

# BOOK REVIEWS

## **The Case for Penal Abolition**

**Edited by W. Gordon West and Ruth Morris**

**Toronto: Canadian Scholars' Press (2000), 362 pp.**

*Reviewed by Charles Huckelbury*

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All valid philosophical systems generally involve a trade-off, something exchanged for something else, whether enlightenment, salvation, advantage, or some other teleological goal. Most infamous perhaps is Nietzsche's existentialism, in which the individual spirit strives relentlessly to increase its own power at the expense of everything – and everyone – else. That is, existence is a perpetual search for opportunities and the means to win in a perceived competition for superiority. This description summarizes the dominant critical tone in an eclectic collection of essays that offer both an illumination of the problem and a scathing indictment of the causes of the current “race to incarcerate” in Western democracies, the solution to which is nothing less than the abolition of prisons and the underlying philosophies that have produced them.

As background, Ruth Morris and Viviane Saleh-Hanna provide insightful histories of the International Conference on Penal Abolition (ICOPA) and early efforts to address and redress the abuses of wholesale incarceration, but their descriptions acknowledge the difficulty in presenting a united front against so intimidating a force. The glaring truth that emerges from ICOPA conferences and the book's essays is that societies that use incarceration as a means of social control will resist every effort to alter the status quo. One has only to examine the current state of affairs in the United States to face the most obvious example.

That something is dreadfully wrong with the criminal justice system in America, the acknowledged leader in imprisonment, is hardly news. As many of the book's contributors point out, the country's phenomenal arrest and incarceration rates are a source of wonder and alarm for most of the world. International criticism (Amnesty International's, for example) and financial constraints have had no effect on the prison-industrial juggernaut, even in the face of eight consecutive years of declining crime rates. As the contributors point out, state budgets now spend more on prisons and penal-related projects than they do on education, which may help explain America's perennial abysmal

performance in math and science competitions when primary and secondary school students are pitted against their peers in other countries. Compounding the harm, America now conflates its superpower status with the role of moral arbiter to the world and is exporting its theories and practices to unsuspecting countries in Europe and beyond. Even Canada has not remained immune. Penal abolition is therefore timely for more than the obvious reasons; something must alter the destructive course of massive imprisonment and prevent universal contamination, and the book provides a baffle plan within the framework of social and political criticism.

In his essay, W. Gordon West begins by presenting a classic Marxist criticism. Marxist critiques of capitalism's excesses and failures are a logical starting point and must include a section on the law as a tool for social repression. By its nature, capitalism creates social classes and remains as coldly indifferent to the inequality produced as Nature is during natural selection processes. Whereas Nature can be forgiven for its obedience to biological necessity, the capitalist pursuit of profit at the cost of human misery is inexcusable. Oddly, at least for this reviewer, West neglects Marx's observation that, "It is not the consciousness of men that determines their existence, but their social existence that determines their consciousness."<sup>1</sup> This idea is the key to understanding and confronting the repressively racist and elitist system now in place and thriving in the United States and elsewhere, expanding as I write.

Many of the book's essays capture this metastasis, especially in the gross disparity in penalties for corporate versus individual homicide (see Section III, "New Issues," regarding penalties for "suite crime"). One man kills another in Texas and forfeits his life; Union Carbide kills 7,000 in Bhopal, India, and pays a fine (p. 237). America celebrates this corporate power, not necessarily to kill but to expand the profit margin, and if "accidents" occur then fines become a cost of doing business. Individual or street crime, by comparison, adversely affects businesses and can concomitantly be used as an excuse for the Malthusian solution of eliminating socially undesirable or obstructionist elements that might victimize consumers or, worse, deter them from shopping at night.

But returning to Marx, if it is indeed one's social existence that determines consciousness in capitalist economies, then a change of social position for the powerful elite – a change that is highly improbable – is the only means by

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<sup>1</sup> Karl Marx, *Contribution to the Critique of Political Economy* (1859). Trans. S.W. Ryazanskaya. New York: International Publishers, 1959. P. 21.

which a change of consciousness can be achieved. Thus, many of the essays in the book, especially the ones advocating a more holistic means of persuasion, are certainly visionary but insufficient by themselves to address an entrenched adversary with unlimited resources, a reactionary elite that crushes opponents without hesitation or qualm. Section IV, for example, argues for a move away from obedience as a paradigm and toward empathy in prison, since obedience is no indicator of actual reformation philosophy (Pepinsky, p. 275)<sup>2</sup>. Jim Consedine posits a “theology of transformative justice” echoing Ruth Morris’s “Reconciled with Whom,” in which she speaks passionately against revenge as a motivator in law.

As philosophically sound as these arguments are, one still hears Marx’s timpani over the more lyrical strings of transformation and reconciliation. Gone are the days when Victor Hugo’s audiences celebrated Jean Valjean’s escape from the galleys. Pip’s convict and subsequent benefactor in the Dickens classic is also vanished. Few in power, and none who will publicly admit it, think we in prison are worth saving or even capable of redemption. The only ones who care about us are those governing and those working in the privatized prison industry whose stock is now being traded on the New York Stock Exchange, and they see us in utilitarian terms. And, most notably, the electorate remains silent in its collusion, affirming that Blake’s “mind-forg’d manacles” are securely in place for the majority of the great middle class, whose participation has been co-opted by campaigns of misinformation on everything from crime rates to punishment inflicted. The situation exists because the dominant men (and few women) in this country have the same unrestricted and unexamined power over their prisoners as, say, Louis XVI had over the *sans-culottes* prior to the events of 1789. The king, for example, when discussing the enactment of a new, more burdensome law, said simply, “it is legal because I wish it.”

The ruling class, in Marxist terms, knows precisely what it is doing. It intentionally marginalizes then victimizes the powerless among them. We in prison do not matter. Indeed, no individual matters except as cannon fodder in a specious war or as an asset when calculating the bottom line. That is why efforts at raising the consciousness of the oppressor (see Friere, for example)<sup>3</sup>

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<sup>2</sup> Hall Pepinsky, “Empathy Works, Obedience Doesn’t,” in *The Case for Penal Abolition* (2000). Eds. W. Gordon West and Ruth Morris. Toronto: Canadian Scholars’ Press, Inc. 275–299.

<sup>3</sup> Paulo Friere, *Pedagogy of the Oppressed* (1972). Harmondsworth: Penguin.

without a social revolution, as Marx clearly recognized, must fail: the oppressor in this case is fully aware of both actions and consequences and is resolute about maintaining what is socially beneficial and financially profitable.

Two possibilities therefore exist to stop and reverse the current trend and lead eventually to penal abolition. The first, as Pearce and Tombs argue (p. 191)<sup>4</sup>, is to couple the welfare of those inside prison with those on the outside. This will prove enormously difficult because of the antagonism developed and sustained by politicians and the prison and law enforcement industries. When a candidate for President of the United States can preside over the execution of a genuinely repentant and rehabilitated woman, then publicly ridicule her request for clemency, the chances for politicizing the struggle are slim.<sup>5</sup>

The other alternative, explored by David B. Moore, is to take a page from capitalism's playbook and focus on the supply side of the equation. Without human "units" of raw material, the jails and prisons would atrophy and die. If Marx is correct, this will require a change of social position necessary to raise the consciousness of those most in danger of being dismembered by the current system. Of course, the state can simply respond by passing more laws, similar to the Bourbon reaction in 1789, and the logically anticipated response would be continued resistance to social mobility via arrest and imprisonment.

Abolitionists thus face a daunting challenge. But this book offers eloquent testimony that a new response to crime is conceptually sound as well as extraordinarily necessary. As the contributors make clear, the solutions will obviously require a more heuristic, as opposed to traditionally doctrinaire, approach to put human faces on those behind the walls and improve their status from mere chattels. The *Case for Penal Abolition* derives its strength from the integrity of the contributors, their powerful prose, and the diversity of the essays, all uniting to bring a new challenge to the decision-makers in an uncompromising manner that dares political and business leaders to ignore the consequences at their own risk. With dedicated men and women like these making their presence felt, one cannot help being optimistic that their efforts will eventually succeed. After all, the Greeks misguidedly sacrificed their youth to the Minotaur on Crete until Theseus solved the mystery of the labyrinth and

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<sup>4</sup> Frank Pearce and Steve Tombs, "Regulating Toxic Capitalism," in *The Case for Penal Abolition* (2000). Toronto: Canadian Scholars' Press, Inc. 187–213.

<sup>5</sup> The case referred to is that of Karla Faye Tucker, executed in Texas on February 3, 1998. Then Texas Governor George W. Bush would become the President of the U.S. in 2000.

slew the beast. Perhaps the abolitionists are the contemporary incarnation of Ariadne, providing the thread to guide us in and safely out of the monster's lair.

The current system of mass imprisonment in the United States has not seen its bicentennial, so perhaps it is too early to expect Western democracies at the beginning of a new millennium to receive back into the fold those it still holds in chains. It nevertheless is worth the effort, and the attempt must begin with the elimination of monolithic prisons and the philosophy that produced them that, like slavery, do far more harm in personal and social terms than is now evident to those who make the laws and chair the corporations.

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