

Prison's Dilemma

Even if every convict were rightly sentenced, America's vast, racially skewed incarceration system would still be morally indefensible.

By Glenn C. Loury



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Over the past four decades, the United States has become a vastly punitive nation, without historical precedent or international parallel. With roughly 5 percent of the world's population, the U.S. currently confines about one-quarter of the world's prison inmates. In 2008, one in a hundred American adults was behind bars. Just what manner of people does our prison policy reveal us to be?

America, with great armies deployed abroad under a banner of freedom, nevertheless harbors the largest infrastructure for the mass deprivation of liberty on the planet. We imprison nearly as great a fraction of our population to a lifetime in jail (around 70 people for every 100,000 residents) than Sweden, Denmark, and Norway imprison for any duration whatsoever.

That America's prisoners are mainly minorities, particularly African-Americans, who come from the most disadvantaged corners of our unequal society, cannot be ignored. In 2006, one in nine Black men between the ages of 20 and 34 was serving time. The role of race in this drama is subtle and important, and the racial breakdown is not incidental: prisons both reflect and exacerbate existing racial and class inequalities.

Why are there so many African-Americans in prison? It is my belief that such racial disparity is not mainly due to overt discriminatory practices by the courts or the police. But that hardly exhausts the moral discussion. To begin with, let's remember the fact that the very definition of crime is socially constructed: as graphically illustrated by the so-called "war on drugs," much of what is criminal today was not criminal in the past and may not be tomorrow.

Let us also frankly admit that a massive, malign indifference to people of color is at work. I suspect strongly, though it is impossible to prove to the econometrician's satisfaction, that our criminal and penal policies would never have been allowed to expand to the extent that they have if most of the

Americans being executed or locked away were White.

We must also frankly ask why so many African-American men are committing crimes. Many of the "root causes" have long been acknowledged. Disorganized childhoods, inadequate educations, child abuse, limited employability, and delinquent peers are just a few of the factors involved. In America, criminal justice has become a second line of defense, if you will, against individuals whose development has been neglected or undermined by other societal institutions like welfare, education, employment and job training, mental health programs, and other social initiatives. As a result, it is an arena in which social stratification, social stigmas, and uniquely American social and racial dramas are reinforced.

We should also remember that "punishment" and "inequality" are intimately linked—that causality runs in both directions. Disparities in punishment reflect socioeconomic inequalities, but they also help produce and reinforce them.

Is it not true, for example, that prisons create criminals? As the Rutgers criminologist Todd Clear concluded after a review of evidence, the ubiquity of the prison experience in some poor urban neighborhoods has had the effect of eliminating the stigma of serving time. On any given day, as many as one in five adult men in these neighborhoods is behind bars, and as Clear has written, "[T]he cycling of these young men through the prison system has become a central factor determining the social ecology of poor neighborhoods, where there is hardly a family without a son, an uncle or a father who has done time in prison."

For people who go to prison, time behind bars almost always also diminishes their odds of living crime-free lives when they get out, by lowering employability, severing ties to healthy communal supports, and hardening their own attitudes. When such individuals return to their communities, they join many others with the same harsh life experience, often forming or joining gangs. This, in turn, further diminishes the opportunities that law-abiding residents in those same neighborhoods have to escape poverty or preserve the often meager value of their property.

Huge racial disparities in the incidence of incarceration should therefore come as no surprise. The subordinate status of Black ghetto-dwellers—their social deprivation and spatial isolation in America's cities—puts them at greater risk of embracing dysfunctional behaviors that lead to incarceration, and then incarceration itself leads to more dysfunction.

Put it all together and look at what we have wrought. We have established what looks to the entire world like a racial caste system that leaves millions stigmatized as pariahs, either living behind bars or in conditions of concentrated crime and poverty that breed still more criminality. Why are we doing this?

The present American regime of hyper-incarceration is said to be necessary in order to secure public safety. But this is not

a compelling argument. It is easy to overestimate how much crime is prevented by locking away a large fraction of the population. Often those who are incarcerated, particularly for selling drugs, are simply replaced by others. There is no shortage of people vying to enter illicit trades, particularly given how few legal paths to upward mobility exist for most young Black males.

The key empirical conclusion of the academic literature is that increasing the severity of punishment has little, if any, effect in deterring crime. But there is strong evidence that increasing the certainty of punishment has a large deterrent effect. One policy-relevant inference is that lengthy prison sentences, particularly in the form of mandatory minimum-type statutes such as California's Three Strikes Law, are difficult to justify.

The ideological justification for the present American prison system also ignores the fact that the broader society is implicated in the existence of these damaged, neglected, feared, and despised communities. People who live in these places are aware that outsiders view them with suspicion and contempt. (I know whereof I speak in this regard, because I am myself a child of the Black ghetto, connected intimately to ghetto-dwellers by the bond of social and psychic affiliation. While in general I am not much given to advertising this fact, it seems appropriate to do so here.)

The plain historical truth of the matter is that neighborhoods like North Philadelphia, the West Side of Chicago, the East Side of Detroit, and South Central Los Angeles did not come into being by an accident of nature. As the sociologist Loïc Wacquant has argued, these ghettos are man-made, coming into existence and then persisting because the concentration of their residents in such urban enclaves serves the interests of others. As such, the desperate and vile behaviors of some ghetto-dwellers reflect not merely their personal moral deviance, but also the shortcomings of our society as a whole. "Justice" operates at multiple levels, both individual and social.

Defenders of the current regime put the onus on law-breakers: "If they didn't do the crimes, they wouldn't have to do the time." Yet a pure ethic of personal responsibility does not and could never justify the current situation. Missing from such an argument is any acknowledgment of social responsibility even for the wrongful acts freely chosen by individual persons.

I am not saying that a criminal has no agency in his behavior. Rather, I am arguing that the larger society is implicated in a criminal's choices because we have acquiesced to social arrangements that work to our benefit and to his detriment—that shape his consciousness and his sense of identity in a way that the choices he makes (and that we must condemn) are nevertheless compelling to him.

Put simply, the structure of our cities with their massive ghettos is a causal factor in the deviancy among those living there. Recognition of this fact has far-reaching implications for the conduct of public policy. What goals are our prisons trying

to achieve, and how should we weigh the enormous costs they impose on our fellow, innocent citizens?

In short, we must think of justice as a complex feedback loop. The way in which we distribute justice—putting people in prison—has consequences, which raise more questions of justice, like how to deal with convicts' families and communities, who are also punished, though they themselves have done nothing wrong. Even if every sentence handed out to every prisoner were itself perfectly fair (an eminently dubious proposition), our system would still be amoral, because it punishes innocents.

Those who claim on principled arguments that "a man deserves his punishment" are missing the larger picture. A million criminal cases, each rightly decided—each distributing justice to a man who deserves his sentence—still add up to a great and historic wrong.

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MONDAY, OCTOBER 7, 2013

10:00 AM Opening/Keynote

David joined Inmar as Chief Executive Officer in 2010. He has extensive operations and financial management experience in U.S., Europe and Asia. His expertise in investment, innovation, industry collaboration and corporate development has supported transformative product innovation and the growth of information-driven networks spanning over 200 countries. David has an MBA from The Wharton School, University of Pennsylvania. He is Chairman of the Wharton Alumni Executive Board, serves on the Board of Visitors for Wake Forest University Schools of Business and is a member of the Board of the United Way of Forsyth County.

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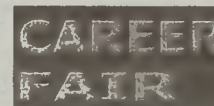
11:30 AM General Population

11:30 PM Executive Training

11:30 PM Entrepreneurial Training

TUESDAY, OCTOBER 8, 2013

10:00 AM-3:00 PM



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