

Book Review

PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION

Tara Herivel and Paul Wright, eds.

The New Press 2007

344 pp.

*Reviewed by Melissa Chan**

Child abuse and neglect. Substandard medical care. Inadequate food rations. One might expect to find such appalling standards of living in a Dickens novel. However, legislators currently condone such mistreatment of prisoners in the United States. In their latest work, *Prison Profiteers: Who Makes Money from Mass Incarceration*, editors Tara Herivel and Paul Wright bring to light the all too real human injustices that have become the norm as a result of the institution of privatized prisons.¹ This anthology of articles exposes those who profit from private prisons and identifies not only the prisoners, but also the public at large as the ultimate victims.

The first section of the book, entitled “The Political Economy of Prisons,” explains how private prisons can affect urban voting power and discusses how private prisons are financed. The private prison industry siphons taxpayer dollars and vot-

* Melissa Chan is a 2009 graduate of Pace University School of Law.

1. PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION (Tara Herivel and Paul Wright, eds., 2007).

ing power from crime-ridden inner city areas in dire need of improvement to rural districts where funds may not be as necessary. *Village Voice* staff writer, Jennifer Gonnerman, examines the government's use of taxpayer dollars in her article *Million Dollar Blocks: The Neighborhood Costs of America's Prison Boom*.² However, her article begs the question: if most of the prisoners come from the poorest inner city areas, then, why is spending diverted from those areas to the rural prison towns where the prisoners are housed? Gonnerman's use of a color-coded map quite graphically illustrates that most prisoners come from only "a handful of urban neighborhoods."³ Gonnerman suggests that legislators should instead partake in "justice reinvestment," which is the use of taxpayer dollars to improve poor urban areas in order to prevent them from becoming "crime-production neighborhoods."⁴ This section also includes the article *Prisons, Politics, and the Census*, in which prisoner Gary Hunter and executive director of the Prison Policy Institute, Peter Wagner, find that many rural prison districts include disenfranchised prisoners from other districts when reporting populations to the census.⁵ Reporting a greater voting population to the census unfairly gives those who can actually vote a stronger voice.⁶ Hunter and Wagner effectively emphasize the gravity of this population inflation when they liken it to the Three-Fifths Clause of the U.S. Constitution, "which allowed the South to obtain enhanced representation in Congress by counting disenfranchised slaves as three-fifths of a person for purposes of congressional apportionment."⁷ Gonnerman, Hunter, and Wagner's respective articles demonstrate the vicious cycle that occurs when taxpayer dollars and voting power shift from the inner city origins of most prisoners to rural prison towns.

The authors in this section also expose the unsettling way in which private prisons are financed. In his article *Doing Bor-*

2. See Jennifer Gonnerman, *Million Dollar Blocks: The Neighborhood Costs of America's Prison Boom*, in PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION 27 (Tara Herivel and Paul Wright, eds., 2007).

3. *Id.* at 27-28.

4. *Id.* at 33.

5. See Gary Hunter & Peter Wagner, *Prisons, Politics, and the Census*, in PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION 80 (Tara Herivel and Paul Wright, eds., 2007).

6. *Id.* at 82.

7. See *id.* at 85.

rowed Time: *The High Cost of Backdoor Prison Finance*, Justice Strategies policy analyst, Kevin Pranis, exposes state officials' underhanded use of backdoor prison financing schemes.⁸ Before the 1980s, state officials generally financed prisons through the sale of general obligation bonds, which are "backed by the 'full faith and credit'" of the state.⁹ These bonds usually required taxpayer approval.¹⁰ Private prison financing became a problem when the public became less supportive of prison expansion in the mid-1980s.¹¹ State officials then began to issue revenue bonds, which do not require public approval because they are "backed only by assets and income streams specified in the issuing documents" and "not . . . by the full faith and credit of the government."¹² Pranis concisely articulates the adverse consequences of financing private prisons via the sale of revenue bonds. First, state officials tend to overbuild "in order to secure financing."¹³ Once the prisons are built, state officials must justify the lease payments to voters by keeping the prison beds filled.¹⁴ Moreover, in her article *Making the 'Bad Guy' Pay: Growing Use of Cost Shifting as an Economic Sanction*, Kirsten D. Levingston, director of Public Initiatives and the Living Constitution Project, points out that many prisoners now must pay for their own incarceration.¹⁵ Many private prisons currently charge their prisoners fees in order to defray costs and to "keep the system in the black."¹⁶ Levingston contends that these prison fees are "unrelated to achieving the criminal system's putative goals of punishment, deterrence, incapacitation, and rehabilitation."¹⁷ Proponents of charging inmates fees argue that this policy merely relieves taxpayers of the financial burden of incarceration by putting it on "the 'bad guys' who use

8. See Kevin Pranis, *Doing Borrowed Time: The High Cost of Backdoor Prison Finance*, in PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION 36 (Tara Herivel and Paul Wright, eds., 2007).

9. *Id.* at 36-37.

10. *Id.* at 37.

11. *Id.* at 36.

12. *Id.* at 37.

13. *Id.* at 41.

14. *Id.* at 50.

15. See Kirsten D. Levingston, *Making the "Bad Guy" Pay: Growing Use of Cost Shifting as Economic Sanction*, in PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION 52 (Tara Herivel and Paul Wright, eds., 2007).

16. *Id.* at 53.

17. *Id.* at 62.

the [criminal justice] system.”¹⁸ However, Levingston stresses that there is a fine line between “taxpayer” and “bad guy.”¹⁹ Levingston elucidates her rebuttal when she tells the story of Ora Lee Hurley, a female prisoner who owes a \$705 fine.²⁰

Hurley is a prisoner held at the Gateway Diversion Center in Atlanta because she owes a \$705 fine. As part of the diversion program, Hurley was permitted to work during the day and return to the Center at night. Five days a week she works fulltime at a restaurant, earning \$6.50 an hour and, *after taxes*, nets about \$700 a month. Room and board at the diversion center is \$600, her monthly transportation costs \$52, and miscellaneous other expenses eat up what’s left.²¹

Hurley is being held in prison merely because she cannot pay her fine.²² Her story exemplifies how easily prisoners may fall into a “vicious financial cycle.”²³ Furthermore, upon release, former convicts have even more difficulty obtaining employment and earning the funds to repay cost-recovery sanctions because they are “poor and undereducated.”²⁴ The policy of “making the ‘bad guy’ pay” keeps the poor in prison and “those who profit from full jails” rich men.²⁵

“The Private Prison Industry,” the second section of the anthology, sheds light upon private prison officials’ political agendas and their manifestations in the treatment of prisoners. *New York Times* reporter Ian Urbina delves into the United States military’s dependence on prisoner-produced supplies in his article *Prison Labor Fuels American War Machine*.²⁶ Urbina exposes Federal Prison Industries, a “quasi-public” corporation that employs about 21,000 prisoners to manufacture military weapons and clothing, among other products.²⁷ Federal Prison Industries was incorporated through federal legislation during the Great Depression.²⁸ Thus, minimum wage requirements do not

18. *Id.* at 55.

19. *See id.*

20. *See id.*

21. *Id.* at 55-56.

22. *Id.* at 56.

23. *Id.* at 72.

24. *Id.* at 73.

25. *See id.* at 55.

26. *See* Ian Urbina, *Prison Labor Fuels American War Machine*, in PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION 109 (Tara Herivel and Paul Wright, eds., 2007).

27. *Id.* at 110.

28. *Id.* at 110, 113.

apply to Federal Prison Industries; prisoner-employees may be paid as low as 23 cents an hour.²⁹ As one might imagine, the company's aim is to keep its prisoner-employees "as busy as possible."³⁰ The legislation that created the corporation also requires federal agencies to patronize it, even if other corporations offer a lower price for their products.³¹ Critics of Federal Prison Industries argue that this legislation gives the company an unfair advantage over its competitors.³² Urbina raises other valid criticisms of Federal Prison Industries, including its adverse affect on prisoner-employees themselves.³³ Urbina argues that if companies like Federal Prison Industries can exploit prisoner-employees, then they have "less incentive to invest in more expensive ways to fill the time, such as counseling, drug treatment, and literacy programs. . ."³⁴ Proponents of such companies argue that employing prisoners teaches them marketable skills.³⁵ However, because the prisoners only produce the type of supplies that would normally be manufactured in factories abroad, the menial skills the prisoners acquire in prison are not marketable once they are released.³⁶ Furthermore, the for-profit company has contended that keeping dangerous inmates busy keeps them out of trouble.³⁷ However, Urbina suggests that having high-risk prisoners produce military supplies poses a real danger to national security.³⁸

Journalist Samantha M. Shapiro questions whether faith-based prison programs effectively rehabilitate their prisoners in her article *Jails for Jesus*.³⁹ Shapiro finds that faith-based prison programs do not lower recidivism rates or "cure[]" prisoners who need professional help, as they purport to do.⁴⁰ Rather, they aim to "bring[] . . . more people to Christ and shrink[] . . .

29. *Id.* at 110-11.

30. *Id.* at 110.

31. *Id.* at 113.

32. *Id.*

33. *See id.* at 115.

34. *Id.*

35. *Id.*

36. *Id.* at 116.

37. *See id.* at 110, 117.

38. *Id.* at 116-17.

39. *See* Samantha M. Shapiro, *Jails for Jesus*, in *PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION*, 128, 128-129 (Tara Herival and Paul Wright, eds., 2007).

40. *Id.* at 131, 136.

government.”⁴¹ Shapiro personalizes her arguments by describing her visit to the InnerChange Freedom Initiative program at Ellsworth prison in Kansas. While there, Shapiro notices that InnerChange inmates are allowed many freedoms and amenities that other inmates are not.⁴² These include access to musical instruments, drug programs, education, and less supervision.⁴³ Shapiro suggests that because they are provided with better amenities and privileges, many prisoners apply to the InnerChange wing in order to escape the more stringent parts of the Kansas prison system.⁴⁴ Shapiro effectively contrasts the treatment of InnerChange prisoners and that of non-Christian prisoners in the general prison population.⁴⁵ InnerChange prisoners are provided with Christmas dinner with their families; Muslim prisoners, however, would have to pay for a Ramadan feast.⁴⁶ Furthermore, non-Christian prisoners must seek permission before praying in groups, while InnerChange prisoners are encouraged to pray together throughout the day.⁴⁷ Even InnerChange’s substance abuse program is unconventional in that addiction is viewed as “a sin that can be permanently ‘cured’ through Jesus.”⁴⁸ Shapiro’s most shocking and disturbing encounter with InnerChange was the faith-based sex offender program, or what one InnerChange inmate described as “‘a little like AA for homosexuals.’”⁴⁹ During his interview with Shapiro, the leader of the group admitted that he didn’t know how to handle someone who had committed a sex crime; his only weapon against the offenders’ problems was prayer.⁵⁰

The third and final section of *Prison Profiteers*, called “Making Out Like Bandits,” highlights the child abuse and neglect that takes place in private juvenile detention centers, the mistreatment of ill prisoners, and the various companies who capitalize from mass incarceration by shamelessly peddling their

41. *Id.*

42. *See id.* at 132-35.

43. *Id.* at 132.

44. *See id.* at 139-40.

45. *See id.* at 133-34.

46. *Id.*

47. *Id.* at 134.

48. *Id.* at 136.

49. *Id.*

50. *Id.* at 137.

wares. In her article *Behind Closed Doors: Privatized Prisons for Youth*, Tara Herivel explains why the privatized juvenile detention industry is thriving despite declining youth crime rates.⁵¹ The public defense attorney and co-editor of *Prison Profiteers* exposes the industry's manipulation of society's fear of "super-predators" during the last thirty years.⁵² At the end of the 20th century, American society's general characterization of problem children shifted from victims of circumstance who are "malleable . . . and capable of being rehabilitated" to unstoppable marauders who are beyond help.⁵³ State legislators and prosecutors successfully clamored for legislation that would enable the government to punish superpredator children as adults; private corporations built oversized juvenile facilities in anticipation.⁵⁴ The number of juvenile detainees increased by 95 percent during the 1990s.⁵⁵ The children held in juvenile detention centers often come from lower class families, are physically or psychologically disabled, and were victims of abuse.⁵⁶ They require attention that cost-cutting private companies are financially reluctant to provide.⁵⁷ The children are deprived of medical treatment and counseling.⁵⁸ The private detention's parsimony affects the children in other ways as well. The prison staff is poorly trained and poorly paid.⁵⁹ As a result, children are beaten and sexually abused.⁶⁰ Herivel paints a horrifying picture of the private juvenile detention system and thus gives a strong voice to the children detainees who cannot speak for themselves.

GQ magazine writer Wil S. Hylton reports on the atrocious medical treatment provided in the privatized prison system in his article *Sick on the Inside: Correctional HMOs and the Coming*

51. See Tara Herivel, *Behind Closed Doors: Privatized Prisons for Youth*, in PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION 157 (Tara Herivel and Paul Wright, eds., 2007).

52. *Id.* at 163.

53. *Id.*

54. *Id.* at 164.

55. *Id.*

56. *Id.* at 166.

57. See *id.* at 175.

58. *Id.*

59. *Id.* at 158.

60. *Id.* at 157-58.

Prison Plague.⁶¹ Hylton provides individual accounts of inmates who received inadequate medical treatment from Correctional Medical Services (CMS), the United States' largest and cheapest provider of prison medicine.⁶² He brings these injustices to life with the stories of inmates Daniel Hannah and Larry Frazee. Hannah's story involves CMS's neglect and mistreatment of his hepatitis, the incredible swelling of his midsection, his untimely death, and CMS's ultimate cover-up.⁶³ Frazee, who also suffers from hepatitis, was required to meet an unreasonable checklist before he could receive any treatment.⁶⁴ The infirmary gave him the run-around, though CMS would have the public believe Frazee merely had to meet a "protocol pathway."⁶⁵ However, the infirmary's evasion was intentional.⁶⁶ Hylton suggests that CMS kept its doctors from treating hepatitis because it was too expensive; "[t]he fewer patients they treat, the more money they make."⁶⁷ Hylton exposes other egregious and neglectful CMS practices, including asking a judge to release a seriously ill prisoner so that the prisoner may receive medical treatment on someone else's dime, only to rearrest her once she has received treatment.⁶⁸ Hylton's interview with a former CMS nurse sends chills down the reader's spine when the nurse reveals that medical staff members justify their neglect and mistreatment of prisoners by saying, "[L]ook what they did to this other person."⁶⁹ Hylton indignantly asserts that such attitudes of retribution do not belong in the prison infirmary.⁷⁰

The final section also exposes the phone service providers and taser manufacturers that seek to profit from mass incarceration. In *Mapping the Prison Telephone Industry*, Steven J. Jackson, an Assistant Professor at the School of Information at the Uni-

61. See Wil S. Hylton, *Sick on the Inside: Correctional HMOs and the Coming Prison Plague*, in *PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION* 179 (Tara Herivel and Paul Wright, eds., 2007).

62. *Id.* at 182.

63. *Id.* at 179-180.

64. *Id.* at 186.

65. *Id.*

66. *Id.* at 187.

67. *Id.* at 188.

68. *Id.* at 197-98.

69. See *id.* at 199.

70. *Id.*

iversity of Michigan, suggests that the astronomical phone rates the service providers charge inmates' families ultimately increase prisoner recidivism.⁷¹ Although the price of phone service outside prison walls has generally decreased since the 1980s, competition between phone companies for private prison contracts has actually caused the price of prison phone service to skyrocket.⁷² In order to obtain prison contracts, service providers have agreed to share profits with private prison officials.⁷³ The phone companies then impute the additional kick-back amount onto the prisoners' families.⁷⁴ Jackson makes an interesting connection when he references recidivism studies that suggest that the likelihood of an inmate's return to prison is directly correlated to how much contact she maintains with her family while incarcerated.⁷⁵

Anne-Marie Cusac, an Assistant Professor in the Department of Communication at Roosevelt University and a George Polk Award-winning journalist, questions the safety of tasers.⁷⁶ Manufacturers assure that tasers, which are the "new fad in law enforcement," debilitate perpetrators without seriously injuring them.⁷⁷ However, the manufacturers' promise of safety seems to do more damage than good. Law enforcement officers armed with tasers often use them too readily.⁷⁸ As a result, they have killed at least 100 people (as of 2005) and seriously injured countless more.⁷⁹ Cusac describes instances in which tasers have been used on children, pregnant women, and the elderly, with disastrous results.⁸⁰ She suggests that tasers are used more for "torture and abuse rather than as a substitute for lethal force."⁸¹ Both Jackson and Cusac assert that manufacturers

71. See Steven J. Jackson, *Mapping the Prison Telephone Industry*, in PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION 235 (Tara Herivel and Paul Wright, eds., 2007).

72. *Id.* at 236, 238.

73. *Id.* at 238.

74. See *id.* at 239.

75. See *id.* at 241.

76. See Anne-Marie Cusac, *Shocked and Stunned: The Growing Use of Tasers*, in PRISON PROFITEERS: WHO MAKES MONEY FROM MASS INCARCERATION 250 (Tara Herivel and Paul Wright, eds., 2007).

77. *Id.* at 250-251.

78. See *id.* at 256.

79. *Id.* at 250.

80. *Id.* at 250, 253.

81. *Id.* at 256.

hawk their products and services and exploit prisoners and their families just to turn out a profit.

Prison Profiteers sheds light upon a problem of which few are aware. Each aspect of the private prison problem is presented by a different author who brings to the table a different perspective. However, the articles share several themes. Many of the authors provide accounts of individual inmates who have suffered abuse at the hand of the private prison industry. These narratives humanize the problem and emphasize to the reader that there is more at stake than exorbitant sums of money. Proponents of private prisons can only ensure that the competition between corporations will result in mass incarceration at the lowest cost. While this capitalist attitude may be useful in the product manufacturing context, it has no place in determining how society treats convicted criminals. Cost-cutting and the “if we build it, they will come” approach to incarceration will harm prisoners and society as a whole.⁸² The authors of the articles in *Prison Profiteers* propose that prisoners be housed by an entity that will invest in their rehabilitation, and not by a stingy private corporation that will risk their rights and their lives for the almighty dollar.

The authors also share a desire for transparency in the prison system. As Wil S. Hylton offered in his article,

[P]risons are designed for keeping secrets, for holding inside not just men but also their lives and the details of those lives. In prison, social isolation is a matter of policy, and inmates are neither expected nor encouraged to have more than a modicum of contact with the outside world.⁸³

Society has an “out of sight, out of mind” mindset when it comes to prisons. We don’t know what happens on the inside, and often we don’t want to know. *Prison Profiteers* forces the reader to acknowledge what happens to our fallen members of society when we send them to private prisons. It is important that the public reads this book so that, at the very least, we become aware of “what is being done on the inside, in our names.”⁸⁴

82. Herivel, *supra* note 52, at 164.

83. Hylton, *supra* note 62, at 180.

84. *Id.* at 203.