



PERSPECTIVES

by Rinaldo S. Brutoco



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Arc of the Moral Universe

President Obama had one quote woven into the carpet of the oval office. It read: "The arc of the moral universe is long, but it bends toward justice." That Martin Luther King, Jr. quote has resonated with us down through history since it was originally uttered in a slightly different form by abolitionist preacher, Theodore Parker, in 1853. Today, we know that the arc is bending towards racial justice, and also includes a "justice system" unencumbered by corruption. We're talking about the criminal justice, or what passes for "justice," system that creates the largest incarceration rates in the world. You see, "institutionalized racism" and the criminal justice system are the twin faces of Janus.

The US has incarcerated over 2,300,000 people and has over four million more in some form of direct criminal justice. We incarcerate 700 people per 100,000 population and Britain, the next highest country, only incarcerates 139 people per 100,000 population. We have an incarceration rate 20 times greater than an advanced democracy like Germany. With only five percent of the global population, we hold 25 percent of the world's prisoners. Why? And what can we do about it?

First, let's understand how we got here. Institutional racism in the 70s caused a flurry of laws passed to lock up ever greater proportions of the Black community using drug laws that were designed to adversely affect minorities (e.g. the sentence for crack cocaine, favored by the poor, being many times longer than for the same amount of drugs in the powdered form favored by the wealthier white classes). This was how the drug laws were originally brought into play that have, for over 50 years, resulted in disproportionate arrests, convictions, and sentencing for Black and Brown Americans. Unbelievably, 70 percent of all the people in our jails are there for non-violent offenses, mostly drug related. Although Black and Hispanic Americans represent only 32 percent of the US population, they represent 56 percent of the folks in jail. That's no accident. If it were, this appalling injustice would have been cured 40 years ago when the statistic first became obvious. That's what structural racism looks like when it is institutionalized.

Second, our incarceration numbers bear no relationship to crime statistics. A study by the MacArthur Foundation showed that from 1983 to 2000 all crime decreased but our total incarcerations went from 6,000,000 to 11,700,000. At the same time, as mental hospitals were being closed in California and elsewhere in the country, the number of seriously mentally ill prisoners increased by as much as 600 percent. We have been warehousing our mentally ill in prisons where they are often brutalized and confined to a life of abject misery merely for the "crime" of being mentally unstable. What on earth are we doing in the face of this moral outrage?

Third, it is a national tragedy that our prisons end up being the "end point" on a dysfunctional social "ladder" that sees certain areas of the country and certain people of color unable to receive enough effective education to secure a good job. The American Civil Liberties Union reports that 70 percent of inmates entering state prisons have not graduated from high school, 19 percent are completely illiterate, and 40 percent are functionally illiterate. How do we reduce crime if the

"inputs" are badly damaged individuals who lack basic education and life skills?

Fourth, we need to aggressively advance the cause of "criminal justice reform," which is the movement aimed at making fundamental changes in the entire criminal justice system by: 1) decreasing the number of non-violent or victimless "crimes" in order to have fewer reasons to prosecute (e.g. the recent decriminalization of marijuana); 2) actively decreasing the prison population with early release programs (California has the lowest prison population in 30 years because of the releases of non-violent prisoners due to Covid); 3) reducing sentences that are perceived to be too long or too severe (e.g. phasing out of "three strikes" laws); 4) beginning to treat all drug "offenses" as a public health issue (in Portugal this has eliminated all jail time for all drug crimes with no increase in crime and massive tax savings); 5) decreasing recidivism by addressing the underlying causes of crime (e.g. lack of good education, grinding poverty, unequal job opportunities, etc.); 6) juvenile justice reform (e.g. no more putting juveniles in adult prisons); 7) reforming policing to minimize racial bias; 8) making it illegal for prison guard unions to lobby for increased sentencing, increased creation of criminal statutes, and all other ways that financially benefit those guards; 9) cash bail reform; and 10) eliminating private prisons.

Retired Superior Court Judge George Eskin says the elimination of cash bail itself will empty out as much as 60-70 percent of the inmates at our county jails— those are folks awaiting trial who haven't been convicted of any crime but are unable to make cash bail due to personal financial limitations. We all know that a system designed to provide an instant "get out of jail free" card if you can afford to buy it, but leave you languishing behind bars if you are poor, is inherently wrong.

Point 10 also cannot be overlooked. Publicly traded companies Geo Group and CoreCivic know their market capitalization (not to mention executive compensation) is ghoulishly set by the "sales" of prison beds to states which makes for a powerful incentive to keep as many prisoners in jail for as long as possible, and to have them come back repeatedly. Regrettably, private prisons literally monetize each prisoner by making each prisoner a unit of revenue and profit for the corporation. The prisoner creates wealth for them by literally being captured in a system of legalized slavery.

The California Legislative Counsel's office reports it takes over \$81,000 per year to incarcerate a single prisoner! That doesn't include the cost of apprehension, trial, and ultimately parole or probation. On a national scale, the 2019 cost was \$80 billion. California is now demonstrating that a 50 percent cutback of inmates is achievable without any increase in violent crime.

Criminal justice reform is compassionately wise, yields better economics, and produces a lower crime rate. Hence, it would be "criminal" of us to fail to reform our criminal justice system.

Published in the Montecito Journal Aug. 13, 2020 edition