisoners produce only items or services that are currently imported, a policy they call “repatriation.” This appeals to many liberals and even to some radical prisoner-advocates as a solution to the corrosive effects of warehousing and the non-being of enforced idleness, as well as a mechanism to reduce wage and price inflation. Pigeon and Wray believe that this assessment is misguided, however. Apart from the poor work histories of convicts and the unfavorable productive environment of the typical state prison, Pigeon and Wray attack the heart of neoliberal reasoning by arguing that large-scale prison industry would actually lower GDP, producing goods and services that “lower demand by displacing higher wage labor.” Instead, they suggest an alternate program of Public Service Employment and a job training program.

Theory and Policy

A comparison of today’s globalization to the *fin-de-siècle*, capital’s first wave of economic and military supremacy, suggests enlightening continuities and important contrasts. The late 20th century has seen a marvelously successful effort by the ruling class to resurrect the pre-World War I global political-economy of *laissez-faire* that made the Robber Barons of the Gilded Age so rich and powerful. However, history does not repeat itself exactly, and there are new factors. The

nature of exploitation has changed from an imperialistic domination based on economic and military power, to a global hegemony of finance and technology grounded in mass consumption and mass culture. Western political and business leaders no longer speak of a “white man’s burden.” But, as indicated by Randy Shelden’s essay opening our final section, Social Darwinism is alive as an explanation for social failure. “Gene Warfare” discusses neoeugenics-based explanations for the criminal conduct of racial minorities and the poor, many of whom seem to be “predisposed to violence.” Much of the research seeking a biological link to crime is funded by major pharmaceutical companies, research money scientists eagerly spend (especially with diminishing federal research grant support).

Two articles in our final section deal with criminal justice policy in the United Kingdom. The U.K., under Margaret Thatcher, was the co-originator (with Ronald Reagan) of neoliberal economics applied to public policy, and both governments have been active in exporting this ideology. Joe Sim’s article, “‘One Thousand Days of Degradation’: New Labour and Old Compromises at the Turn of the Century,” analyzes Britain’s New Labour (N.L.) criminal justice policies, with particular scrutiny of how the government conceptualizes crime and punishment. He concludes by examining N.L.’s human rights commitment. Sim finds N.L.’s “third way” law-and-order strategy to be firmly rooted in the Conservative legacy of authoritarianism, anti-statist strategies, and managerialist discourse. N.L. has continued the shift of public and personal safety responsibilities to “community” and other nonstate entities, and outright privatization. Yet, N.L. is not a mere echo of Conservative policies; it has brought new accommodations to the global marketplace through more efficient management of the surplus and redundant populations. Sim rejects, therefore, the arguments of the new “governmentality” theorists who “airbrush the state out of the analysis” and fail to see the dialectical relationship between old and new control forms (a *motif* of this special issue of *Social Justice*). State power — or, a “monopoly of the legitimate use of force,” as Max Weber defined the state — is very much alive in the U.K., although it might be disguised as a nongovernmental entity.

We must think comparatively and globally, the authors of our third article on policy change say. “Social Wrongs and Human Rights in Late Modern Britain: Social Exclusion, Crime Control, and Prospects for a Public Criminology,” by Eamonn Carrabine, Maggy Lee, and Nigel South, examines the N.L. political campaign that promised to address social exclusion (“social wrongs”) and to champion human rights. N.L. pledged to bring the U.K. back to less-troubled times, which helped facilitate the convergence of Right and Left politics. N.L.’s neoliberal justice model, however, has only succeeded in diminishing human rights and civil liberties, truncating citizenship, and excluding more in poverty. Neoliberalism is an inherently confused ideology, rather than a unified political rationality. The authors identify a fundamental tension and conflict, on the one hand, between the new-style “enterprise” approach and its behaviorist-based

“responsible prisoner” and incentive schemes and, on the other, allegiance to the old incapacitation policies that rob prisoners of agency. The N.L. policy is an impossible attempt to wed the competing discourses of social authoritarianism and free-market individualism. The authors conclude by proposing a “public criminology,” one that advances citizenship, social justice, and human rights, that is connected to other areas of social action, and that is empirically based and responsive to ordinary claims for social justice.

In the final article in our public policy section, “Complexity and Irony in Policing and Protesting,” Patrick Gillham and Gary T. Marx present a case study of protest behavior and police action at the 1999 Seattle meetings of the World Trade Organization. After reviewing various approaches to understanding the conflict, and considering various interpretations or “stories” of what happened, Gillham and Marx argue that a broad political-economic approach must be supplemented with a micro analysis to reveal and explain local variation in mass demonstrations and the responses of competing and conflicting local elites. They discuss a series of ironic structural and interactional outcomes that escalated conflict, and end their essay with 10 proposals for limiting violence and constitutional violations, an outcome that would serve the interests of demonstrators and progressive local political establishments.

Thomas L. Dumm’s essay, “Enlightenment as Punishment,” which begins our theory section, provides a meditation on punishment in the U.S. Although the prison of late modernity, the “supermax,” is viewed by many criminologists as a retro model of the original penitentiary, Dumm argues that this is mistaken. Supermax imprisonment rejects the very essence of the original penitentiary project, which was based on the individualizing practices of self-control. Instead, today’s penal regime has as its purpose objectification, “‘de-individualizing’ practices of population control.” The Marion and Pelican Bay-type penitentiaries erect impenetrable barriers to social mobility. The current regime of totalitarian incarceration, Dumm argues, could not possibly be a product of the Enlightenment. Is Enlightenment thought irrelevant to contemporary government? Today’s criminal justice relies increasingly on judging appearances, anticipating a criminality that is rooted in bad character. Attempts at preemptive exclusion or “early intervention,” set in racial profiling, are the hallmarks of James Q. Wilson’s criminology. Unfortunately, the Rawlsian theory of justice and political liberalism in general are quite compatible with this view. In a justice-as-fairness model, criminality is a mark of bad character. Dumm concludes his piece by positing a set of ethical principles to guide a truly enlightened policy of punishment, an alternative understanding that treats prisoners as *knowable* objects of control, possessing reason and personhood, and deserving of citizenship.

The next article presents a theory to explain the ultimate exclusion, the death penalty. Tony Poveda’s article, “American Exceptionalism and the Death Penalty,” asks: What is distinctive about American society that has it standing alone

among Western industrial democracies in killing its own citizens? Poveda identifies a social process in which a unique combination of forces — traditions of social exclusion rooted in American slavery, a revival of Social Darwinism, and structural inequality — combine “to form a distinctive American cultural logic” rationalizing execution. Poveda’s essay focuses on the revival of pro-death-penalty sentiment and the rise in executions during the post-*Furman* (1976) era, revealing in the constellation of factors many of the themes connecting contributions within our collection: the economic turmoil of deindustrialization and downward mobility for blue-collar workers, greater economic inequality, and the demise of social liberalism to cushion the fall. As the economic fortunes of middle-class Americans began to decline sharply after the late 1970s, crucial ideological and political shifts conjoined to heighten punitive sentiment. “Minimal government” ideology and *laissez-faire* attitudes placed the blame for failure solely on individuals, who richly deserve their fate. What is unique about the U.S. is that it has a readily identifiable historically “excluded” population, and the death penalty has served since slavery the extralegal function of providing an object lesson in the “survival of the fittest.”

Nowhere in the U.S. is this ethic stronger than in the state of Texas, which sits at or near the bottom of all indicators of well-being, while hosting one of the largest concentrations of billionaires on earth. Texas is the quintessential death penalty state, a geographic and cultural region where the Western frontier spirit of self-reliant upward mobility met Southern slave and caste society. The contemporary force of this legacy was apparent in the late 1970s and early 1980s, when death penalty sentencing began to skyrocket along with the massive influx of displaced rust-belt industry émigrés — a thousand fortune-seekers a week drawn to Harris County (Houston) alone — in a desperate search for the American Dream. This land of opportunity is where one would expect the penalty for failure to be the most severe, and Texas Governor George W. Bush does not disappoint. Governor Death has presided over the execution of more African-Americans than any governor in Texas history, lest he be mistaken for a Yankee in cowboy attire.¹ Is this “true Texan” out of step with America-at-large? Poveda remains optimistic — pointing to evidence that the American public is ambivalent about the death penalty and becoming apprehensive concerning mistaken guilt

What Do We Do?

The contributors to this special issue of *Social Justice* highlight the negative impact of neoliberal globalization on criminal justice. The “free market” and unfettered transnational capital extract great social and personal sacrifices for winners and losers: escalating personal and business crime, growing corruption, heightened antiforeign sentiment and scapegoating, greater worker insecurity, and the expansion of a marginalized, contingent workforce dependent on the shadow economy. Among the losers, social critic Tony Judt (1997: 100) includes:

the deskilled, the unskilled, the part-time, immigrants, the unemployed — all of whom are vulnerable because of the state of the economy, but above all because they have lost the work-related forms of institutional affiliation, social support, and occupational solidarity that once characterized the exploited industrial proletariat.

These *excluded*, Judt concludes, “cannot participate in the culture of their local or national community.” Lacking the identity and entitlements of full citizenship, they are virtual foreigners in their own lands. Their marginalized and alienated life in the *carceral social zone* helps to keep them pliant as a labor reserve. Governmental institutions of criminal justice try to manage them as a surplus population; yet the state will readily contract out social control to private entities, where capital can profit again, in the cynical form of private security agencies and prison companies. In Latin America, where the contradictions are perhaps greatest and there is open rebellion, the U.S. stands prepared to use military force, as it is about to do in Colombia, which is rich in oil and gas reserves, under the guise of the drug war.

How do we escape these oppressive circumstances? How can democratic governance be established? Given widespread cynicism about government and the tenacious hold of the American Dream as an ideology, many social critics are profoundly discouraged over the prospects for social change. Some of the disenchanting withdraw from the pain of awareness. Others are simply resigned to the status quo and make accommodations (including “third way” advocates). The final article in our issue considers the progress made in formulating a new liberation theory of criminal justice. Stuart Henry and Dragan Milovanovic’s article on “constitutive criminology” reviews its origins and concepts, meets its critics, and assesses the success they believe it has had in helping to liberate thinking and in combating structures and mentalities of domination. Henry and Milovanovic are pioneers in the effort to create a postmodern theory of criminology and criminal justice policy. They first broke theoretical ground in the late 1980s, in the attempt to awaken criminology from the intellectual slumber of the post-New Left era. Mainstream criminology had been exhausted for decades, and critical criminology was at an impasse theoretically. The need for a fresh approach is painfully obvious to anyone teaching criminal justice in the U.S. In confronting complacency and “things just seem to happen” passivity and resignation typical of college students, Henry and Milovanovic offer a perspective that stresses individual responsibility and moral action.

The challenge of the new millennium is to create a critical culture. Hegemony is reification: regarding one another as objects to be manipulated; losing sight of what creates and institutionally sustains hierarchies of race, class, and gender; allowing institutions of our creation to work back against us. To wrest control of the economic and social forces that will shape the new millennium, we could begin

by connecting global crisis to local upheavals, in acts of resistance and civil disobedience — at universities, work sites, retail business locations, city councils, national conventions — to protest neoliberal globalization’s assault on the environment and our physical and mental well-being, as well as its reliance on slave labor and sweatshops. The Internet and the broad negative impact of globalization have facilitated broad-based coalitions. Yet there are many dangerous pitfalls and cul-de-sacs in postmodern thinking and cultural forms. Latin Americans have lost trust in governments that fail to provide for their basic social rights and routinely violate their human rights with impunity. Losers become disenchanted and cynical about politics and political activity, especially when the gap between the potential and reality of globalization is so great. The most alienated are drawn to “the politics of anti-politics” mastered by authoritarian political personalities. The uncertainty and rootlessness of neoliberal society encourage identification with aggressors. Right-wing populism has strong appeal among many American losers as well. Déclassé white males, victims of American Dream-shattering deindustrialization and poor education, are attracted to exclusionary identity politics and Buchananist nativistic populism. Ideologies of hate inspire “antigovernment” militias, skinheads, fundamentalist religious groups, and ethnic gangs. Far-right anti-immigrant activity plagues western Europe. These are among the dangers of straying too far from class analysis (Frankel, 1997). The industrial model of class relations known to Marx has been irrelevant for half a century or more, but the economic polarization of postindustrialism would be quite familiar to him — and just as respected as a social force.

NOTES

1. In a *New York Times* (August 7, 2000: A19) op-ed editorial defending George W. Bush against detractors who malign Texas as a heartless culture and governmental failure, Paul W. Hobby, Houston business scion, former chairman of the Texas General Services Commission, and self-styled progressive, pretty much sums up “Texas as the Texans Like It”:

In my experience, many other places don’t admire risk-taking, but only the successes it may bring. Here, we admire boldness and optimism even in failure, because real freedom has to include freedom to fail.... As a Texan, I strongly resent the presumption of a bureaucracy that meddles in everyone’s life instead of focusing on the few bad actors who live outside the social contract.

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