



Institute of Social Studies

Graduate School of Development Studies

RESURRECTING PRISON INDUSTRIES: NEW BONDAGE FOR FLEXIBLE LABOR?

A Research Paper presented by

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(USA)

In Partial Fulfilment of the Requirements
for Obtaining the Degree of

MASTER OF ARTS IN WOMEN AND DEVELOPMENT

Members of the Examining Committee

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The Hague, December 1997

This document represents part of the author's study programme while at the Institute of Social Studies; the views stated herein are those of the author and not necessarily those of the Institute.

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Acknowledgments

This project benefited
from the early (and on-going) enthusiasm of Ineke van Halsema
and the encouragement of Ruth Pearson.
Thanks to Bart Plantenga for ideas, inspiration and an eagle-eye
and to OJA for clippings and so much more.

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Acronyms

ACLU - American Civil Liberties Union
AFL-CIO - American Federation of Labor and Congress of Industrial Organizations
AFSC - American Friends Service Committee
AP - Associated Press
BIP - Border Industrialization Program
BJA - Bureau of Justice Assistance (Office of Justice Programs, U.S. Department of Justice)
BJS - Bureau of Justice Statistics (U.S. Department of Justice)
BOP - (Federal) Bureau of Prisons
CCA - Corrections Corporation of America
CCPOA - California Correctional Peace Officer Association
CDC - California Department of Corrections
CEO - Chief Executive Officer
CNN - Cable News Network
D - Democrat
DMS - Diversified Municipal Services
EPZ - Export-processing zone
FBI - (U.S.) Federal Bureau of Investigation
FDI - Foreign Direct Investment
GAO - (U.S.) Government Accounting Office
HRW - Human Rights Watch
I - Independent
ICFTU - International Confederation of Free Trade Unions
IHT - International Herald Tribune
INS - (U.S.) Immigration and Naturalization Service
LAO - (California) Legislative Analysts Office
Mass DOC - Massachusetts Department of Corrections
MNC - Multinational Corporation
NAFTA - North American Free Trade Agreement
NCDOC - North Carolina Department of Corrections
NRA - National Rifle Association
PL - Public Law
PLRA - Prison Litigation Reform Act
PIA - (California) Prison Industry Authority
PRI - Partido Revolucionaria Institucionalizada
PRIDE - (Florida) Prison Rehabilitative Industries and Diversified Enterprises, Inc.
PS/PIEC - Private Sector/Prison Industry Enhancement Certification Program (Federal, also referred to as PIE)
R - Republican
SLAP - Sheriff's Labor Assistance Program
UNICOR - trade name for Federal Prison Industries, Inc.
UPS - United Parcel Service
WRB - Women's Review of Books

A confluence of forces has turned the old days of convicts “breaking rocks in the hot sun” from memories into new realities, as the chain gang currently enjoys renewed popularity in the U.S., where “clients” of the state are garbed in revamped uniforms, complete with high tech electronic stun belts to keep deviants in line.¹ Since the banning of public executions and the demure lockstep of incarceration and punishment into seclusion, a reformist era issued a prison doctrine of “out of sight, out of mind,” with the general public little concerned, even relieved, with what they could not see behind prison walls. But today, the fruits of Big House activity have begun to be served up for the public to consume, again, and where else, but in the marketplace. Prison Blues jeans, Inkarcerated Industries’ Hard Time brand fitness gear, manufactured by prison labor are on offer, along with other products, some with their value insured by a “Lockdown Guarantee.”² It is with this peculiar and somewhat cynical return to the manufacturing and service sector, with queries as to “why?” and “how?” in mind, and more specifically the question of “why now?” which challenges onlookers to locate this phenomena within larger trends, that I embark on the research that unfolds below.

Chapter One

Introduction

In this research paper I focus specifically on the United States and Mexico, now joined together in a formalized free trade agreement, a pact that solidifies much of the economic restructuring occurring in North America. In both countries “institutions” exist, both formal and informal, which exercise control over large numbers of people, regulating their movements and access to resources, while limiting their choices and, perhaps, casting them in a role with specific economic and social ramifications. I will take one example from the U.S. which illustrates my claim, while using another, better-documented example from Mexico as a point of reference throughout my analysis. My focus is on the United States prison system, though comparative mention will be made to the *maquiladora* factories located in the border region in northern Mexico. Both are growing sectors of industry in their respective countries.

Unlikely (or unsavory) as it may sound, prisons are being pitched to American communities as beneficial forms of economic development. As the Mexican government encourages foreign investors to spread the “wealth” and set up *maquilas* beyond the booming and overloaded industrialized northern border region,³ private sector investment in the U.S. prison industry has helped create privatized prison corporations which court economically depressed rural communities in need of development “alternatives” (Smith, 1993). The *maquilas* and prisons present similarities in a spatial sense, because both serve as holding areas (enclosures) for what is generally termed “cheap labor,” now that some inmates are being pressed into employment in public/private joint ventures. While investigations into the *maquila* sector clearly fall within the realm of the growing body of literature on export processing zones, I am interested in finding out to what extent the EPZ’s enclave position can be found elsewhere in the North American context. I believe that U.S. prison inmates provide another, less-documented example of the use of a flexible labor force, within a global system characterized by the internationalization of capital and trends in economic restructuring that emphasize

¹ In 1997, Maryland, Wisconsin, Alabama, Arizona, Florida, Iowa, and some county sheriffs’ departments were operating chain gangs (Kilborn, 1997: 3).

² Commodifying the criminal makes for some catchy taglines. Hard Time sweatshirts, shorts and caps, silkscreened by inmates at California’s San Quentin prison and embroidered by wards of the California Youth Authority in Stockton, follow the theme that “fitness is a life sentence” (About Inkarcerated Industries, 1997). Prison Blues are “Made on the inside to be worn on the outside” (Perlman, 1997: 9).

³ Even in the occupied state of Chiapas a project is underway to set up *maquilas* (*Correspondencia*, 1995: 6).

privatization and deregulation. By taking the globalization of neoliberalism as the mechanism that is restructuring various spheres of life, this research will also explore how the “acceptance” of this ideology has facilitated an embrace of forms of development which curtail individual rights, in both the “North” and the “South.”

The primary objective of this research is to investigate the social construction of “cheap labor” and the different routes taken to reach such a construction. This investigation, therefore, will involve an analysis of the discourses/strategies used to justify and facilitate the development of the prison sector and the labor force found within them. This also will give rise to a discussion of the relevance of different forms of control in shaping a labor force. While an inquiry into the benefits of work (to the individual and to the community) versus the costs of social control, in terms of limited freedom and mobility, is beyond the scope of this research paper, I hope that my presentation will provide fuel for such discussions.

Justification

My interest in focusing on these two specific sectors is sparked by the dynamic nature of *maquila* and prison industries at this moment; as well as their historical link to industrialization in their respective nations.

Both *maquilas* and prisons are growth sectors: Since NAFTA was implemented in 1994 *maquiladora* employment along the Mexican-U.S. border has increased 26% (Public Citizen, 1996). Employment figures released by the Mexican government for 1996 showed the number of *maquiladora* jobs had increased 20% since the year before. By late 1996, 811,400 people were employed in this sector (*Houston Chronicle*, 1997: 1). The 2,200 border region *maquilas* alone employed 740,000, with another 145,000 new jobs expected to be created in the following year (Maquiladora National Council, cited in Beachy, 1996a: 2). Despite infrastructure overload in the border region, *maquila* growth continues: the population along *la frontera* has increased 70% since the 1980s (ICFTU, 1996: 27).

In the United States the proportion of jailed or imprisoned citizens has nearly doubled in the last decade (U.S. Justice Dept., 1996).⁴ The incarceration rate in the United States—one out of every 163 residents—is reportedly the world’s highest (six to eight times higher than rates in other industrialized nations) (Associated Press, 1997). The 1996 mid-year inmate population reached 93,167 at the federal level and 1,019, 281 in state prisons (Bureau of Justice Statistics, 1997). In 1995, the State of California alone reportedly was “the third largest penal system in the world, following China and the U.S.” (Davis: 229). Within that state, the most populous and fastest-growing in the U.S., prisons form the third largest industry (U.S. Census Bureau 1997, cited in *International Herald Tribune (IHT)*, 1997: 3; Erickson, 1996: 1).

The potential for cashing in on such enormous growth has been spotted by various interested parties. *California Lawyer* magazine, for example, touted prisons as “one of the state’s hottest practice areas” in 1994 (Erickson, 1996: 1). Health care and food service are said to be “the fastest growing sectors of the booming corrections industry” (Knepper and Lilly, cited in Christie, 1993: 98), though “the biggest profits are made in construction and finance” (Christie: 99). Trends toward privatization of this portion of the public budgetary pie have opened up new avenues for investment in this sector. Current trends in policy suggest that the incarceration rate will continue to grow via new sentencing laws (the 1994 Federal Crime Bill and state level “three-strikes-

⁴ The number of women in prison has gone up 500% since 1980 (Stein, 1996: 24), though women still make up only about 6% of the total inmate population (7% at the federal level (Fed. BOP, 1997) and 5% at the state level (1991 figure, cited in BOP, 1997).

you're-out" life imprisonment legislation, for example) and that provisions are being made to accommodate the growth of this population segment.⁵ The U.S. government predicts a 25% increase in the prison population between 1995 and 2000, and estimates that one out of every 20 people in the U.S. will serve time in prison (GAO, 1996b: 9; U.S. Dept. of Justice, 4/28/97).

It has been suggested that the prison boom has "created a new version of the military-industrial complex" (*Wall Street Journal*, cited in *The Nation*, 1995: 223). Prison building is now a budgeting priority (witness the dismantling of California's system of higher education as funding was transferred to finance the expansion of the state's prison system (Erickson, 1996: 1)) justified as a "necessary" safety measure, which also brings jobs to communities. Said Texan legislator Wilhelmina Delco, "Prisons and criminal justice are the only growth industries in Texas" (quoted in Bryce, 1994: 2).

Former U.S. Supreme Court Chief Justice Warren Burger sounded the call, invoked by both privatization proponents and prison labor enthusiasts, towards a vision of prisons transformed into "factories with fences." He "...argued that prisons should once again become not only self-sustaining, but profit-producing entities requiring minimal financial input from the state" (Wright: 1). While inmates have long "worked" in prison—providing the services that maintain the facilities which house them—the use of inmate labor in prison industries is now legal in 30 states, despite opposition from labor groups, such as the AFL-CIO (Miller, 1996:1). In some instances prison industries are in direct competition with export-oriented *maquilas*. "Prison Blues" blue jeans, produced by inmates in the Oregon state prison system, are sold in nearly 500 stores nationwide at prices comparable to Levi's, and are now available overseas. In 1995 projected export revenues for this line of clothing was more than \$1.2 million. Others who have used prison labor include TWA, Honda, IBM, Toys-R-Us, and Kmart (Elbow, 1995). In 1994 right-wing Congressional candidate Jack Metcalf used prison telemarketers to inform voters of his lower taxes/pro-death penalty campaign platform (Wright, 1995: 2).⁶ The Prison Industries Reform Alliance boasts that by the year 2000 prison industry sales will reach \$8.9 billion (Elbow, 1995: 6). The Correctional Industries Association forecasts the same figures, estimating that by the year 2000, 30% of the federal and state inmate population will be working. Organized labor translates this into 520,000 inmate workers, leading to the loss of 400,000 private-sector jobs (Kameras, 1995: 1). Now, just as in export-processing zones, some U.S. states offer investors incentives to use prison labor.

Methodology and Theoretical Framework

Multiple identities of self are concomitantly invoked or manipulated as each of us navigates his/her way through daily life. In this paper I am particularly interested in exposing the alleged identity traits or characteristics that support our notions of a cheap "flexible" worker. Are they different in different situations? Given such interrelations then, do socially-constructed norms combine to inform some sort of grand theory of "flexibilism"?

Concepts such as flexibilization have been demonstrated to rely on socially-constructed concepts such as gender. A gender analysis reveals that women industrial workers have been portrayed as a previously untapped source of labor—a nimble-fingered, docile, novice work force, unable and uninterested in organizing (Pearson, 1986). As a result women have often been viewed as a source of "cheap labor." Indeed, patriarchally-

⁵ For example, the 1997 Democratic congressional proposal earmarks \$5 billion for new prison construction (Dewar, 1997:A04).

⁶ Metcalf won the election.

influenced notions of gender have been found to be relevant in the structure and functioning of the *maquilas*. But do women workers have a preponderant hold on the low-wage category if this association has been demonstrated to be based on socially-constructed notions of identity? What would a gender analysis of a low-wage work force drawn from a pool of mostly male workers reveal? Indeed, depending on the context, “cheapness” can be constructed in various ways. I will suggest that current U.S. law and order rhetoric, which redefines the “criminal,” with distinct class, racial/ethnic and gendered implications, has facilitated the incarceration boom (Ransby, 1996) and allowing for a new pool of “cheap labor” to emerge.

In this paper I will suggest that constructed identities help to channel certain populations into a work force that operates in a controlled locale (EPZs and prisons). Tracing back the “flow” of people will reveal populations with limited options or opportunities on the “outside.” This posits the existence of enclave sectors and a relative mobility of people. Comparing and contrasting the *maquila* labor force with that drawn from the ranks of the U.S. inmate population will make it possible to investigate such an assertion. In this manner, the reliance on gendered norms to facilitate control in the workplace in today’s specific context shaped by neoliberal discourse will also become more visible.

A deconstruction of the concept of “cheap labor” in the contemporary context will require that I begin with a review of the mechanisms of global restructuring. This will be the focus of Chapter Two, providing not only a necessary backdrop but the basis of the analytical framework that will guide me through my inquiry into inmate labor. Trends toward flexibilization, feminization, deregulation, and privatization will be discussed. Information on the prison sector is presented in Chapter Three. In examining prison industries, case studies will not be used, though examples taken from the California and Texas prison systems will occur most frequently: they represent the largest inmate populations in the United States. The Florida model will emerge as noteworthy when considering the mechanism of privatization, as does New York State when the discussion turns to sentencing policies.

People do not merely “end up” in prison, therefore Chapter Four examines the alleged goals and consequences of what have come to be known as “law and order” policies. How do redefinitions of criminal behavior worthy of incarceration figure into the prison boom? To what extent are these definitions influenced by race, class, age and gender? Observations follow on the manner in which the socially/politically constructed notion of prisoners as “cheap laborers” is sold “outside” to the public, and then are operationalized inside the prison. Tendencies to apply controls, in various guises, will be discussed. For example legal controls that result in a denial of bargaining power (through disenfranchisement, prohibitions on organizing) and spatial issues, not only in terms of the enclave position of these industries but also the extent to which such spaces become “coercive” for those who inhabit them. In Chapter Five the phenomena conceptualized in Chapter Two will be explored more vigorously in the prison sector, with comparative reference to the *maquila*/EPZ model. This section will focus on a deconstruction of the notion of “cheap labor,” with cheapness emerging as more than a label that connotes low wages; it implies a complex interaction of factors that position some as workers “better-suited” to the needs of industry, than others. A gender analysis is utilized to shed more light on prison industries. Picking up on the “flexible” characteristics of inmate workers, this research will attempt to present a more complete view of the social construction of such an identity by investigating how notions of “feminization” and other gender-influenced beliefs fit into such a context. Although the data on women in prisons is slim, a look at the use of male and female prison laborers provides an interesting opportunity to consider the gendered division of labor.

Chapter Six returns to the larger context outlined in Chapter Two for final observations and conclusions. Given the processes that have been revealed to play a role in constructing a low-wage work force, what can be said about such a form of development? What are the ramifications of such trends? What can be said about their impact or resonance beyond the North American context I have focused on?

The issues that I will be dealing with in this paper are informed by several theoretical debates: (a) the social construction of gender and how that interrelates with other constructed identities (worker); (b) globalization and flexibility and the local shapes they take; (c) spatiality, (im)mobility, and control and (d) the rationalization of work. In locating myself within these ongoing debates, it is my hope that I will contribute in some way to a better understanding of how identities are constructed and utilized, and perhaps assist in the development of a framework that allows for a more thorough analysis/critique of neoliberal restructuring by widening the scope to include less-recognized forms.

Scope and Limitations

By seeking to locate a national trend within the international arena, I realize I run the risk of making an empirical leap by presenting a clearly delineated movement. This is not the case—the prison industry and industries within prisons constitute an emerging field of study. However, honing in on the tension/overlap between the interests of state, society and the market, as illustrated by the way in which I have chosen to conceptualize my inquiry will focus my investigation. Within the correctional system there is also a large and significant population of paroled inmates and people sentenced to periods of probation who are involved in work programs, an area deserving of further study, but unfortunately beyond the scope of this paper.⁷ Additionally, I recognize that there are other examples of “cheap labor” in the United States that would have provided for an interesting comparison with those allotted “cheap labor” status in Mexico—for example, women homeworkers or participants in welfare reform “workfare” programs. I choose to compare the *maquila* labor force with the prison labor force because of the similarities noted above; but also because there has been little investigation of U.S. prison labor (especially the gendered aspect of prison labor).

By juxtaposing the role of women in Mexican *maquila* industries with the use of (mostly) male prison inmates in the labor market, I hope to make visible the connections, similarities and differences between varying actors in a globalized context. A comparison of such apparently different sectors might seem odd or even arbitrary, some might even find the suggestion of a relationship between industrial workers and convicted criminals to be offensive, but I believe that a worthwhile commentary will emerge as to what gives rise to global trends and the local forms such trends take.

Note: The reader will find footnotes (sometimes lengthy) at the bottom of the page, which offer supplementary information without impeding the flow of the main argument. Appendices intended to provide elaboration on some significant points follow at the end of the document. A list of acronyms precedes this chapter.

⁷ New Jersey Superior Court Judge Daniel R. Coburn, the man behind two probationary programs in that state, including the Sheriffs Labor Assistance Program (SLAP), where people on probation are put to work, remarked that “Fail to do exactly what you’re required to do on SLAP and you get slam—as in, see you in jail for sure” (quoted in DiIulio, Jr., 1997: 42). This brings up interesting issues of work, conformity, control and the threat of incarceration. The revocation of parole, sometimes arbitrarily imposed, as well as the denial of parole, are related topics. In California, for example, the Board of Prison Terms was found to have “virtually unlimited” authority to withhold parole. (Erickson, 1996: 10). At the end of 1996 there were approximately 3.9 million adults on probation or parole, up 3.4% from the year before (Bureau of Justice Statistics, cited in Lardner, Jr. 1997: 3). For more on the history of parole in the U.S. prison system, which links its introduction to the phasing out of the convict labor system and the impact of other economic considerations on the use of parole, see Abadinsky, H. (1978) “Parole History: An Economic Perspective,” *Offender Rehabilitation*, 2, 3, spring, 275-278.

Chapter Two The International Context

Global Restructuring and The Internationalization of Capital

“...Export-processing zones...are important for what they suggest will become the norm in the organization of production” (Nash, 1983: viii).

The global scenario, which all countries are seeking to find their niche in today emerged in the 1960s when the relationship between “developed” and “developing” countries began to change. Production of manufactured goods shifted away from the “North,” as assembly-line Fordism was introduced on a larger scale in the countries of the “South.” Workers in developing countries were put into service for export-oriented ventures, often headquartered in developed countries. It is the “combination of the increased use of space together with the expanded transnationalisation of corporate structures that has given the current restructuring process its global character and dynamic” (Henderson, 1990: 3).

In this model liberalization and deregulation have been crucial, creating a leading role for what is reverently referred to as “the market,” led by finance capital, with a role now rivaling that of the state. Consequently “the internationalization of capital permits firms to play off one state against another as they compete to attract foreign capital through subsidies to investment” (Jenkins, 1984: 44). The debt crisis of the 1980s and the subsequent imposition of structural reforms reinforced one important role for developing countries—to be attractive, lure, and play host to foreign capital.⁸

Export-oriented industrialization became the development strategy of the day, and it still holds sway.⁹ By 1986, 176 export-processing zones (EPZs) with special incentives for foreign investment, were operating in 47 developing countries (Zlotnik, 1993, cited in Simmons, 1991: 352). And so, this has been the case for Mexico, where the *maquiladoras*, under the auspices of the Border Industrialization Program (BIP), represent one of the largest examples of such a strategy.¹⁰

In 1965 the Mexican government established the BIP to provide investors with incentives to set up operations in an export zone located along the U.S.-Mexican border. This policy was meant to address the rise in border-area unemployment following the 1964 cancellation of the *bracero* (guest worker) program which had permitted migrant laborers to work in the United States (Tiano, 1994, cited in Gabriel and Macdonald, 1994: 537). The lure of the *maquilas* went beyond the availability of cheap labor and included “special measures which

⁸ The bulk of investment made in developing countries is concentrated in only a few countries. In 1993, for example, 79% of foreign direct investment (FDI) to developing countries went to ten countries—Mexico being among the top ten (*World Investment Report 1995*: 12). Yet, even developing countries which are successful in attracting FDI remain in a precarious position, again, Mexico stands out as an important example. “The recent Mexican crisis brings to the fore the damage that developing countries encounter from hosting speculative, portfolio investments from abroad” (Mitter, 1995: 5). This financial crisis came to be known as ‘the first crisis of the 21st century’ and/or ‘the first crisis of globalization,’ in that it affected not only Mexico but also many of the newly emerging countries in Latin America, such as Argentina and Brazil, through the so-called tequila effect” (Suárez Aguilar, 1995: 140-141). Though once touted as an IMF/World Bank “model,” “within the space of a few months, Mexico was transformed into the weakest link in the international credit system.”

⁹ For example, two of four free trade zones planned for Cuba (!), opened in May 1997 (Fletcher, 1997: 3).

¹⁰ The word *maquiladora* is based on “the Spanish term *maquila* [which] referred to the portion of flour retained by the miller as payment for grinding someone else’s grain. The wages paid to border-city workers became, in effect the *maquila* for the assembly of manufactured goods” (House 1982 cited in Arreola and Curtis, 1993: 202).

enabled foreign manufacturers to import components and export the finished goods, incorporating them under a bond system without incurring customs duties. In addition, machinery could be imported duty free on a temporary basis.” Fiscal incentives, at the state and federal levels, “including exemption from some local and national taxes,” were introduced, as were significant offerings of infrastructure such as the construction of industrial parks outfitted with utilities, telecommunications facilities and road networks (Carillo and Hernandez, 1985: 94-99) “...The advantages ... in terms of the nearness to the final market, the reduction in transport costs both of materials and components and of assembled goods for re-export to the USA, together with the incentive package offered by Mexico and her long record of political stability, eventually proved sufficient inducements for U.S. investments in the northern border area” (Pearson, 1995: 137). In 1972, the *maquila* program was expanded to include all of Mexico, though most *maquilas* remain concentrated at the border, because of proximity to the U.S. market.¹¹

The special set of conditions in the *maquilas* was set against a backdrop of growing deregulation and liberalization in Mexico in motion since the mid-1980s. Within the PRI, the reigning political party, a debate began in the early 1980s about which model of economic development to pursue. “...The neo-liberal position that viewed the market as a more efficient regulating agent than the state won out” (Gutiérrez Haces, 1995: 54). This included a reform of the tax system, privatization of public sector enterprises, measures to liberalize external trade and investment systems, and participation in free trade arrangements (Kalter, 1992: 9).¹²

By 1995, the border area *maquilas* “displaced tourism and petroleum as Mexico’s official top generator of dollars” (AFL-CIO, 1995a: 2). Government employment figures from 1996 showed the number of *maquiladora* jobs had increased 20% since the year before (*Houston Chronicle*, 1997: 1).¹³ A source of revenue and jobs, the *maquila* sector is spoken of as a “‘priority sector’ of the Mexican economy. It is prized, nurtured and protected” (Williams, 1995: 4-5).

In the United States a climate defined by market preferences has also favored restructuring that includes deregulation.¹⁴ “Beginning in the second half of the Carter Administration and continuing through the Reagan

¹¹ In 1994, the Mexican National Institute of Geography and Statistics (INEGI) reported that 83% of the *maquilas* were in the border region (Dwyer, 1994: 6). In 1996 2,200 *maquilas* were operating along the border (Beachy, 1996a: 2).

¹² The implementation of NAFTA was seen as cementing earlier changes. “...The most important aspect of NAFTA may be the fact that it entrenches earlier economic reforms making it difficult for subsequent governments to adopt more egalitarian or nationalistic economic development programs” (Gabriel and MacDonald, 1994:547). Simmons agreed, writing: “Even without NAFTA, regional and global processes of economic integration were moving forward...NAFTA has the effect of exaggerating and speeding the process already underway” (1996: 21). Corporate views also lend support to this conclusion: According to Claudio González, chairman of Kimberly-Clark of Mexico and special adviser to the President on foreign investment, in the view of the Mexican business community the goal of NAFTA is “to lock in many of the changes that have taken place in our country” (quoted in Grinspun, 1996: 30).

¹³ The recent phase of *maquila* growth has strained border area infrastructure dramatically. “While Texas has benefited from rising exports, Mexico is having to weigh the benefits of badly needed jobs against its ability to pay for the infrastructure it must have in order to attract still more industry to the region” (Beachy, 1996a: 1).

“The governor of Amapulipas, Manuel Cavazos Lerma, estimates his state needs to double its infrastructure every four years to keep up with demand. In Chihuahua, where 85 percent of the jobs are in Ciudad Juárez, state officials are looking for ways to lure factories to the interior and to persuade them to use Mexican raw materials and parts, which now account for just 2 percent of the products assembled, said Alejandro Lazzarotto Rodríguez, a Chihuahua economic development official. At the same time, the state struggles with an influx of unskilled workers from central Mexico who end up on the border without jobs” (Beachy, 1996a: 1).

¹⁴ For example, Reagan Labor Secretary Ray Donovan “took a series of deregulatory steps: he persuaded the Supreme Court to reduce the safety measures protecting workers exposed to cotton dust and lead, to withdraw the official documents explaining what precautions should be taken against cotton dust, to decrease the amount of compensation given to victims of silicosis, and to suppress existing legislation on the basis of which noxious products are declared dangerous. The federal government has, as a general rule, been extremely lenient against offenders” (Salmi, 1993: 97).

and Bush governments, federal authorities weakened most business regulations and protective labour standards and redistributed after-tax income in favour of upper income and wealth groups [Mishel & Frankel, 1990]. They dismantled government oversight of business consolidations and financial activities and made it easier for firms to reduce labour costs by relocating operations, ... they also destroyed much of the social safety net put in place by previous administrations to provide for individuals and families hurt by the cyclical and structural changes in the economy [Rosenberg, 1991]" (Craypo, 1994: 234-235). Nationally, unemployment insurance coverage was reduced from three-quarters of the unemployed workforce in 1975 to a little more than one-third in 1991; by 1990, average weekly benefits had fallen to \$160, which was at the level of a minimum wage job and below the official poverty income for a family of two (U.S. GAO, cited in Craypo: 247).

Under the Reagan-Bush Administration direct job creation in depressed industrial regions was not pursued and instead tax-exempt, unregulated Urban Enterprise Zones were promoted as remedies to regional decline. Funds earmarked by Congress to create jobs following the 1981–1982 recession went unauthorized [U. S. GAO, 1986], increases in the minimum wage were blocked, and attempts (unsuccessful) were made to place young workers outside its provision. "Federal policy therefore was essentially to have no labour market policy except to encourage displaced workers and new entrants to adapt to changing labour market demand and declining labour standards [Rosenberg, 1991]" (Craypo: 248).

Flexibility

Theoretical discussions of the trends described above rely on the notion of "flexibility," widely touted as an important characteristic of today's economically "successful" scenarios. Flexibility, in several ways, has become an important adjective in any definition of contemporary production systems.

"'Flexibility' is used to refer to at least three different dimensions of the economic system: the organisational structure of firms, the operation of the labour market, and the pattern of production. The 'flexible firm' decentralises its organisation ... dividing its workforce into a 'core' with secure jobs and a 'periphery' which can be dismissed and re-employed at will (Atkinson and Meager, 1986). It also sub-contracts much of its production to a network of other firms with which it has very close relations... (Kaplinsky, 1985). Labour market flexibility refers to changes in the regulations, contracts, customs and practices that govern the labour market so as to make it easier for management to hire and, more especially fire, workers to casualise labour; and to raise and lower money wage rates in line with the profitability of the firm. (...Huws, Hurstfield and Holtmaat, 1989.) Flexibility in the pattern of production refers to an alteration of the technical division of labour so that it is less rigid...often discussed in terms of a new pattern of work organisation labeled 'flexible specialisation'...defined as 'manufacture of a wide and changing array of customized products using flexible, general purpose machinery and skilled, adaptable workers'(Hirst and Zeitlin, 1990). The outcome of these three types of flexibility can be seen as an increase in functional flexibility, numerical flexibility, and financial flexibility for the employer" (Elson, 1995: 36).

Creating a flexible manufacturing system requires a large capital investment. Therefore a smaller business, or a poorer nation, would need a different strategy to continue making profits or attracting profit-makers. "The other, and far cheaper alternative, is to rely on flexible workers" (Mitter, 1992: 1).

Flexible labor—in a sense, the market-driven malleability of people—has been the engine driving the *maquila* boom in Mexico, and continues to be an important factor in this sector (and in U.S. restructuring, discussed below), despite the introduction of "flexible specialization" methods reliant on higher technology, which have also been a prominent aspect of current global restructuring.¹⁵ Indeed it is the array of systems of

¹⁵ The Mexican *maquila* industry has largely been based on "Fordist" labor-management relations (Peña, 1983: 135). While the use of higher technology has been reported in some "second wave" electronics *maquilas*, in 1990 *maquilas* were still overwhelmingly labor intensive (Shaiken, 1990: 12).

production that make a discussion of the different incarnations of flexible labor so relevant.¹⁶ Such trends are recognized as applicable to both “North” and “South”: “Employers’ calls for workplace ‘flexibility’ have become universal to developed nations.” In the United States the “pursuit of flexibility is following the path of least resistance—the disempowered workforce” (Borgers, 1996: 73-74, with reference to Bélanger et al. 1994).¹⁷ Economic restructuring in the United States has meant not only a shift toward low-wage, low-skill service sector jobs and a loss of manufacturing jobs, but also a notable “restructuring of employment *within* industries” (Boyd, 1996: 198). Research demonstrates that job losses and gains are due largely to such restructuring and facilitates the skewed distribution of earnings so pronounced today (Boyd: 198). This type of flexibility will be discussed in Chapter Five, with regard to the U.S. prison sector.

“Adaptable labor markets are essential if workers are to benefit quickly from economic recovery,” declares the World Bank (1995: 109-110). “Increasing labor market flexibility—despite the bad name it has acquired as a euphemism for pushing wages down and workers out—is essential in all regions of the world undergoing major reforms.” A return to “healthy” nation status, in their view, might be painful, but there are remedies and they relate to “increasing labor market adaptability”—for example, “restrictive job security regulations should be lifted” and governments should be wary of unemployment benefits, as they might be a “disincentive” (1995: 109). In general, “Nonwage benefits hinder labor mobility” and governments should be in the business of facilitating mobility, not hindering it, according to the World Bank (1995: 110).

If flexible labor is equated with workers employed under “non-standard contracts” they arrive at that designation in varying guises: “...individuals hired through temporary employment agencies; individuals hired directly by firms on a temporary, contract, or project basis; and part-time employees; certain categories of self-employed persons; individuals employed on an informal basis, such as day labourers or people doing home-based work; and certain categories of subcontracted labour whose conditions of employment are primarily controlled not by the direct employer (i.e., the subcontracted firm) but by the firm controlling the contracting...” (Carnoy et al., 1997: 31-32).

In looking at new class divisions emerging in the U.S., Conforti suggests that people are now lumped into two categories: economically tenured—those with secure, high-paying full time jobs—or the economically untenured—those “without full time employment, lacking family-supporting incomes and fringe benefits, devoting more and more time to earning a living and being unable to make the commitments that depend upon the anticipation of financial security” (1995: 50, 44, 45). Temporary work, which “has grown by 48 percent

¹⁶ “Flexible forms of production, ranging from highly sophisticated to very primitive, can be found equally in advanced or in backward industries. Such ways of organizing production assume distinct forms in the labor market, in the components of labor demand, and in the conditions under which labor is employed” (Sassen, 1994: 106).

¹⁷ This is not to say that all workers who are “flexible” are automatically losing ground. Writing about the U.S., Carnoy, et al. observe that “‘Flexibility’, as defined by an employment contract that departs from the traditional full-time, career job notion, implies a relationship that could be either detrimental (contingent) or not...This desire for flexibility is mainly, but not exclusively, the employer’s. In the case of many self-employed and some part-time and temporary workers, flexibility is indeed desirable from the worker’s standpoint” (1997: 32). Indeed, feminist economists also do not completely dismiss the concept of flexibility. If flexibility can be redefined so that it offers alternatives to a masculine-based, breadwinner model “good” job description and offers conditions of work that are not exploitative, then it would not necessarily be a signifier of a “bad” job. Elson does not completely dismiss the concept of *real* flexibility. Such a characteristic, she notes, this not necessarily anathema to women. “There is a danger of judging the organisation of production and the operation of labour market according to standards which see full-time permanent life-long jobs..., based on carefully demarcated craft skills, as the desirable ‘norm’ to which all workers do and should aspire....This is a male ‘norm’ that most women have never enjoyed and many women do not want. The vast majority of women who have domestic responsibilities have an immediate interest in a more flexible job structure, in the sense of greater choice about hours and patterns of work and ways of getting skills recognised and used” (Elson, 1995: 40, with reference to Huws, Hurstfield and Holtmaat, 1989).

since 1989,” is the most obvious example of this trend (Carnoy et al., 1997: 34). Indeed, the largest employer in the U.S. is Manpower Services, a temporary-employment agency (Nixon, 1997: 16). In 1995, less than 12% of the private U.S. workforce was unionized (Levenson-Estrada and Frundt, 1995: 16) and organizing rapidly expanding segments of the workforce, such as “temps,” has not been a priority of major unions (Nixon: 16).¹⁸

But in conceptualizing flexibility, the mobility not only of capital, but of labor need to be problematized. While migration will not be dealt with explicitly in this paper it is acknowledged as a significant factor in changing labor markets.¹⁹

“The expansion of the advanced service sector also generates an increase in the category of very high-income workers whose lifestyles, in turn, generate a demand for low-wage workers. Many of these jobs fall outside any of the major industry counts, not so much because they may involve illegal immigrants, but because they are part of that expanding category usually referred to as ‘off-the-books jobs’” (Sassen, 1988: 158). Therefore, in the U.S. “the massive expansion in the supply of low-wage jobs is as much a function of growth trends as is the large expansion in the supply of very high-income professional and technical jobs” (1988: 147).²⁰ The rise of service sector jobs means that “cheap laborers” in Mexico are not always useful to corporate strategizers, at least until they migrate. The very nature of these services means that workers are needed locally, not across the border (Boyd, 1996: 201). Within that sector there is a division of labor. In a 1984 U.S. study, the service sector was found to employ the majority of women workers, though “immigrant women were more likely to work in personal services, whereas U.S.-born women were more likely to be found in social services” (Tienda, Jensen and Bach, 1984, cited in Boyd: 200).²¹

“Low-wage jobs are common in declining sectors of the economy. As the migration literature has shown, firms in this sector often depend on low-wage immigrants for sheer survival...*But low-wage jobs are also numerous in highly dynamic growth sectors of the economy.* ...the available evidence for New York City

¹⁸ Though, as this research was compiled workers at the United Parcel Service (UPS), the U.S.’s largest package-delivery business, went on its first nationwide strike (Aug. 1997) in the company’s 90-year history, an action that centered around demands regarding pay, pensions and full-time working schedules for part-time workers, who make up nearly two-thirds of the Teamsters employed at UPS. Two-thirds of UPS’s 302,000 employees are members of the Teamsters (*IHT*, 1997: 11).

One UPS driver, a part-time employee after nine and a half years, and an average weekly workload of 45 to 50 hours, explained his situation: ‘I’m presently doing the same thing as a full-timer,’ said Mr. Stewart, who said he earns nearly \$17 hourly as a part-time driver but would make nearly \$20 an hour full-time and would have much better benefits” (quoted in *IHT*, 1997: 11). Does such action herald a new phase of union activism, as the AFL-CIO has proclaimed? For more on the AFL-CIO’s promise to reinvigorate the flagging movement, see McClure, L. (1996) “Rebirth or Rerun?” *Brooklyn Metro Times*, Winter, pgs. 21-23, 28-29.

¹⁹ Indeed in the case of *maquila* employment the issue of migration has been raised in several ways. “It is generally agreed that large numbers of *maquiladora* workers have migratory backgrounds” (Peña, 1983: 133). In a case study of 35 factories in Ciudad Juarez, 57% of those surveyed were born in another place. Of those, 56% came from rural areas...” (Peña, 1983: 133). But, not *all* migrants are able to find work in the *maquilas*. “For the most part, even if indigenous women are forced to leave their lands, they do not have access to better-paid jobs in the *maquila* sector because of their ethnicity and lack of education” (Castañeda cited in Gabriel and Macdonald, 1994: 545). When high levels of female employment in the *maquila* sector are cited as a reason for high levels of male unemployment, it is possible that this could be the case in this sense that the sector attracted male migrants who glutted the labor pool (Warner, 1990: 189).

²⁰ Her conclusion is based on analysis of the restructuring of the job supply in New York City and Los Angeles.

²¹ A 1988 study found that the service sector was divided up in the following way: “Black women are disproportionately represented as private household workers, cooks, housekeepers, and welfare aides; Latinas as agricultural workers, housekeepers, sewing machine operators, and electrical assemblers, Asian American women as dressmakers, launderers, electrical assemblers; American Indian women as child-care workers, teachers aides, and welfare aides, while white women are more likely to be dental hygienists, secretaries, dental assistants, and occupational therapists (National Committee on Pay Equity, 1988)” (Albrecht and Brewer, 1990: 15-16). Currently the countries providing the most immigrants to the U.S. are Mexico, the former Soviet Union, Philippines, Vietnam, the Dominican Republic and China (OECD, 1995, cited in *The Economist*, 1997: 98).

shows that a majority of immigrants find employment in rather low-wage jobs. The mistake lies in assuming that low-wage jobs are predominantly a function of decline and backwardness” (Sassen, 1988: 169).

Such conclusions are based on the study of the mobility of those termed “Third World workers,” specifically the consolidation of immigrant workers in U.S. “global cities”: “The expansion in the supply of low-wage jobs generated by major growth sectors is one of the key factors in the *continuation* at ever higher levels of the current immigration” (Sassen, 1988: 146). But in this paper I will suggest that an internal migration of sorts is taking place, resulting in a consolidation of another group of people who are being redefined as low-wage workers—prison inmates. Incarceration has caused the forced relocation of people (convicted of crimes) from certain parts of the U.S. (urban, for example, or states with more union activity) to others (rural parts of the same state, or to states that have been historically anti-union, open shop, right-to-work states, such as Texas).

Local outsourcing has the obvious benefit of proximity to the U.S. market and “...insofar as the centers for technical control and design tend to be located in the highly industrialized countries, and especially in the United States, the latter emerge as desirable sites for production facilities. In this context, the availability of an abundant supply of Third World labor inside the United States acquires added significance” (Sassen, 1988: 175).²²

A trend that became noticeable in the 1980s was “the possibility that several regions in highly industrialized countries are becoming competitive with industrial zones in the Third World as locations for direct investment, both foreign and national. Reasons for this can be found in new locational constraints due to technological requirements, protectionist policies, notably in the United States, and rising political and economic costs of production in Third World export manufacturing zones.²³ These changes involve mostly the United States. Technical, economic, and political constraints along with changes in the territorial organization of production and the availability of a low-wage immigrants work force make certain regions in the U.S. internationally competitive and thus part of the global marketplace of production sites” (Sassen, 1988: 171).

²² Sassen’s work focuses largely on the urban milieu and what have come to be termed “global cities.” She finds that “...The combination of inputs and markets has made certain regions in the U.S. competitive with Third World areas providing low production costs and a disciplined low-wage workforce. Southern California and the New York Metropolitan area are examples of such industrial zones” (Sassen, 1988: 185). This shoots holes into the idea that low-wage jobs will merely move “south” to states with less union activity, or leave the country altogether. In a 1995 study on the relationship between U.S. foreign production and unions, findings suggest that union activity (domestic) is “irrelevant in the pattern of U.S. foreign production” (Karier, 1995: 114). Foreign market size and distance were found to be more significant. “Firms appear to be involved in foreign production primarily to avoid foreign tariffs and other trade barriers, to exploit U.S. advantages related to domestic monopoly power, and to seek out new lucrative markets close to home” (Karier, 1995: 117).

²³ Specifically, constraints in export processing zones or free trade zones include labor shortages, militancy of workers, demands that foreign companies transfer more and higher levels of technology and more capital-intensive phases of production to the zones, rising wages (Sassen, 1988: 176).

Indeed there is no shortage of recent immigrants looking for jobs.²⁴ As outlined above, the climate has been favorable toward deregulation.²⁵

If “Third World” people can indeed provide cheap labor within the U.S. that can compete with workers in EPZs, then might there not be other possibilities? Recognizing the “different requirements for control over labor at the workplace that characterize different types of work organization” reveals that “it is not primarily the low wages of immigrants but their willingness to work at certain kinds of jobs, which explains their obtaining employment in the face of growing unemployment” (Sassen-Koob, 1980, cited in Sassen, 1988). Are some non-immigrant workers equally “willing” to do such work? I believe other groupings of people do exist who can be, and perhaps are, perceived as equally competitive. This belief leads me to examine the role of prisons and inmates. If “...the consolidation of a large supply of immigrant workers in combination with the severe losses by organized labor, lowers the cost of labor-intensive activities in both advanced and ‘backward’ sectors of the economy” (Sassen, 1988: 174), would not the consolidation of other workers (prison inmates) of other origins satisfy a similar demand?

Feminization: Flexibility with a Female Face

“Women in the subcontracting units make the most flexible robots of all”
• *Unnamed industrial expert (quoted in Mitter, 1992: 3).*

The concept of flexibility in labor has also been connected to the process of “feminization”—i.e., a workforce largely made up of women. This phenomena was noted in some sectors of industry in Western “developed” countries, including the U.S. and Canada (Elson, 1995: 37).²⁶ A 1988 study of Britain, Canada, France, West

²⁴ Since 1992 the number of illegal immigrants in the U.S. increased from 3.9 million to 5 million in 1996. The U.S. Justice Department reports that more than 50% are Mexican (*IHT*, 1997: 3). Immigrant women without legal status are sure to become ever more “flexible” in the face of slashed social service programs in the U.S. For example, the Personal Responsibility and Work Opportunity Conciliation Act of 1996 (PRA 1996 or Public Law 104-193) signed by U.S. President Bill Clinton on Aug. 22, 1996 represented a major restructuring (some would say abandonment) of the federal program of means-tested assistance to women and children, was a major setback for immigrant women seeking to move out of poverty. Massive funding cuts have been made in aid to legal immigrants—\$24 billion (Corn, 1996). “Of the \$55 billion saved in the welfare-reform bill, most of it is saved in screwing the immigrants and in food stamps,” reports New York Congressman Jerry Nadler (quoted in Ridgeway, 1996).

²⁵ “The scope for predatory capital is much wider in the USA where it is difficult for individual states to control the activities of corporations because of federal law; where labour standards vary between states; and where it has become increasingly easy to legally dislodge trade unions and to dismantle collective bargaining [Goodman, 1979]. As a result, the flight of capital from states with high levels of unionization and good labour standards to others with more repressive labour regimes, has resulted in a progressive degeneration of the terms and conditions of employment both as a result of the capital relocation and as workers in traditional industrial areas agree to concessions to protect their jobs [Bluestone & Harrison, 1982; Harrison & Bluestone, 1988] (Wilkinson, 1994). As the internationalization of capital played off nation states, so we can see a similar dynamic between the U.S. states. For example, a New Mexico community recently won a bidding war against five other U.S. communities to lure Intel, the micro-processor chip manufacturer, by offering grants and tax incentives that totaled an estimated \$114 million, or \$114,000 per job (Hildyard, et al, 1996:132). Wilkinson observes that all this bickering has not driven up U.S. “competitiveness,” instead the “US economy...has continuously declined. The reason for this can be found in the failure of American industry to adopt process and product innovation, reforms of organizational and management structures and new forms of work organization necessary to respond to foreign competition based on quality and product variety [Magaziner & Reich, 1983; Hayes & Abernathy, 1980] (Wilkinson, 1994: 73-74).

²⁶ Regarding the U.S. labor market “a number of researchers have presented historical and demographic data which supports the existence of occupational stratification by sex (see Kessler-Harris 1975, Oppenheimer 1973, Stevenson 1975b, Ferber and Lowry 1976, Blau 1975, Zellner 1972, and Reagan 1979). Others have provided empirical evidence linking job segregation by sex to wage differentials between men and women workers [Stevenson 1975a, Beck et al. 1978, and Bibb and Form 1977],” writes Green, concluding that it is necessary to assume “the existence of fundamental, structural divisions within the domestic labor market based on class and sex” (1983: 281, 277).

Germany, Italy, Sweden, and the U.S. argued that in the 1970s and 1980s firms were searching for flexibility and that:

“Women have emerged as very desirable employees in these circumstances because their relationship to the labor market has traditionally displayed the characteristics of flexibility so much wanted in the current conjuncture” (Jenson et al., quoted in Elson, 1995: 37).

What is that relationship? It is on-again, off-again, one in which women are said to “float in and out,” as mere visitors in the male world of “real” (read: paid) work. The trend towards feminization in the “North” as it applied to these industries spread “South,” “... because female-intensive industries, being labor-intensive and sensitive to wage costs, are the first to lose their international competitiveness in high-wage developed countries when low-wage developing countries industrialize” (Lim, 1990: 105).

With the internationalization of capital, this trend could be observed in a variety of countries, worldwide. In applying the concepts of flexibility and feminization to the international context, and specifically in the case of Mexico research revealed a flexible system where “...production was organized through a complex process of subcontracting, with the labor-intensive, lower paid, more informal activities being put out to women workers, many of whom were not recorded in the workforce” (Standing, 1989:1080, with reference to Beneria and Roldan, 1987).

While the female share in the Mexican labor force was 27% in 1993, up from 18% in 1970 (World Development Report 1995: 219), in the *maquila* sector women workers are the majority. “In the early 1970s, 90% of the work force was comprised of women; in 1982, the percentage had dropped to 64.7%” (Chrispin, 1990: 74). Indeed, the use of women workers has been an important aspect of the *maquila* story, though there clearly is a gendered division of labor that exists within the *maquilas*. Though men made up only 20-30% of the *maquila* workforce in 1994, they occupy “most supervisory jobs and management positions” (Marchand, 1994: 75). Still, an economic advisor to the Mexican Ministry of Foreign Affairs reports *maquilas* to be the most important sector in women’s employment (Cardero cited in Joekes and Weston, 1994: viii). Why women?

“In this model of work organisation, the global companies use women’s labour because, to quote an industrial expert, ‘women in the subcontracting units make the most flexible robots of all’,” explains Mitter (1992: 3). And uncomplaining: As one U.S. businessman connected with Ciudad Juarez *maquilas* in the late 1970s enthused: “You should watch these kids going to work. You don’t have any sullenness here. They smile” (quoted in Fuentes and Ehrenreich, 1983: 15). Women “are more prepared to work for lower ‘aspiration wages’” (Standing, 1989: 1080). Patriarchal assumptions as to the “natural” qualities generally attributed to women coalesce in a personality and temperament which supposedly predispose them to such factory work: “Women are considered not only to have naturally nimble fingers, but also to be naturally more docile and willing to accept tough work discipline, and naturally more suited to tedious, repetitious, monotonous work” (Elson and Pearson, 1981: 149).

Some have argued that an industry which utilizes a predominantly female labor force for manufacturing and production jobs hurts male workers. The “pain” inflicted by the entry of these women workers into the sector touches men on two levels—what had once been their jobs are now “feminized,” and they are being ejected from a sector they had once dominated (Standing, 1989, cited in Elson, 1996: 37).

Instead, labor statistics reveal that while labor market participation of women went up, it was due to an expansion of jobs usually relegated to women, and the disappearance of jobs traditionally done by men (Elson, 1995: 38). “International comparative statistics on the female share of employment in the textile industry show

no overall tendency towards 'feminisation' in the 1980s. In fact, in quite a number of countries, developing as well as developed, the statistics show a fall in the female share of employment. The electronics industry is generally regarded as a leading example of 'feminisation'—but even here there is evidence suggesting some tendency for women's share of employment to be falling over time in at least some countries" (Elson: 39).

"'Flexibilisation' does *not* necessarily lead to direct substitution of women for men in types of work traditionally done by men; nor does it necessarily lead to a rising female share of paid employment in manufacturing industries," instead "the jobs done by women in both the 'formal' and informal' sector have the negative characteristics often associated by critics with the idea of 'flexible labour'; whereas the jobs done by men in the 'formal' *and* the 'informal' sector have the positive characteristics often associated with the idea of 'regular' labour." There is no flexibility in a gendered division of labor that tends to relegate "subordinate and inferior positions in the organisation of monetised production" to women (Elson, 1995: 40). Instead, we can see that essentialized notions of a female "nature" (docile, uncomplaining, unorganizable, etc.) and socially-constructed ideas of a role suited to one possessing such a nature (mother and wife, with main responsibilities being domestic, reproductive tasks) merge to firmly, not flexibly, position women as accommodating, temporary waged workers undeserving of such things as job security or high wages, which are the sole domain of male "breadwinners." Extreme examples of flexibilized production ("downgrading") are "the rise of sweatshops and industrial homework" (Sassen, 1994: 106). "Homeworking," where low-paid assembly work is contracted out, usually to women, in their homes, benefits from the use of this manipulated notion of "flexibility." By making the conditions of work "flexible"—i.e., in your own home—women are engaged in productive (waged) work without distancing themselves from their reproductive work.²⁷ The gendered norms which support the 'feminized' aspect of flexibility will be further discussed in Chapter Five.

This chapter has provided an overview of the mechanisms of global restructuring. The internationalization of capital has fueled changes in manufacturing which embrace flexibility on many levels. Deregulation and privatization have often taken place on the path toward accommodating flexibility. Widely deployed neoliberal strategies that pursue flexibility are often accompanied by "...the decline of unions in manufacturing, the loss of various contractual protections, and the increase of involuntary, part-time, and temporary work or other forms of contingent labor" (Sassen, 1994: 106). *Maquiladora* labor is an example of global trends toward employing a "flexible" and "feminized" work force in export-oriented schemes (Standing, 1989; Fuentes and Ehrenreich, 1983; Elson and Pearson, 1981). Feminist literature establishes links between socially-constructed notions of gender and the ability to mobilize women into and out of the labor force, and specifically, export-oriented industries (Elson, 1995; Mitter, 1992; Pearson, 1986). Keeping in mind the criteria outlined in this overview, this paper will investigate how applicable the concept of a flexible work force is in analyzing the positioning of inmates as a source of labor for industry.

²⁷ A revival of sweatshops is happening in the U.S. Union and U.S. Dept. of Labor reports, for example, recognize that 50% of U.S. sewing businesses are sweatshops (Branigin, 1997: 4). "Although the clandestine nature of much of the industry has made it hard to track, recent federal studies point to a rise in the number of U.S. sweatshops and a worsening of their conditions" (Branigin, 1997: 4). Immigrant women without working papers often find work in these U.S. sweatshops. Meanwhile, homeworking is another alternative in the U.S., not only for immigrant and minority women residing in urban areas, but also in the rural midwest, where the wives of farmers are being constructed as a new source of untapped "cheap labor" and homeworking is pitched as an economic development strategy (see Gringeri, 1996). In Mexico and Canada "homework is often presented as a 'solution' to balancing women's work and family responsibilities rather than as a low cost labour strategy" (Gabriel and Macdonald, 1994: 538).

Chapter Three

Trends in U.S. Incarceration

While trends toward liberalization, deregulation and privatization are important aspects of the Mexican context into which the *maquilas*, with their own special set of rules, are found, some similar mechanisms can be spotted at work in the prison milieu in the United States. As noted above, trends toward flexibilization have been observed in the United States as a whole. This chapter focuses specifically on structural changes within the prison sector. Deregulation, in the form of weakened federal oversight and privatization, and recent trends toward revoking inmate rights combine to create a special set of operating conditions for prisons and prison industries.

Deregulation of Prisons

“Public oversight of prisons is essentially nonexistent. Abuses of power by the prison officials are endemic,”
(AFSC, 1997).

Since the reversal of earlier federal and state “hands off” policy toward prison conditions in the 1970s, judicial activism resulted in court control of major prisons in nearly every state in the U.S. at some time, with eight states having their entire prison systems under court control (Morris, 1995: 245). In 1984, the American Civil Liberties Union (ACLU) alone was involved in cases related to overcrowded prison conditions in 25 states (Sellers, 1993:46). The 1990s though, has witnessed another turnaround, with landmark legislation passed to whittle away federal oversight of U.S. prisons.

The April 1996 Prison Litigation Reform Act (PLRA) places limitations on inmates seeking to file lawsuits based on prison conditions. Constitutional rights activists and international human rights groups opposed the legislation because “it strips the federal courts of much of their power to correct even the most egregious prison conditions.” Three-quarters of all the U.S. states were under federal oversight before the law went into effect. Indeed, the PLRA has been adopted as a tool for officials seeking to remove court orders, in place in some states for nearly 20 years, to improve prisons. South Carolina, under oversight for 11 years following complaints of overcrowding (three inmates to a 5' by 8' cell), bug-infested food and inadequate health care, was the first to use the new law to sever the federal tie (ACLU, 1996b:1).

In 1995 (*Sandin v. Conner*) the Supreme Court “held that prisoners were not entitled to federal due process ‘liberty interests’ unless they were subject to ‘atypical and significant hardship’ beyond that generally inherent in prison life...In their words, every person in this country, except a prisoner, is protected by due process interests created by the state...I suspect that my definition of what constitutes significant hardship, or your client’s definition, will differ remarkably from the five vote majority in *Sandin*,” Attorney Arnold Erickson told a meeting of California Public Defenders (Erickson, 1996: 1).

In *Lewis v. Casey* (June 1996) “the Supreme Court limited prisoners’ access to law libraries and required them to show actual injury before challenging restrictions” (Erickson, 1996: 1). Seeing the decision as a way to prevent inmates from becoming “litigating engines” the Court “substantially narrows a landmark 1977 Supreme Court ruling that affirmed the constitutional rights of inmates to have meaningful access to the courts, and obligated prisons to provide law libraries or other legal help” (ACLU, 1996d: 1).²⁸ Locally, obstacles have

²⁸ In the decision of this case brought by 22 Arizona prisoners, Supreme Court Justice Antonin Scalia remarked that the 1977 standard set in *Bounds v. Smith* “does not guarantee inmates the wherewithal to transform themselves into

been placed in the path of prisoners seeking redress in court. In Massachusetts, for example, legislation was filed to require inmates to pay the \$185 fee to file a lawsuit, which is usually waived in the case of inmates (Mass DOC, 1997: 1).

Many state-level rights reductions have been imposed on California's large prison population: "In 1994, the state legislature amended Penal Code sections 2600 and 2601 to reduce prisoners' rights. Under the old law, the civil rights of a prisoner (or county jail detainee) could be restricted only as was necessary for prison security or public safety. The new law allowed restrictions that were reasonably related to penological interests—a far different standard that allowed prison officials to institute a number of restrictions, ranging from reduced visiting to bans on media contact" (Erickson, 1996:1). In 1996, the state legislature "repealed visiting as a statutory right under California law and departmental regulations imposed new restrictions on family visits, media access, and other issues important to prisoners" (Erickson, 1996: 1). California is among the states that bans face-to-face media interviews with inmates (Stein, 1996: 24).²⁹ Note that even without such harsh bans, restrictions on media access exist in some form in every state, according to journalism professor Charles Davis, who is currently involved in the first comprehensive national study of such policies in state and federal prisons (cited in Siegal, 1997: 15-16).

Rights of Inmates

When asked why inmate workers did not receive fringe benefits, David Moore, chief fiscal officer of California's correctional industries replied, "No reason I know of. I guess they're not citizens, so they're not entitled to the same rights" (quoted in Mitford, 1974, 210).

Legal obstacles toward challenging the conditions of confinement coincide with growing sentiment favoring harsher prison regimens, with a trend toward taking away inmate perks or privileges. New restrictions range from banning in-cell possession, such as radios, to preventing prisoners from watching broadcast TV stations, reading pornography, smoking or working-out and switching menus to feature unsavory foods (Lacayo, 1995: 1; Knowlton, 1997: 3).³⁰ Since the early 1990s a no-frills movement has been afoot with regard to incarceration.

litigating engines capable of filing everything from shareholder derivative actions to slip-and-fall claims" (quoted in ACLU, 1996b: 1; ACLU, 1996a:1). The ACLU counters that "the new burden creates a Catch-22 for prisoners, since they cannot show that a lawsuit has legal merit until they gain access to a law library or other assistance" (ACLU, 1996a: 1).

²⁹ "It's the most serious example of arbitrary government interference with news gathering that I've seen in many years," claims Terry Francke, executive director of the California First Amendment Coalition. "Unlike some other situations that are less sweeping, this does not appear to have any grounding in a specific problem in the correctional system or in the government agency that is enforcing it" (quoted in Siegal, 1997: 16). The ban has been challenged in the state legislature in the form of a bill introduced by State Senator Quentin Kopp (I-San Francisco) and supported by the Society of Professional Journalists, ACLU, California Newspaper Publishers Association and other media and prisoners rights groups. Surprisingly, even the CCPOA has endorsed the bill. "In my 27 years [in the CDC], I have not seen a single security violation by the media... We're a public entity, Senator, and I'm kind of embarrassed by [the ban]," said CCPOA President Don Novey in testimony before the State Senate Subcommittee on Criminal Procedure (quoted in Siegal, 1997: 16). By early September the bill (SB434) had been approved by the state senate and assembly and was awaiting the Governor's verdict.

³⁰ Serving inmates baloney that turns green when unwrapped, as well as compulsory pink underwear for male inmates are the trademarks of Sheriff Joe Arpaio, called the "meanest sheriff in America." Arpaio, said to be a potential contender for the governorship, as the current governor faces federal loan-fraud charges, presides over what has come to be called the "Alcatraz of Arizona," a tent city where inmates live in up to 122° F temperatures, are routinely humiliated and forced to work on chain gangs, outfitted in "nostalgic" black and white striped uniforms. Local newspapers report that 19 inmates have died in his care. One judge in Iceland refused to extradite a couple back to Arpaio's jurisdiction categorizing the conditions as "barbaric" (Pressley, 1997: 1). Alcatraz was the name of the first federal "prison of last resort," founded in 1933, where convicts considered "vicious and irredeemable" were stored away in nearly complete isolation. In 1963 the crumbling island facility was shut down and replaced within the federal system with the Marion, Illinois facility (Rotman, 1995: 188). Alcatraz is now a popular tourist attraction. For more on Marion, see p. 45.

A 1995 *Time* magazine/CNN poll found that “67% of those questioned thought inmates were treated too leniently. Chain gangs were approved by 65%. And 51% thought convicts should be deprived of their TV sets and barbells” (Lacayo, 1995: 1).

“In Tennessee, lawmakers approved an amendment to the state’s constitution that would remove the word “comfortable” from the prior guarantee of providing “safe and comfortable prisons” (Lacayo, 1995: 1-2). But if the outcry is against *public* expenditure for such perks, cost-cutters might be disappointed by such a strategy. “According to a study by the North Carolina Department of Correction...all 31 of the states that allow televisions in prison cells require inmates or their families to pay for them” (Lacayo, 1995: 2). Meanwhile, some wardens complain that by banning forms of recreation, useful management tools are being eliminated (Lacayo, 1995:2).³¹

Moves to make prisoners pay their tabs extend beyond the recreational to include the basics of survival, in some cases violating constitutionally guaranteed rights. Charges assessed to inmates range from utility fees for electrical appliances (Arizona) to court-appointed lawyers (New Hampshire) and the expense of their confinement (Connecticut and Missouri). “So far, few of the laws have been tested in court...” (ACLU, 1996e: 1). “...Twenty-one of the nation’s state prison systems require at least some inmates to make payments toward room and board. Often the rule applies only to inmates employed in prison industries or by private firms that use prison labor...However, many states and counties are beginning to charge regardless of a prisoner’s ability to pay.” Some states also charge prisoners for court costs and seize prisoners’ assets (Parenti, 1996: 26).

The trend toward forcing prisoners to pay for medical care is dangerous and even potentially deadly. “Florida charges \$3 a visit, Oklahoma \$2, plus \$2 per prescription; California \$5 (soon to be...\$10), plus up to \$200 for dentures and over \$60 for eyeglasses; Nevada \$4, with the costs of medication and prosthetics running much higher” (Parenti, 1996a: 28). In 1997, Massachusetts Gov. William Weld introduced legislation that would charge prisoners a \$5 co-payment for “non-required and non-emergent infirmary visits” (MassDOC, 1997: 1). A health-care co-payment was part of a package proposed by Weld and Lieutenant Governor Paul Cellucci “...that would force prisoners to pay for the cost of their incarceration. The bill would require prisoners to pay a room and board fee to cover costs for shelter, food, physical fitness facilities and laundry...” (MassDOC, 1997:1). Not surprisingly, in state systems where co-payments have been introduced the cost of medical care and number of inmate visits to doctors has dropped dramatically (Parenti, 1996: 28).

Limitations on inmate access to health services has also come in the form of reversals of legal obligations to provide some forms of care. In 1996 California state prison officials were “elated” when they succeeded in reversing a contempt citation relating to a purported failure to uphold a consent decree that required “appropriate” psychiatric care for inmates. “This is a 100 percent win for the taxpayers,” said CDC Director James Gomez. “It shows what can be accomplished by standing up to a federal judge who attempted to coerce State officials to spend taxpayer money without justification” (CDC, 1996b: 1). In 1996 female inmates in Colorado brought suit against the state for their policy of not funding abortions unless a prisoner’s life is in danger (ACLU, 1996e: 1).

³¹ “Weightlifting is a tool to help control the inmates,” said Jeff Mayer, security manager at the Milwaukee County House of Corrections, objecting to a proposal to ban inmate bodybuilding (quoted in Hull, 1994: 1).

Privatization of Prisons

Prisons should no longer be like "Holiday Inns" and prisoners should be required to work 10 hours per day, declared presidential candidate Senator Phil Gramm (R-TX) to rounds of applause on the campaign trail (Lacayo, 1995: 2).

That's not to say that hotels cannot become prisons. Enterprising business people (including former sheriffs, prison wardens and FBI agents) have put their market know-how into private sector ventures, converting former military bases and hotels into for-profit prisons. Some specialize in housing prisoners from states with overcrowding problems, sending out marketing representatives to pitch their facilities and lobby legislators in states where private facilities are still not legal (Bryce, 1993: 8). In March 1984, for example, the New Mexico Legislature legalized the right of counties to contract with private jails after Colorado oil and cattle magnate O. Wesley Box orchestrated a lobbying campaign. Following the change in law, Box had takers in seven rural counties (Bryce, 1993: 8).

"Virtually unknown a decade ago," by 1993 private prison facilities could be found in 16 states (Bryce, 1993: 8). The private prison population is increasing faster than those housed by the government: In 1993 while the overall prison population grew at 8%, the number of privately-run prison beds climbed 30% (Univ. of Florida, Private Prisons Project, cited in Bryce, 1993: 8).³² "...As of March 1996, a total of 47 private correctional facilities ... were being operated or being planned for operation by private companies in various states. These ... facilities are located in 12 states. However, the most use (actual or planned) of privatized correctional facilities is in 3 states—Texas, with 21 facilities; Florida, with 7 facilities; and California, with 5 facilities" (GAO, 1996: 32). By 1993 25 states, the District of Columbia, and Puerto Rico enacted legislation allowing contractors to run correctional facilities. "That means that since 1980, the number of areas where prison contracting is legal has grown from zero to half the nation. I don't think anybody knows how big this industry can get" (Univ. of Florida, Private Prisons Project, cited in Bryce, 1993: 8). The growth potential has been alluring to investors. In 1997 90 private prisons were reportedly housing 50,000 inmates (ACLU, 1997). Privatization of the juvenile corrections sector has occurred at the fastest rate (Feeley, 1991, cited in Christie, 1993: 99).³³

A 1993 comparative, cost-efficiency study of three privately-operated facilities, which found them to be operating more efficiently than those publicly run, described the trend:

"Most proponents of the privatization of prisons are pressing for the production of prison services (management of entire facilities) to be shared with the private sector and the responsibility for provision of prison services to remain with the government" (Sellers, 1993: 16).³⁴

Privatization is portrayed as a means of creating a cheaper, more efficient system. A direct path to private industry is also perceived as a way to put idle prisoners, directly in the hands of people experienced in

³²For a visual representation of private prison growth, see Appendix A.

³³ Crime rates among juveniles have increased dramatically. "In 1991, 1.7 million persons under the age of 18 were arrested. By 1994, that number had jumped to 2.7 million..." (FBI Uniform Crime Report, cited in Marks, 1996?: 1). The reasons for this increase are dealt with in Chapter Four, as they relate to contemporary definitions of criminal behavior.

³⁴ Sellers studied two privately operated county facilities and one juvenile facility (Sellers: 109). At the time "no large state prisons were privately operated. Note that in 1992 CCA (see below) opened the first private sector maximum-security facility—CCA Leavenworth, "in the shadow of the federally-run Fort Leavenworth Disciplinary Barracks and the Leavenworth Federal Penitentiary (Smith, 1993: 1,5).

putting people to work (Sellers, 1993: 47). Historically there has been a link between private industry and prisons, going back to the British workhouses where “a tradition of confinement at productive labor” was established (Sellers, 1993: 48). (Work programs for inmates will be discussed in detail below.)

Skeptics worry that “the delegation by government, to private business, of the power to imprison and, necessarily, the power to use force to maintain order, prevent escape... raises troublesome legal and ethical questions. Worrisome too is the creation of an entire industry with pecuniary interest in maintaining, or even increasing, the number of people incarcerated” (Morris, 1995: 255). Observers find only “...there is mixed evidence as to whether they are fulfilling their initial promise of less-expensive, more efficient service” (Morris, 1995: 256). Nevertheless, privatization continues to be seen as a remedy for inefficiency, though obtaining liability insurance has been a problem in some cases, as in Kentucky and New Mexico where private contractors had to pull out of negotiations following their failure to secure such coverage (Sellers, 1993: 61).³⁵

In 1995 the Illinois Legislature’s Commerce and Industry Committee passed a bill to privatize the state’s prisons. “...The legislation...would have had the prisoners themselves erecting their own jail. Proponents claim that taxpayers can save 25 percent on construction costs, but ‘there’s only one place they’re getting that kind of money, and that’s from the workers’ paychecks,’ said Illinois AFL-CIO President Donald Johnson. “Passage of this bill would be devastating to those who construct, repair and maintain our prisons, as well as to the correction officers” (quoted in Kameras, 1995: 3). The Florida legislature is currently debating whether or not to privatize the state’s entire prison system. Currently state law only allows new facilities the option of privatization (AP, 1997c: 5).

California, Texas and Florida—incarceration’s Big Three, provide examples of the ethical problems and conflict of interest issues presented by a “growth industry” based on deprivation of rights and free movement. As in any for-profit industry “questionable” business practices employed to boost venues come into question, as well (Fitzgerald 1988, cited in Sellers, 1993: 59).

An example of private interests at odds with taxpayer demands for price-cutting and efficiency is the case of Jacksonville, Florida developer William McArthur, who donated 468 acres of land assessed at \$292,000 to the state for use as a prison because he “always tried to be a pretty good corporate citizen.” McArthur, interested in developing the adjoining 1,000 acres, stipulated that a \$1.2 million 5-mile road be built to access the site.³⁶ He was then paid \$2 million by the state toward the construction of a private water and sewer plant, which would serve the prison (and his own property). At that time the state agreed to purchase water and sewer services from McArthur’s Winco, Inc. for at least \$258,000 a year for 20 years, based on an occupancy rate of 1,200—five times more the 250 inmates currently housed in the facility that opened three years after construction began, at a cost of \$12 million over budget.³⁷ “For about \$300,000 in free land, taxpayers are going to give millions of dollars worth of financial

³⁵ Interestingly, one study on the differing perceptions of barriers to prison privatization, found that both public and private prison operators saw the high cost of liability insurance to be the biggest obstacle, but after that public operators believed that a decline in the level and quality of services and personnel, problems of meeting accreditation standards and constitutional issues would be barriers to privatization. Meanwhile, private operators saw opposition from unions and the civil service, capital for start-up and the “political climate” as obstacles (Sellers, 1993: 108).

³⁶ The cost of the road has since increased as the scale of the project was altered (Fineout, 1997: 1).

³⁷ State auditors finally noticed this apparent boondoggle, reporting in November 1996 that (1) “the department never analyzed whether the McArthur property was the most cost-efficient place to put a prison in Wakulla County. The department spent over \$8 million to prepare the site for construction.” (2) “The department did more than \$9 million worth of work on the prison before it had a deed for the property,” (3) “There were more than 250 change orders made on the project... But whenever the state opted to eliminate some work, contractors subtracted less from their bills than what they originally said the work was worth.” (4) “A Tallahassee firm...was hired...to do architectural and engineering work even though it was ranked fifth in a competitive bid process” (Fineout, 1997: 4B).

benefit,” remarked an environmental lobbyist who lives near the prison site (quoted in Fineout, 1997: 4B). CCA, the industry leader, has also been investigated for alleged bribes and kickbacks paid in conjunction with being awarded a million dollar contract to operate a Tennessee facility (Smith, 1993b: 1).

Standards of training and conduct of employees at private facilities, where the emphasis has been on cost-cutting and efficiency have also come into question. Critics of private prisons say that cost-cutting leads to dangerous and unsanitary conditions for inmates and guards. After just five months Eloy Detention Center, a 1,000-bed, medium-security facility located in the Arizona desert, run by Louisville, KY-based Concept Inc. for the Federal government, was the scene of riots two months in a row. Dennis Palumbo, Arizona State University criminal justice professor, notes that the long term costs of private prisons, in terms of taxpayer dollars (local, state and federal agencies were sent into Eloy during the riots) and with regard to the health and safety of the staff might be higher (cited in Davidson, 1994: 1).

In 1997, privately-run facilities again came under scrutiny when a training videotape was publicly aired, showing guards, employed by Capital Correctional Resources Inc., using stun guns and dogs on inmates.³⁸ The prisoners came from Missouri, a state looking to alleviate overcrowding in its own prisons. With space to spare, the Brazoria County, Texas Detention Center rented out part of its facility to Capital Correctional Resources. Following the scandal, Missouri recalled all of its 415 inmates, leaving Brazoria County to lament the loss of \$1.8 million in revenue and contemplate a property tax hike to make up the difference. Meanwhile, eight inmates filed suit against the state of Missouri, Missouri’s top prison official Dora Schriro, Capital Correctional Resources and one of the guards, charging excessive use of force and cruel and unusual punishment. With no out-of-state prisoners to guard, 100 employees at the facility were immediately laid off (CNN, 1997a, 1997b, 1997c, 1997d).

Though the potential for problems always exists once prisoners arrive, problems can also arise when prisons stand empty. Such was the case in West Texas where a prison was built and no prisoners turned up. Ray Hutchinson, the husband of Senator Kay Bailey Hutchinson (R-TX) “is a defendant in a \$70 million lawsuit that alleges he and others were part of a conspiracy to defraud bondholders. The bonds were issued in 1989 to build private prisons in six Texas counties. But the state refused to use the prisons after they were built. The bond debt went unpaid” (Bryce, 1993: 8). In Pecos, Texas inmates came (from Washington, D.C.) but proved to be too unruly for the Diversified Municipal Services (DMS)-operated facility where the jail was reportedly “unmanageable” as “gangs of baseball-bat-wielding inmates” roved throughout the facility, while others brewed alcohol in the showers or opted to escape. When the D.C. authorities did not pick up their option to renew the

³⁸ Electronic shocking devices are being introduced throughout the U.S., despite the 1995 death of a Texas correctional employee after a training session involving two 45,000 volt shocks. Human rights groups oppose the use of such technology, deeming it cruel and unusual punishment, much like other forms of electrical “push-button” tortures “popular” since the 1970s (electric cattle prods, for example. Stun belts and stun guns operate at a “significantly higher voltage.” Nevertheless, the Federal Bureau of Prisons has used the belt since 1994, “the U.S. Marshal’s Service and more than 100 county agencies have employed the belt for prisoner transport, courtroom appearance, and medical appointments. Sixteen state correctional agencies currently use the belt. Seven more are considering it” (Cusac, 1996, 18-22; ACLU, Aug. 2, 1996). Stun-belt maker Stun Tech Inc., based in Cleveland sells products overseas and is “eager to begin marketing the belt to other countries.” When asked if the stun products would be sold to China, Mexico or Saudi Arabia, given their records of human rights abuses, Stun Tech president Kenneth Kaufman told a reporter “yes” without any problems, acknowledging that his company does not research the records of overseas prison systems that they supply (Cusac, 1996: 22). See also Cusac, 1997.

contract DMS moved on. The county was left with an empty jail and \$4.5 million in defaulted construction bonds (Smith, 1993d: 1). So much for economic development.³⁹

As discussed in Chapter Two, a characteristic of the internationalization of capital has been the emergence of a *global* assembly line, as production is spread across various locales. Most *maquiladoras* along the border are owned by foreign multinationals.⁴⁰ This characteristic would seem to distinguish the EPZ factory from the prison industry's (i.e., state facilities) relationship to the economy. But, as the prison industry in the U.S. becomes a site for privatization it spawned the emergence of incarceration MNCs, and a role for U.S. inmates in an emerging global security industry.⁴¹ For example: Wackenhut Corrections Corp., the second largest private prison corporation, controlled 18% of the private U.S. prison beds in 1993 (Bryce, 1993: 8), is in fact a global security conglomerate (earnings of \$630.3 million in 1992). In addition to the 11 facilities in five U.S. states and one in Puerto Rico, Wackenhut operates two medium security prisons in Australia, two facilities in the UK and a youthful offender center in Canada, and reports "prospects for additional facilities in the U.S. South America, Europe, and the Pacific Rim."⁴² Corrections Corporation of America, the largest of the private prison company, operates 21 detention facilities, housing over 9,000 prisoners in six states, the UK, and Australia (Smith, 1993: 4, Bryce, 1993: 8).⁴³ Industry "insiders say that half of Britain's prisons may ultimately be run by private concerns" (Bryce, 1993: 8).⁴⁴

³⁹ For another example of failed private prisons, defaulted bonds and political involvement in questionable private prison dealings involving Pricor, once the number three of the prison privates, now in a shambles, see Smith, 1993e.

⁴⁰ 1993 reports still put U.S. ownership of *maquilas* at 90% (CCC, 1993: 4) though an influx of Asian investment to the border region has been noted. In 1985, for example, there were just five Japanese-owned *maquilas*, but by 1994 there were 50. Still, total Asian investment only accounted for 4% (Dwyer, 1994: 7).

⁴¹ Private investment is coming from various quarters, not just MNCs dedicated solely to this sector. International construction firm Bechtel Corporation, for example, now has a small corrections division (Smith, 1993a: 3).

⁴² Meanwhile, Wackenhut Corporation already has offices and offers services in nearly all North, Central and South American countries, as well as the Caribbean, Bermuda, the Eastern Mediterranean and Gulf area, several European and Asian/Pacific nations and eight African countries ("Wackenhut Worldwide Locations," 1997, available via the Internet at the Wackenhut home page). The corporation takes its name from its founder George Wackenhut, a former FBI official, who started up this highly diversified empire in 1954. For more on the long and controversial history of Wackenhut, see Smith, 1993c and Connolly, J. (1992) "Inside the Shadow CIA," *Spy Magazine*, Sept., vol. 6.

⁴³ CCA, founded by real estate and insurance businessman Thomas Beasley, is financed by the Massey Burch Investment Group, which started the 150-hospital Hospital Corporation of America (Krajick, 1984: 27).

⁴⁴ England has the dubious distinction of being one of the great imitators of the U.S. prison system. Incarceration trends in Britain are "Dramatically different from... most of continental Europe....The number of prisoners in Britain doubled between 1950 and 1980 while the number declined rapidly in the open prison countries of the Netherlands and Scandinavia" (O'Brien, 1995: 223).The prison boom facilitated by Conservative sentencing policy has lead the British to pursue creative inmate housing schemes, including the purchase in March 1997 of a \$6.4 million prison ship called the Resolution, referred to as a "floating Alcatraz" and reminiscent of the prison hulks of the Victorian era (Agence France-Presse, 1997: 5). Wackenhut UK is planning to begin pilot prison industries at Coldinly jail, in Surrey, facilitated through a contractual agreement with the British Home Secretary Jack Straw. A coalition of nine unions under the name "Prisons are Not for Profit" opposed the plan. Critics also noted a contradiction at the federal level, as Britain is a signatory to an ILO convention on compulsory labor. Wackenhut UK and British partner Serco also run Doncaster jail, the immigration detention center at Gatwick Airport and prison transport services (Mills, 1997: 1,2). Importantly the relationship between the U.S. and UK prison sectors has been characterized as "not based on the transfer of correctional policy so much as it is on the joint ownership of corporations" (Lily and Knepper, 1991, quoted in Christie, 1993: 123).

Factories with Fences

*“Prisons aren’t an industry.
They’re an opportunity for industry.
Choosing the right industrial program can turn your correctional institution into a productive revenue center.”*
• *Indiana Chair Frame advertisement, Correctional Industries Association Newsletter, Summer 1997:18*⁴⁵

The legality of using prison labor in the U.S. can be traced back to the formation of the nation itself. The 13th Amendment to the U.S. Constitution states that, “Neither slavery nor involuntary servitude, except as punishment for crimes whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”

Though not immediately recognizable as a prized industrial bastion, prisons have an historical link to industrialization in the United States. “The Newgate Prison in New York, using the Auburn System,⁴⁶ in 1802 accrued a surplus of funds by contracting with outside manufacturers to use prison labor to produce various goods. In 1825, Auburn, Wethersfield, Charlestown, and Baltimore prisons were declaring profits from prison-contracted labor industries (McKelvey 1968). In 1828, Auburn and other prisons proclaimed themselves self-sufficient (Lewis 1967). The chief product of the New Jersey State prison was nail-making. Proceeds from nails sold by the keeper were used to make the prison self-sufficient (Barnes 1965)” (Kuchel, 1975, cited in Lightman, 1982; Sellers, 1993: 50). In Oklahoma, the first attempt at industrialization took place in the state’s prisons, an example that illustrates how “production and profit were the cornerstones of penal policy” (Conley, 1980: 259, 257).⁴⁷

In the early 1800s as the Vermont state prison system grew, inmates in Windsor were supplied with looms and soon made the prison self-supporting, even turning a profit (Smith, 1996: 103). “Between 1841 and 1858 the contract labor method flourished and enriched the coffers of most prisons” (Sellers, 1993: 50). The Civil War put a damper on the use of contracted prison labor, as the system was likened to slavery. The growth of unions resulted in restrictions on inmate production (Sellers, 1993: 50).⁴⁸ Indeed, it was the 1887 congressional ban on leasing federal prisoners to private industry which made federal convicts less lucrative

⁴⁵ The newsletter is “printed by inmates in correctional facilities.”

⁴⁶ The New York State Prison at Auburn, established in 1816, utilized specific notions of work as a tool for control in prisons, and was influential in the development of the U.S. prison system and penological thinking in the U.S. For a further discussion of the evolution of systems of incarceration, see Appendix B.

⁴⁷ The construction of the penitentiary in Oklahoma (following the Auburn model) did not have rehabilitation in mind, it “...stood as a symbol not of modern corrections, but of a new economic order in Oklahoma” (Conley: 159). The goals of this industrial prison, according to the Governor, were as follows: “...first, it was a model of manufacturing to be duplicated in the private sector; second, the prison industries would relieve the problem of inmate idleness and ease the taxpayer’s burden, and the public sale of prison-made goods at low prices would contribute to the general welfare of the community” (1925 letter from Governor Trapp, quoted in Conley: 260). A combination contract, state account and state-use system was put into place, with heavy capital investments made—“constructing factory buildings and warehouses inside the prison walls, with inmate labor, for the contractor’s use at no cost. The state’s desire to build an industrial climate was a contractor’s dream come true” (Conley, 260-261). The warden’s role was that “of a chief executive officer of a private corporation rather than a public official with expertise in correctional administration” (Conley, 260).

⁴⁸ The use of convict lease labor was not only condemned by unions as un-free or brutal, but because convict labor was used to try to break strikes. In this sense the *mobility* of inmates as a labor force made them more threatening to “free” laborers. It was the use of convict labor in a lock out in 1891 at Tennessee Coal and Iron that lead striking miners to storm a prison stockade, send inmates and guards on a train to Nashville, and burn down the facilities. This “Coal Miner’s War” was the catalyst for penal reform in the state. The legislature abolished the lease labor system in 1895, built a new prison and put inmates to work in state-owned coal mines (Folmsbee, 1968: 159). Mitford notes that prison industries (the use of prison workers within prisons) was not opposed by organized labor and in fact “actively supported” by its conservative wing (1974: 215).

tenants for state officials, and gave rise to a separate federal prison system (Rotman, 1995: 186).⁴⁹

According to the American Correctional Association prison industries "...were sharply curtailed during the depression. High unemployment prompted 33 states to pass laws prohibiting the public sale of convict-made goods. Such prohibitions resulted in wardens losing a significant source of revenue to run their prisons. More than ever, they became dependent on state legislatures for funds" (Bencivenga, 1984: 18). In 1929 the Hawes-Cooper Bill imposed a ban on the intrastate transport of prison-made goods and the 1935 Ashurst-Summers Act outlined criminal sanctions for the interstate sale of prison goods.

Opposition to prison labor in the contemporary era confined prison industries to a "state use" system whereby prison goods and services could only be offered to government agencies (Morris, 1995: 246). This was criticized by those who perceived private industry to be the best at organizing, implementing and managing work schemes (the argument used to support prison privatization, as outlined above). "Restrictions of this nature have also hindered the development of vocational training programs, which work best when they can be linked to productive employment," writes Morris, who believes that correctional administrators and prisoners both agree on the need for productive employment (1995: 246). Nevertheless, state-use systems quietly maintained a hefty hold on the market, in some states literally a monopoly, as legislation required public agencies to buy their products. In 1934 Congress created the Federal Prison Industries Inc. "to employ and train Federal inmates through a diversified program providing products and services to other federal agencies" (Budget of the U.S. Government, Fiscal Year 1997: 10). "During World War II, the federal prison industries were greatly expanded to make goods for the war effort, including shoes, mattresses, bomb racks, and bomb fins" (Rotman, 1995: 188). By the early 1970s Federal Prison Industries Inc. was reported by be "...far and away the most profitable line of business in the country. Profits on sales in 1970 were 17 percent (next highest is the mining industry with 11 percent)—the average for all U.S. industries is 4.5 percent" (Mitford, 1974: 215).

By 1996 Federal Prison Industries, Inc. had returned \$82 million to the Treasury. It operates as a self-sustaining corporation with revenues "derived entirely from the sale of products and services to other Federal agencies (That year UNICOR, the government agency that runs the Federal prison industries, employed 20% of the 104,000 federal inmates, making "25 percent of the federal government's office chairs, 50 percent of the federal government's brooms and paintbrushes, 20 percent of its electrical harnesses, 20 percent of the electrical wiring used by Federal contractors" (Parenti, 1996c: 2).⁵⁰ With a swelling inmate population state-use industries have grown to such an extent that, at the federal level, the number of trade shows held each year has doubled (Parenti, 1996a: 2).

To clarify: Prison industries fall into four categories: (1) private sector employer (2) state-use industries (such as UNICOR); (3) private-industry customer (state-owned factory); and (4) state-owned, privately-operated (such as the PRIDE program discussed below). In 1992, about 81,000 inmates were employed in prison industries (CURENY, 1997).⁵¹ Meanwhile, "...nearly all prisoners already *work* —91% in the federal system, 70% in the state, according to a 1991 report by the Bureau of Justice Statistics. Those who don't work typically

⁴⁹ Until then, those convicted of federal offenses were housed in state prisons.

⁵⁰ In 1997 about one-fourth of federal inmates were employed by Federal Prison Industries, Inc. (Federal BOP, 1997: 4). Projected sales for 1998 were pegged at \$180 million (Budget of the U.S. Fiscal Year 1998: 13).

⁵¹ About 2,000 in the private sector, 65,000 state use, 14,000 at the federal level (CURENY, 1997).

include the medically or mentally unfit, as well as the most dangerous offenders...The average prisoners workweek is 34.5 hours. Federal inmates put in 37.5 hours..." (emphasis added, BJS, 1993: 4).⁵²

Just as privatization is perceived as a sensible route toward more efficient, cheaper and better-managed prisons, it is also seen as a way to improve prison industries. In a 1996 report on the Prison Industry Authority (PIA),⁵³ the semi-autonomous authority that runs California's prison enterprises, the state's Legislative Analyst's office called for privatization. Though privatization of PIA would mean giving up the monopoly on state government business, such a move was recommended as a way to encourage a more entrepreneurial spirit and pave the way for more private-sector partnerships (LAO, 1996:1).

In Florida, inmates who work in institutional work and road work are unpaid, but those working in the PRIDE program (57 industries), the first self-supporting prison industry in the nation to be managed and operated by the private sector (private non-profit organization), earn about 50 cents per hour.⁵⁴ This model is being considered in California for its PIA program.⁵⁵ In 1997, 4900 of Florida's 65,000 inmates were participating in the PRIDE program (40,000 inmates are eligible for work) (*Tallahassee Democrat*, 1997; Associated Press, 1997b). Proponents stress that the PRIDE program is not funded by taxpayer dollars, it "returns an average of \$1 million to the state and contributes about \$40 million a year to Florida's economy. Products are sold to the state, but the state legislature is being pressured to ease such restrictions. "Our market place in the past has been tax entities—cities, counties, the state and school boards," explains PRIDE business manager Brian Connett. "We see the market actually shrinking and since the number of inmates is increasing we need to find other avenues to put inmates to work" (quoted in *Tallahassee Democrat*, 1997). A joint venture with a furniture manufacturer is now in the pilot stages (Associated Press, 1997b).

Meanwhile, private sector use of inmate labor has gradually grown as legal barriers have been removed.

⁵² Work assignments include janitorial work, food preparation, maintenance, repair or construction, ground and road maintenance, library, barbershop, office, goods production, farming, forestry or ranching, laundry, hospital or medical (BJS, 1993: 27). Please see Appendix C for a breakdown of work assignments on the state level. Community Work Programs, such as North Carolina's started in 1994, sets up inmate workers doing tasks for community and public agencies, who in turn avoid hiring minimum-wage workers on the "outside." "If communities had to pay minimum wage for the 1,417,479 hours inmates worked, it would have cost \$6,733,025" in 1996. By the end of 1996, 35 North Carolina prisons were participating in the program that farms out free inmate laborers. Not only are they cheap, but they willing to work flexible hours. For example, inmate work squads used in the wake of Hurricane Fran in 1996 worked eleven hours days, instead of their usual seven (NCDOC, 1997: 1). Promotion of the program includes a toll-free "inmate work hotline" (NCDOC, 1996a: 1). In Massachusetts the DOC boasts of similar savings to taxpayers: a Community Work Crew program "saved" cities and towns \$6 million in 1996 by providing "free" laborers (MassDOC, 1997: 1).

⁵³ Operating in the majority of California prisons, PIA sales during 1994-95 were over \$152 million (LAO, 1996:1).

⁵⁴ The acronym PRIDE—Prison Rehabilitative Industries and Diversified Enterprises Inc.—is not without irony. An obvious nod to the belief that self-worth, esteem and dignity is generated through work, this very same theme of pride was invoked by former Florida Governor Leroy Collins in a radio broadcast retelling of the infamous state history of prison lease labor. "...It is a scar on our state's conscience that will never heal, a wound to our pride that should never be forgotten," he said, highlighting the case of Martin Tabert, an inmate "leased out" to a lumber company following his incarceration for hitching a ride on a train. Though his family sent payment in excess of the \$50 fine he had been assessed, the funds were returned. It was only after Tabert's murder at the hands of a lumber company whipping boss that the family was notified of his whereabouts. The publicity surrounding this case led to the dismantling of the convict lease labor system in Florida and the general outcry against such policies throughout the nation (WFSU FM 98.5, 1990).

⁵⁵ In a 1996 report the California Legislative Analyst's office reviewed the performance of the PIA and recommended privatization (LAO, 1996: 1). The goals would then become "financial self-sufficiency and reduced inmate recidivism" (CDC, 1996a:1).

In 1979 Congress enacted “Public Law 96-157...creating the Private Sector/Prison Industry Enhancement Certification Program (PS/PIEC).⁵⁶ The program authorizes correctional agencies to engage in the interstate shipment of prison-made goods for private business use if: (a) Inmates working in private sector prison industries are paid at a rate not less than the rate paid for work of a similar nature in the locality in which the work takes place; (b) Prior to the initiation of a project local unions are consulted; and (c) The employment of inmates does not result in the displacement of employed workers outside the prison, does not occur in occupations in which there is a surplus of labor in the locality and does not impair existing contracts for services” (Sexton, 1995: 3).

Currently there are 38 certified PIE jurisdictions (35 states, 3 counties) employing 2,280 inmates (PIE quarterly report, March 1997).⁵⁷ The purpose of the program is to “encourage States and units of local government to establish employment opportunities for prisoners that approximate private sector work opportunities” (BJA, 1995: 1). This is done by exempting “State and local certified departments of corrections from normal restrictions on the sale of prisoner-made goods in interstate commerce....the program lifts existing restrictions on these certified corrections departments, permitting them to sell prisoner-made goods to the Federal government ... exceeding the \$10,000 maximum normally imposed on such transactions” (BJA, 1995: 1).

PIE inmate workers “...are volunteers and all earn at least minimum wage, from which they pay state and federal taxes, contribute to a victim restitution fund, and help pay for their room and board. The leftover money is then put into a savings account, from which inmates can send money to their families or use...when they are released” (Bryce, 1993: 9). Prisoners benefit from developing job skills while providing employers with “a stable and readily available workforce” and “manufacturing space at greatly reduced rates.” The public benefits, as PIE is “a way to reduce the escalating cost of crime” (BJA, 1995: 2). These joint ventures follow three models: (1) the Manpower model (named for the nationwide temp agency, mentioned in Chapter Two) where inmates are employed and trained by the prison, but supervised by the company; (2) the employer model, in which the inmates are trained, employed and supervised by the company (an example of a PIE program following this model is the airline TWA’s use of California inmates as reservation agents; which in turn was based on Best Western’s use of female inmates in Arizona to do similar work); and (3) the customer model, in which the prison employs, supervises and trains the inmate workers (least risk for the company, most risk for the prison) (Sexton, 1995: 11). Note that while there are 106 PIE-certified joint ventures, there are many more—1,224 ventures, with 74,168 work assignments—that are *not* certified (Mumola, 1997a).⁵⁸ While PIE programs stipulate a prevailing wage and the provision of workers benefits, non-PIE programs may differ.⁵⁹

The first partnership between a private prison and private industry started in 1994 in Louisiana, when a CCA prison teamed up with Company Apparel Safety Items (CASI), a work-clothes manufacturer, in a PIE-

⁵⁶ Codified as 18 U.S.C. 1761 (c) and 41 U.S.C. 35). Later the Crime Control Act of 1990 (P.L. 101-647) authorizes continuation of the program indefinitely (BJA, 1995: 1).

⁵⁷ On the county level, two are in New Hampshire, one is in Texas. The state-level jurisdictions includes 33 state departments of correction and two state juvenile justice agencies (Mumola, 1997b).

⁵⁸ This “may undercount the true number of inmates employed. Because more than one inmate may work the same “assignment” over multiple shifts, the number of inmates involved in non-PIE ventures is probably higher (Mumola, 1997a).

⁵⁹ This is not necessarily to the detriment of those who participate. One wages, for example, “...this shouldn’t imply that all non-PIE joint ventures pay less...while many certainly do, the level of wages varies enormously, from as little as unpaid labor to as high as \$8.50 per hour” (Mumola, 1997b).

certified venture that currently employs 23 inmates (Parenti, 1996b: 29; PIE Quarterly Report, 1997: 7). In California in November 1990 voters approved Proposition 139, the Inmate Work Initiative that allows for private sector joint ventures that use prison inmates. Today California uses more inmates (335) inmates in PIE-certified joint ventures than any other state.

Where the Money Goes: Inmate Wages

Given resurgent private sector involvement in prison industry, questions arise as to the flow of funds: Who profits and where does the revenue go? “All Federal inmates who are able must work and are paid a *small* wage, a portion of which some inmates use to make restitution to victims through the Inmate Financial Responsibility Program” (emphasis added, Federal BOP, 1997: 4).

Between 1979 and 1996, inmates employed in joint ventures certified by the U.S. Department of Justice earned \$75,333,448. During that time, deductions from their wages amounted to: \$16,046,714 toward room and board; \$ 8,920,495 in Federal and States taxes; \$5,516,586 in victim compensation and \$4,452,664 toward the support of their families (PIE quarterly report, March 31, 1997: 20). These combined wage deductions represent a return to “society” of \$34,936,459. Each jurisdiction has some flexibility as to the size of the deduction taken out for room, board and family support, but the total amount deducted from an inmate PIE worker’s wages cannot exceed 80% (BJA, 1995: 2).⁶⁰

The issue of prisoner labor, and specifically, inmate wages and working conditions, fueled the fires of prisoner organizing in the early 1970s. The prison labor movement originated in California at Soledad Prison, spread to Folsom State Prison, where prisoners held a 17-day strike in November 1970. The United Prisoners Union sought the minimum wage and workmen’s compensation benefits for inmate workers, who in California were earning between \$.02 and \$.16 an hour (Zonn, 1978: 621).⁶¹ In 1977 the prison union movement was effectively shut down by the Supreme Court’s decision in *Jones v. North Carolina Prisoners’ Labor Union, Inc.* where the Court refused to extend First Amendment constitutional protection to prison unions (Zonn: 614).

Critics of the “full wages” work model, where the prisoner is paid the prevailing wage and then pays back his room and board, restitution, money toward the maintenance of his family, and puts the rest into savings to be tapped into upon release, say it is an idea that “reads better in theory than it works in practice. Since the cost of maintaining a prisoner in 1993 hovered around twenty thousand dollars per year, and since no prisoner in a ‘full

⁶⁰ In Nevada, for example, inmate limo makers earned \$3.35 per hour in 1989, with 25% going to the state to help defray the costs of incarceration, 5% to a crime victims fund and 50% to a forced savings account. They keep the remaining 20% (Armstrong, 1989: 7). In the private prison/private industry venture in Louisiana inmates earn the minimum wage, though 30 percent is deducted for room and board (Parenti, 1996b). Some states have specific regulations regarding *any* form of income. In California “inmates with court-ordered restitution fines must contribute 22 percent of all money they receive, regardless of the source,” prior to 1995 only prison wages were subject to automatic deductions, now any money that makes its way into an inmate’s trust account is subject to garnishing (CDC, 1996b: 1). Currently, 20% of inmate wages are earmarked for the Board of Control, Crime Victim Compensation Fund, while 2% is set aside for CDC administrative costs. In 1996, the CDC reported that monthly average collections for restitution were \$.5 million (CDC, 1996c: 1).

⁶¹ For the perspective of a San Quentin inmate/writer during this era who saw the struggle of prisoners and workers as linked, see Huston, T. (1973) “Prisons: A Marxist Position,” *Monthly Review*, vol. 25, no. 6, pgs. 29-33. For a moving account of prison life at that time, see Jackson, G. (1970) *Soledad Brother*, Coward-McCann, New York.

wages' prison could be expected to earn that amount, a highly artificial deduction, much less than that, would have to be assessed. The plan becomes an exercise in bookkeeping rather than economic reality" (Morris, 1995: 247).⁶²

Organized labor in the U.S. has supported and, in some cases, organized training programs for inmates,⁶³ but remains opposed to the use of inmate labor in competition or replacement of "free" labor.

"Increasingly...prison labor is being used in both the states and by the federal government to perform work in both the private and public sectors ordinarily done by "free" workers. Twenty-one states have statutes that compel prisoners to work, and others enforce policies that penalize inmates who refuse to work. Prison laborers are generally denied coverage under minimum wage, unemployment compensation, workers' compensation, collective bargaining and other worker protection laws.

We call on the federal government and the states to end any promotional programs to encourage employers to set up shop in federal or state prisons as an alternative to creating jobs and hiring workers in the general population and in direct, intentional competition with private-sector employers" (AFL-CIO Executive Council, 1997: 1).

"Prison labor is one thing," says Phil Neuenfeldt, legislative director for the Wisconsin AFL-CIO. "But prison labor that provides unfair labor to the outside world and keeps pressure on wages downward is not a good thing."⁶⁴ Such a charge of unfair competition was leveled when 150 employees at a Texas electronics company lost their jobs when their work was contracted out to prison inmates (Neuenfeldt, quoted in AP, 1997b: 5C). "Our trade laws result in sanctions when we find other countries using prison labor. Why do we prohibit other countries from using prison labor when we are doing it ourselves?" asks Christopher Cook of the Texas AFL-CIO (quoted in Bryce, 1993: 9).

Indeed, with prisoners now working on export goods, the stage is set for accusations of hypocrisy and double-standards. "...Foreign producers will see it as unfair competition, as slave labor," said AFL-CIO economist John Zalusky. "And they'll be right. Retaliation could then be targeted at other product areas, such as automobiles" (quoted in Kameras, 1995: 2). "Could be?" These are hardly fighting, or organizing, words.⁶⁵

Some examples of resistance from unions has been documented. Publicity surrounding the use of inmate telemarketers by AT&T in 1993 resulted in the cancellation of that program (Holmstrom, 1994: 2). Honda, the car manufacturer employed Ohio state prisoners at \$.35 per hour through a subcontracting

⁶² It's also worth looking into who's doing the bookkeeping. In Massachusetts, a Superior Court Judge had to force the state to pay \$1 million in back wages to 2,253 current and former state prisoners. The state's Commissioner for the Department of Corrections, Larry DuBois decided not to pay inmate workers at a new wage level following a rate increase in 1992. Prison labor wages were increased to lure more prisoners into the labor force. Full-time workers went from rates of \$1 an hour to \$1.35, while part-time workers went from \$.75 to \$1.25 (*Daily Hampshire Gazette*, 1997: 1). For a discussion of wages as an incentive, see Lightman, 1982: 41, for a historical overview of the topic, see Sutherland, 1947: 479-482.

⁶³ The Electrical Workers Union, for example, runs a skills-training program for inmates at California's San Quentin prison (Kameras 1995: 1).

⁶⁴ In Wisconsin, where PIE-certified ventures have been underway since 1987, creative ways of dodging prohibitions on prison labor have been attempted. For example one legislator tried to bypass prevailing wage requirements by proposing that prison laborers repackage damaged retail goods, because prisoners would not be manufacturing or producing anything (activities specifically covered by the existing provision) (Elbow, 1995: 3).

⁶⁵ How is it possible for the U.S. State Department to oppose the use of prison labor in China? According to Jeffrey A. Bader, Deputy Assistant Secretary for East Asian and Pacific Affairs: "The U.S. Government does not challenge the principle of employing prisoners; we too expect prisoners to work. Our opposition is to prison labor exports to the U.S. and is predicated on fair trade and human rights concerns. We oppose the use of forced/indentured labor to produce prison labor exports and the unfair price advantage gained by such labor in an open economy. ...Goods and services produced in U.S. federal prisons can only be sold to U.S. Government agencies in the U.S. However, there are no regulations against exporting state prison-made goods to any country which will legally accept them" (1997, 1). Brad Haga, marketing director for Oregon Prison Industries, which oversees the manufacture of that state's prison goods, \$3 million of which were exported in 1994, concedes that having different standards for the U.S. and Chinese prison-made products has the "smack of old-fashioned imperialism." But adds that "there's a huge gulf between the [Chinese and American] prison systems" (quoted in Erlich, 1994: 8).

arrangement, until heightened awareness among organized labor and state legislators brought the practice to an end in 1992 (Kameras, 1995: 2).

Summary and Observations

As prisons become a common landmark on the U.S. topography, several trends emerge as significant—decreasing federal oversight of the prison sector and increasing controls on inmates. The imposition of legal fees, limited access to law libraries and other restrictions on access to or the ability to distribute information (via the media or visitors, for example) make it more difficult for inmates to assert their rights or make their conditions/cases known. Charging prisoners to pay for jury trials violates the 6th Amendment (right to a jury trial) and the 14th Amendment (equal protection under the law) and has been challenged by the ACLU in Virginia (Parenti, 1996: 26). Assessing fees for access to medical care also represents an abrogation of inmate rights. In some states such practices have been overturned as unconstitutional, as in the case of Colorado regarding co-payments, and a Louisiana jail regarding medication charges; while others have survived legal challenges, as in Oklahoma where a cancer sufferer only received treatment following a federal lawsuit and Maryland where an asthma sufferer's inability to breath freely without the medication he could not pay for was not deemed "cruel and unusual punishment" (Parenti, 1996a: 29).⁶⁶

At the same time, private business has become a new actor in the sector as ownership and management has been privatized in some instances. Questions regarding the turning over of the public "duty" of incarceration to the private sector have been raised, because the goals of business might be at odds with the mission of a prison and private entities are not subject to constitutional restraints (Smith, 1993: 5), and also in terms of training, safety and the likelihood that efficiency is more likely to come from the private sector.

This chapter also presented information on work programs in prisons. Prison industries exist in a variety of forms and interest exists in expanding such industries to involve private industry. Though organized labor is opposed to the use of prison labor any response to the emergence of an inmate workforce appears tinged with resignation and a hopeless inevitability.⁶⁷ The potential for prisoners to participate in a dialogue about prison programs, including prison industries, has been severely curtailed by court decisions. Chapter Four takes a step back to consider the wider context in which these trends have emerged, before returning to prison industries to consider the social construction of a low-cost, flexible inmate work force.

⁶⁶ An obvious problem that could be exacerbated by diminished access to health care is the escalation of illnesses for inmates represent a high risk category; within that category communicable infectious diseases pose a serious threat if inmate health care becomes "optional." In 1992 The American College of Physicians, the National Commission on Correctional Health Care and the American Correctional Health Care Association reported that the incidence of AIDS in prison was 14 times higher than in the general population. Rates vary, but women in prison show up at the high-end of the spectrum: In New York State, for example, 18.8% of female inmates tested HIV positive. A related problem is the incidence of tuberculosis: in 1987 the prison TB rate was 11 times more than that of the general public, in California the rate of incidence was six times higher (Morris, 1995: 250-251). For an example of a TB epidemic in one prison, see *Austin v. Dept. of Corrections* (1992), where 400 Pennsylvania inmates were infected after the state health commissioner's warning to implement detection and control procedures were ignored (Top Ten List, undated: 1).

⁶⁷ Keep in mind the context of declining U.S. union membership, which has never been very substantial. "...US employers historically have resisted unions more aggressively and successfully than those in other industrialized countries [Filippelli, 1990]. [The U.S. labor struggle death toll (700) between 1870 and 1949 exceeded all European countries except Russia and Italy (Goldstein, 1987: 432)]. An AFL-CIO official remarked as recently as 1992 that employer animosity is both unrelenting and growing: 'Anti-unionism is so thoroughly ingrained in the American business culture that, even with increased examples of successful labor-management cooperative ventures, sharply reduced strike activity, and concession bargaining, employer opposition to unionization has been increasing [McDonald, 1992, p. 19]' (Craypo, 1994: 237). This is not to say that inmates and other legally disadvantaged people do not attempt to organize, as noted above, but existing union structures are designed for a specific "worker," which does not often match the profile of "inmate worker." This same phenomena can be noted in the *maquila* context.

Chapter Four

Flexibility for Whom?

While the previous chapter provided information about the recognizable trends within the prison sector, including the use of inmate labor, this chapter will focus more on *how* and *why*, inquiring into the role of social factors in prison growth and prison industry. What mechanisms facilitate the expansion of the prison sector? What assumptions provide the lubricant? To function as a policy, incarceration requires not only a perceived criminal threat—sometimes only abstractly articulated—but also its embodiment—the criminal. While inmates are not a homogeneous lot, some people are more likely to become prisoners than others. Why? If prisons—recognized as an example of “coercive control” (Mayer, 1983: 26)—are springing up at unprecedented rates, how is such a major expansion justified in the eyes of “free” society? What assumptions make it possible to sell “the cellblock” as a positive strategy for developing human capital?

Answering these questions will help in considering the social construct of an inmate population, *why* certain programs—specifically work programs—are used within the prison sector, and, ultimately, *how* an inmate workforce is assembled. In trying to analyze the resurgent interest in prison industries, the “flexible” label can be applied to inmate workers, but is shown to be a designation based on rigid, not flexible, requirements of control. I will consider the notion of control as it operates in society-at-large, how it influences incarceration policies and its role within the prison microcosm.

On Control

Early sociologists saw social control as the shared values and principles which comprise the glue of social stability. “They found social control everywhere and applauded its presence” (Rothman, 1995: 127). But by the 1950s, the phrase had acquired many negative connotations. “Social control became synonymous not with persuasion but with the imposition of state or class authority over the lower classes...equated with repression and coercion, with the formal and informal mechanisms that were intended to compel order and obedience” (Rothman, 1995: 127).

The term social control has been widely used to explain reform movements.⁶⁸ But a definition placing too much emphasis on class-based attempts at dominating workers also falls short, because it obscures the various guises and agents of control (Mayer, 1983: 21). “...Each ethnic group also tried to control the behaviours of its own members. A broader definition...related to its original meaning, would include these types of controls—a group’s self-regulation of its own members” (Mayer, 1983: 23). Social control is invoked often in the literature on prisons, but viewing the history of punishment and prison development through the lens of social control only explains some tendencies, toward confinement for example. On its own, the term has “little value” (Rothman, 1995: 128) as it is an incomplete analytical tool.⁶⁹

⁶⁸ An example of a reform-minded movement that involved attempts at social control was the 19th century movement that resulted in separate prisons for women and was a means for imposing middle-class feminine ideals on working class women (see Appendix D). This example also highlights women as agents of control.

⁶⁹ Considering institutions as sites of “social control” can be “redundant: what else are prisons if not institutions for control?” (Rothman, 1983: 113). The same can be said of those who have used a social control framework in the workplace context: “Braverman and others emphasize that during the development of labor market divisions as they exist today, the primary goal of capital has been to increase social control. The central position of class conflict in determining relative access to surplus capital has meant that capital traditionally places the goal of social control above that of efficiency when it comes to making decisions regarding specific technologies or forms of workplace

An expanded concept evolved, utilized in two ways—(1) to connote “coercive controls,” implying “force, legal or extra-legal,” and (2) “social controls” at the macro and micro level, comprised of “group self-regulation outside the boundaries of force” (Mayer, 1983: 24), which are “actual or potential rewards and punishments that accrue from conformity to or deviation from normal.” They can be internal or external, imposed by ourselves or by others (Kornhauser, 1978, quoted in Carlen, 1987: 160).

A *system* of control which includes self-regulation (Mayer, 1983: 24) takes into account the diversity of contexts and identities experienced by both prisoners and non-prisoners in the U.S. of the 1990s.⁷⁰ Formal institutions of control (coercive spaces), such as prisons, share space with other forms of (social) control, based on conformity to gender or racial norms, for example, which embodied subjects are not stripped of at the prison (or factory, or prison factory) gate.⁷¹ It is with this broader notion of control in mind that I proceed. To more clearly reveal the forces involved in the positioning of inmates as flexible workers I will investigate (1) the legal means of control that are the conduit through which people enter prison; (2) the beliefs that support such legislation, and (3) some of the forces of control that operate within prisons today.

Redefining the Criminal

“...Matters of crime, deviance, delinquency, illness and madness don’t just every now and then touch on wider issues of politics, economics and power. They are intimately related—and, indeed, these very categories are politically defined”
(Cohen and Scull, 1983: 7).

As the prison population expands it is useful to look at the codified norms which help funnel people into this sector. Recent changes in criminal sentencing laws have had an impact on the *size* and *composition* of the prison population. Important elements of the skyrocketing rate of incarceration, described in Chapter One, are sentencing requirements for drug offenses, in the form of mandatory minimum sentences for certain crimes, lengthier sentences for repeat offenders and new obstacles to parole.⁷² The requirements themselves have shaped the composition of the inmate population, as have the application of criminal sentences.

At the federal level, over 60% of inmates are serving time for drug-related offenses (Federal BOP, 1997).⁷³ This has been the result of specific legislation that mandates sentences for offenses not previously

organization (Braverman 1974: 112-121; Edwards 1979: 139-140; and Gordon 1972: 130-131)” (Green, 1983:279). Flexible workers are those who are most controllable, but to what end?

⁷⁰ Given this multiplicity of inputs, I prefer “systems” of control, as opposed to one over-arching system. Such a singularity is unlikely.

⁷¹ Specifically with regard to women and criminality, Rafter observes that “...punishments from prescribed gender roles can be formal or informal, external or internal, so subtle as to go unnoticed in everyday communication or overtly coercive. But all are directed towards correcting women who stray from the prescribed roles of their times” (1983: 288).

⁷² This causal link is one supported by various sources, including the U.S. Sentencing Commission and the U.S. Bureau of Justice Statistics (GAO, 1996: 8). At the federal level the following measures are linked to the growth in the number of prison inmates: the 1984 Sentencing Reform Act, which abolished parole and capped “time off for good behavior” at 54 days/year; the mandatory minimum sentences stipulated in the 1986 Anti-Drug Act, 1988 and 1990 Congressional legislation that increased mandatory minimum sentence for drug and weapon offenses (GAO, 1996: 8). On the state level there are similar acknowledgment. The California Department of Corrections, for example, attributes prison growth to “...court decisions, voter initiatives, and legislation...” (GAO, 1996: 9).

⁷³ In 1994 22.3% of prisoners at the state level were drug offenders (Office of National Drug Control Policy, 1997 cited in Human Rights Watch, 1997: 2) . The role of drugs and alcohol and their collision with race, class and gender are a much broader subject for study. It is worth noting that “Alcohol and drugs figure prominently in the etiology of imprisonable crime; more than half of all prisoners were under the influence of drugs, alcohol, or both at the time of their arrest” (Morris, 1995: 247).

singled out. Most mandatory sentences (over 90%) imposed at the federal level are for drug offenses (Tyson, 1993: 1). Via mandatory minimum sentences for drug offenders, a significant number of non-violent offenders end up in prison. At the federal level, 30% of inmates convicted of drug offenses were found guilty of non-violent offenses, but were serving longer sentences than violent offenders (*The Nation*, 1995: 224). Differential sentencing for possession of powder cocaine and crack cocaine, included in such legislation, has been criticized for creating a framework of inequality linked to economic status.

“Under new federal statutes, defendants convicted of selling 5 grams or more crack cocaine [the highly-addictive smokeable form of cocaine], worth perhaps \$125, receive a mandatory minimum of five years in prison. However, it takes 500 grams of the powdered drug, nearly \$50,000 worth of ‘yuppie cocaine’, to receive an equivalent sentence. Consequently, someone caught in a drug bust with a relatively small amount of cocaine can receive a sentence that is two to three years longer than a person convicted of selling nearly 100 times that amount” (*LA Times*, 1990, quoted in Davis, 1990: 288).

Not only class, but racial bias has been noted in the application of drug sentencing procedures. A 1997 case study of drug sentencing in New York State found that: “as throughout the United States, most of the people arrested, prosecuted and convicted of drug crimes in New York are non-white. Blacks and Hispanics represent over 85 percent of people indicted for drug felonies and 94 percent of drug felons sent to prison. Whites constitute only 5.3 percent of the total population of drug felons currently in prison in New York; Blacks and Hispanics constitute 94.2 percent” (HRW, 1997: 4-5, with reference to Bureau of Statistical Services, NYS Division of Criminal Justice Services and the NYS Department of Correctional Services). With mandatory sentences for some drug offenses in place since the 1970s, New York State offers a significant case study. (For more on this study, see Appendix E). Meanwhile, new Federal Sentencing Guidelines, meant to reduce racial sentencing disparities and to provide “effective and uniform federal sentencing” have been deemed a “failure” in light of persistent bias in sentencing: “89% of people sentenced for federal crack crimes are African American,” though “African Americans only constitute about 39% of crack users” (NCIA, 1997: 1).⁷⁴ Indeed, skewed arrest patterns are part of systemic disparities, for “even though drug use among whites and Blacks is estimated at relatively the same rate, Blacks get arrested five times as often” (Ransby, 1996: 7).

Inequality in the eyes of the law and law enforcement is widely documented. While “...there is no significant correlation between a state’s racial composition and its crime rate...there *is* a correlation between a state’s racial composition and its general incarceration rate” (emphasis added, study by Nagel, cited in Parenti, 1994: 6).⁷⁵ “...In 1990, even though less than 30 percent of those arrested were black, blacks accounted for 47 percent of those

⁷⁴ For an overview and critique of the work of the Sentencing Commission, established by Congress in 1984, see Christie, 1993: 129-140.

⁷⁵ How to explain such figures? Disparities in the makeup of the prison population result when “...Blacks who commit crimes against white victims, particularly serious crimes are punished more severely than blacks whose victims are black and more severely than whites, regardless of the color of their victims” and because “white offenders express their criminality, disproportionately higher than do blacks and Hispanics, in frauds, embezzlements, and white-collar offenses, which do not so inflame public opinion and do not so readily attract imprisonment as a punishment.” Black and Hispanic crimes are the “imprisonable crimes” (Morris, 1995: 241). A bias in sentencing preceding the “war on drugs” of the 1980s and 1990s, has been documented. In 1967 the authors of an *UCLA Law Review* article suggested: “...Economic class sentencing disparities, holding crime and prior record constant, are due possibly to the quality of legal representation that the indigent receive and probably to the appearance that an indigent defendant presents before a middle-class judge or probation officer” (quoted in Reiman, 1979: 136). For a review of various studies in the 1970s that showed that crimes more often committed by “the poor” drew harsher sentences than those more often committed by wealthier transgressors, see Reiman, 1979: 114-128.

imprisoned, ... although whites were nearly 70 percent of those arrested, only 48 percent of prisoners were white” (Morris, 1995: 241).⁷⁶

Incarceration rates by sex have changed in recent years: “...The number of women in state and federal prisons surged 275 percent between 1980 and [1992], a rate far outstripping the 160 percent rise in the number of male inmates during the same period” (U.S. Dept. of Justice, cited in Tyson, 1993:1).⁷⁷ Mandatory minimum sentences, especially for drug crimes, are said to explain the increase in female prison inmates (Tyson, 1993:1).⁷⁸ While “one out of every eight women inmates was serving time for a drug-related offense in 1983, the proportion” rose to one in three by 1989 (Tyson: 1).

“Women today are not doing things any differently than in the past several decades, it’s just that the penalties for doing those things have changed so they are incarcerated more,” according to National Institute of Corrections program specialist Alethea Camp (quoted in Tyson, 1993: 1).⁷⁹ That women are the fastest-growing category of inmate is rarely mentioned in prison-boom literature. While the specifics of incarceration are often given a racial spin, it is rarely mentioned that African-American *women* as a category have experienced the largest increase in incarceration. “...Between 1980 and 1992, the number of African American females in State or Federal prisons grew 278 percent as compared to 186 percent for African American males” (Bloom, 1997b: 7).⁸⁰

“Three strikes and you’re out,” a baseball term basically meaning failure, has become a familiar refrain among supporters of a sentencing policy that would essentially lock prisoners up, and after a third conviction, throw away the key. Legislation to lengthen sentences for repeat offenders has passed in several states, but the 1994 California three strikes law “... may be the most sweeping of these. Although the first two “strikes” accrue for serious felonies, the crime that triggers the life sentence can be any felony” (RAND, 1994: 1). California was the first state to pass a three-strikes law. The 1994 Federal Crime Bill included a three-strikes provision. By 1995 12 other states followed suit, with seven on the verge of enacting such legislation (Armstrong, 1994: 1; *Christian Science Monitor*, 1995: 20).

⁷⁶ According to 1991 figures, black men in the United States were “incarcerated at a rate four times that of black males in South Africa” (Morris, 1995: 240).

⁷⁷ Indeed, this upswing seems to be sustained, as figures released in August 1997 by the U.S. Bureau of Justice Statistics chart a dramatic increase in female arrests over the past decade. “...Between 1986 and 1995 there was a 12 percent increase in the number of men arrested but a 38 percent increase in the number of arrests of women” (BJS, cited in Lardner, Jr., 1997: 3).

⁷⁸ The number of women arrested for drug offenses increased by 89% between 1982 and 1991 (Bloom, 1997b: 7).

⁷⁹ An opposing view suggests that as women become more “liberated” they have greater access to crimes traditionally committed by men (Adler, 1975, and Simon, cited in Bloom, 1997a: 6). As one state’s attorney recently noted: “Women are involved to a much greater degree in all kinds of legitimate job and professions that they weren’t before. It’s not surprising that women are also getting involved in higher percentages of illegal commerce and professions” (O’Malley, quoted in Tyson, 1993: 1). Criminologists, such as Bloom disagree, noting that “...most women who end up in the criminal justice system are not liberated, equal-opportunity criminals. Their crimes continue to be committed because of their economic situations, for the most part. The ‘liberated female crook’ hypothesis has been pushed aside” (1997b: 6). The debate can be summarized as the “abuse of opportunity” view versus the “lack of opportunity” position (Smith, in Tyson: 1).

⁸⁰ Going back to the assertion that drug offenses have contributed to rising numbers of inmates, a similar trend is found among African American women. “Between 1986 and 1991, the number of African American women in states prisons for drug offenses increased more than eight-fold, from 667 to 6,193” (Bloom, 1997b: 7).

California's "Street Terrorism Enforcement and Prevention Act of 1988" (STEP) makes membership in a "criminal gang" a felony offense and "provides for the prosecution of *parents* of gang members who do not exercise 'reasonable care' to prevent their children's criminal activities" (Davis, 1990: 283).⁸¹

The examples above illustrate how the utilization of legal means facilitates prison population growth. Legal redefinition of criminal activity has been a major force in prison population increases, but has done so in a way that differently impacts those living in the U.S. The increased scope of the law and levels of surveillance to implement such laws result in the increased likelihood for engaging in behavior deemed criminal and worthy of (longer terms of) incarceration, while age, class, sex and race also have a significant impact on that probability.⁸² It is also important to note the probable long-term impact of drug sentencing policy. With comparatively little funding going into drug treatment, and other social services denied to those with a history of drug use, it is increasingly likely that drug users will not only become "criminals" but also recidivists.⁸³

"Selling" The Prison

"... Perhaps the most important effect of the carceral system and of its extension well beyond legal imprisonment is that it succeeds in making the power to punish natural and legitimate, in lowering at least the threshold of tolerance to penalty" • Michel Foucault (1977: 301).

With the growth of incarceration, the level of acceptance of such a strategy comes into question. How does the general public rationalize support of such a trend? Law and order ideology is the backbone of the prison boom, and without constituent appeal for such a doctrine the wide range of legislation which funnels people into this sector would lose popularity among lawmakers.⁸⁴ Strategies espousing this stance are relevant to this study, to

⁸¹ This should not merely register as the criminalization of bad parenting, but should be gauged for gender-specific connotations. The stereotype of the "gang mother" can be interpreted as an extension of the "welfare queen" (Davis, 1990: 283), a term coined by Ronald Reagan and made popular during a decade of welfare policy reform debate. The phrase is used to invoke the image of an overweight, lazy, black *woman* who takes advantage of taxpayer-financed social services. (For an analysis of media representations of welfare recipients, see Flanders, L. (1996) "Media Lies: Media, Public Opinion, and Welfare," in D. Dujon and A. Withorn (eds.) *For Crying Out Loud: Women's Poverty in the United States* (1996) South End Press, Boston, pgs. 29-39) Hooking the incarceration rationale onto the caboose of welfare reform embraces the position that an overly powerful black matriarchy has weakened black masculinity (fixed in history by the 1965 Moynihan Report, and now revived on many fronts. For a discussion of the relevance of this position today, see Cerullo, M. and M. Erlien "Beyond the 'Normal Family'," pgs. 87-105 in Dujon and Withorn, 1996 cited above). During the welfare debate the sexuality of "the poor" emerged as something in need of control, with prescriptions ranging from court-ordered birth control for women to abstinence education for school children (federally-approved). One of the chastity curricula manufacturers commented that "The black community...[is] not going to learn to punch the time clock and to be there on time and produce a day's work if they can't even control their own emotions in the important area of sexuality" (Sullivan, quoted in PAW, 1996: 5). With direct links being made between birth control and crime control (Hartmann, 1995: 211, Yuval-Davis, 1996: 20) the welfare discourse suggests that reproduction become criminalized. Since the August 1996 dismantling of federal welfare programs a variety of state-level policies have emerged, too numerous to discuss here.

⁸² The scope of imprisonment has never been static. "...The prison extended its reach and brought into its orbit many who would have been spared punishment in an earlier era. It is likely that some among the deviant suffered less because of the prison, but some may have suffered more; a number of prisoners who previously would have been shamed before their neighbors and then left to resume their lives instead spent years in a cell" (Rothman, 1995: 128-129, with reference to Carnochan). The definition of imprisonable crimes has changed over the years, particularly with regard to women (see Appendix D for more on women's different relationship to social controls in the context of criminality).

⁸³ The 1996 welfare reform legislation (see notes # 24 and #80), for example, denies benefits to applicants who have been convicted of a drug felony (Jacobs, 1997: 25). Of federal funds earmarked for the "war against drugs" 70% goes to law enforcement and about 30% to drug treatment and prevention (Bertram and Sharpe, 1997: 2).

⁸⁴ I take the term constituent to mean the general voting public, as well as business interests (described in Chapter Three) which form the constituent base from which lawmakers usually draws their agenda. This includes those employed in the prison sector. In 1994, the California Correctional Peace Officers Association (CCPOA), the guards' union, and the National Rifle Association (NRA) lobbied for passage of California's "three strikes, you're out" sentencing legislation, which promised to triple the state's inmate population (Macallair, 1994: 19). With the explosion in prison construction (19 new prisons in 16 years), it's hardly surprising that the CCPOA has "emerged as the state's most powerful lobby" (Macallair, 1994: 19). Another example of the CCPOA attempting to exercise its

the extent that they have also helped make prison labor more palatable to the public. If, as I've suggested above, the forces at work on "the inside" are related to those shaping society on the "outside," it is necessary to discuss the backdrop to prison growth.

Enclosure and control, to various ends, have become commonplace in basic spheres of life, including housing. The homes of the wealthy are increasingly confined in "gated communities." "The security-driven logic of urban enclavization finds its most popular expression in the frenetic efforts of Los Angeles's affluent neighborhoods to insulate home values and lifestyles...new luxury developments outside the city limits have often become fortress cities, complete with encompassing walls, restricted entry points with guard posts, overlapping private and public police services, and even privatized roadways" (Davis, 1990: 244).⁸⁵ Low income "housing projects" provide a living environment that is increasingly controlled, for tenants' "own good":

"In many of these projects, quasi-military conditions now prevail. Residents have to walk through metal detectors and provide identification on demand. Housing police are often allowed to carry out what are termed 'lock downs' and 'sweeps' which means locking residents in their buildings at night and conducting random searches of apartments to identify 'outsiders'...individuals staying with public housing residents but...not officially on the lease for that dwelling...a homeless relative, a domestic partner not legally married to the resident, or a child or sibling evicted from their own housing. Having an unlisted occupant in the apartment at the time of the sweep could result in the termination of a lease and the eviction of an entire family" (Ransby, 1996: 7).⁸⁶

Fear of crime is such that just under half of U.S. households own firearms.⁸⁷ Young children are routinely fingerprinted to deter kidnappers. Schools install metal detectors to deter students from bringing in weapons and armed police patrol the corridors (insert source). By mid-1996, 146 of the 200 largest cities in the U.S. had curfews (*The Nation*, 1996: 1).⁸⁸ Drug-testing and lie detector tests have become commonplace for job-seekers asked to verify their "non-criminal" dispositions.

"Public" space in the U.S. is increasingly thought of in terms of "defensible space," fueling the growth of a private security industry (Davis, 1990: 226; Christie, 1993: 104). A 1991 National Institute of Justice report concludes that private security is "...now clearly the Nation's primary protective resource, outspending public law enforcement by 73 percent and employing 2 1/2 times the workforce" (Cunningham et al., quoted in

collective muscle is the challenge they are posing to the CDC's plan to install electric "death fences" at all the state's medium and maximum security prisons, threatening the jobs of gun-tower sharpshooters (Davis, 1995: 229).

⁸⁵ One top Los Angeles area contractor, with more than 100 newly gated neighborhoods to his credit, described his clients: "The first question out of their [the buyers'] mouth is whether there is a gated community. The demand is there on a 3-to-1 basis for a gated community than not living in a gated community" (Weinstock, quoted in Davis, 1990: 246).

⁸⁶ Davis also describes this in the context of California public housing (1990: 244), and the HAMMER program in Los Angeles, which institutionalized community occupations due to their designation as "narcotics enforcement zones" (1990: 277).

⁸⁷ 200 million handguns alone can be found in U.S. homes (Teret, Johns Hopkins Center for Gun Policy and Research, cited in Havemann, 1997: 1).

⁸⁸ The media has been charged with contributing to perceptions that "crime is everywhere." A 1976 study of TV viewers found that people who watched four or more hours of television each day, had "exaggerated assumptions about the threat of danger in the real world" due to more exposure to programming with violent content, than those who watched less. Researchers predicted such an "exaggerated sense of risk and insecurity may lead to increasing demands for protection, and to increasing pressure for the use of force by the established authority (Gerbner and Gross, 1976, quoted in Reiman, 1979: 178). It is interesting to remember then, that TV is used as a perk in prison, and possibly a tool for control of prison inmates (see Chapter Three). A fuller discussion of the media's role in shaping public perceptions of crime, the legal system and norms of behavior are beyond the scope of this paper.

Christie: 104).⁸⁹ The heightened surveillance of “zero-tolerance policing” has emerged as *the* strategy for law enforcement’s pursuit of purported quality of life goals.⁹⁰

The “war” against drugs and crime has favored incarceration as a solution. This means literal separation from larger society. This implies a regulation of space—the geographical location, the architectural layout of the facilities,—and time—duration of sentence and daily routines.⁹¹ We can see that the template for this is created outside prison, where regulation of time (curfews) and space (housing) already exist. (A more detailed discussion of the control of time and space is warranted because of the impact such methods have on the power relations that exist in prison and, subsequently, in prison industries. This follows in the next section.) Dan Macallair, of the Center on Juvenile and Criminal Justice in San Francisco, contextualizes the role of law and order beliefs in the contemporary U.S.:

“In the post-cold-war era, politicians have discovered crime-baiting as a substitute for red-baiting. Just as the fear of communism propelled the unimpeded expansion of the military-industrial complex, crime-baiting has produced the explosive growth of the correctional-industrial complex, also known as the crime-control industry. Those who disagree with its agenda of more prisons are branded criminal sympathizers and victim betrayers. Since no politician will risk the ‘soft on crime’ label, an unending spiral of destructive policies is sweeping the country” (1994: 19).⁹²

That prisons are political is undisputed. The politicization of incarceration has made it standard campaign fodder, on the local, state and national level.⁹³ It was presidential candidate Bob Dole, for example, who introduced the Prison Litigation Reform Act, described in Chapter Three (Stein, 1996: 24). Housing and Urban Development Secretary Jack Kemp, also a presidential and vice-presidential candidate, drafted the national policy of evicting families of those charged (but not convicted) with drug dealing (Davis, 1990: 284). The 1997 Democratic anti-crime proposal included \$5 billion for new prisons and longer terms for juvenile offenders (Dewar, 1997: 4). “Being ‘tough on crime’ has become a necessary precondition of election to political office and of the retention of incumbency” (Morris, 1995: 258).⁹⁴ Taking this to the extremes of credibility, one Florida legislator campaigning for the support

⁸⁹ “Currently, annual spending for private security is \$52 billion, and private security agencies employ 1.5 million persons. Public law enforcement spends \$30 billion a year and has a workforce of approximately 600,000” (Cunningham et al., quoted in Christie: 104). Similar trends are found in Great Britain and France (see Christie: 105-106).

⁹⁰ The policy is based on the rationale that the more arrests police make for low-level infractions, will result in the capture of criminals wanted for more serious offenses. Human rights advocates criticize the strategy for employing racial/ethnically-based profiles of “typical offenders” in the pursuit of likely criminals. For more on zero-tolerance policing, see Shapiro, 1997.

⁹¹ Historically, prisons have been located in rural areas: “...far from the demoralizing city’s influences...” (Rafter, 1983: 289; Mitford, 1974: 10).

⁹² Davis makes the analogy even more specific, locating the focus of the frenzy on the criminalization of poor youth: “Like the Tramp scares in the nineteenth century, or the Red scares in the twentieth, the contemporary Gang scare has become an imaginary class relationship, a terrain of pseudo-knowledge and fantasy projection” (1990: 270). New levels of police “vigilance” have contributed to a juvenile crime rate in Los Angeles that “is increasing at 12 percent annually. One out of twelve kids in Los Angeles, aged eleven to seventeen, will be arrested (1990: 287).

⁹³ And the international level, to the extent that INS is a branch of the criminal justice structure. Though this branch of the incarceration structure has been a site where some of the above-mentioned trends have been played out (especially privatization) there are also significant differences (especially in terms of rights and the impact of racial/ethnic prejudices).

⁹⁴ The use of stun belts have specifically been likened to political shows, with little practical purpose. Belted work crews are a “symbolic statement” of heightened safety, according to Chase Rieveland, formerly of the Wisconsin Dept. of Corrections, now secretary of the Washington Department of Corrections. “The thing that concerns me most is the public image that is left out there that says this is going to fix something, stop crime and violence. I guess I don’t believe that. The question becomes, how far do we go in brutalization?” (quoted in Cusac, 1996:21). Robert Ganger, executive director of the Correctional Association of New York, also sees belted work crews as extreme measures which serve political ends. “If you engage in sane correctional practice, you can set up totally secure work crews without any of the theatrical

of NRA-members, claimed to have received advice from the ghost of John Wayne (Parenti, 1994: 1). The clampdown on inmate rights, described in Chapter Three is one aspect of the “tough on crime” position.⁹⁵

While critics fault “political irresponsibility” for the *growth* of imprisonment (Morris, 1995: 258),⁹⁶ politics also has an impact on prison *organization*. Turnover among high level prison administrators has been a byproduct of the politicization of incarceration. “Each newly appointed governor selects a new commissioner or director of corrections; when things go wrong—or are thought by the public to have gone wrong—in the administration of the prison system, the commissioner or director, at fault or not, is usually sacrificed to the political winds” (Morris, 1995: 254-255).

Law and order ideology can be found in the canon of Democrats and Republicans, and crosses racial divides. Despite an arrest and incarceration rate that discriminates based on race, as noted above, support does exist for a “get tough” attitude among Black voters.⁹⁷ “Some of the people calling most loudly for the curfews are African Americans...’For those who are worried about the constitutionality of the curfew, I’ll gladly hire some buses and transfer the kids who are on our streets after 11 p.m. to their neighborhoods,’ says T. Willard Fair, president of Miami’s Urban League” (Lacayo, 1994: 3). Harry Edwards, former Black Panther Minister of Propaganda and organizer of the 1968 protests at the Olympics, now a sociology professor at UC Berkeley and professional sports consultant, supports incarceration of youths involved in drug offenses (Davis, 1990, 292).⁹⁸

The debate on what adherence to law and order ideology really yields is ongoing. Perhaps the Achilles heel of this position is the lack of correlation between rates of incarceration and rates of crime (Morris, 1995: 237).⁹⁹ During the prison boom of the 1980s there was no overall increase in crimes reported, according to FBI statistics. Crime decreased from 1980 to 1985 then increased again from 1985 to 1990, though not reaching earlier highs

accouterments...They’re like fluff. It’s a form of political show business. Politicians are more interested in their standing in the polls than in good correctional practice” (quoted in Cusac, 1996: 21).

⁹⁵ Politics is behind the move to assess fees to prisoners, say critics of such measures, noting that “the overwhelming majority of prisoners were so poor that programs intended to obtain money from inmates would most likely cost more to administer than they would bring in” (ACLU, 1996: 1). “It’s just political pandering, showing how tough you are on crime by being tough on prisoners,” said Jenni Gainsborough of the ACLU’s National Prison Project.

⁹⁶ Other than the obvious disagreements (ethical or financial) one might have with supporters of longer, more severe sentences, there is an aura of hypocrisy that surrounds those who spout law and order ideology. For example, some who supported increased federal appropriations for police and prisons, such as Senator Hatch (R-UT), lobbied against bans on assault weapons. Hatch’s “logic” was that it was due to the fear of assault weapons that rural towns were able to ward off takeover by biker gangs (Macallair, 1994: 19).

⁹⁷ “...The poor and nonwhite are far more likely to report...that they fear walking in their own neighborhood than the affluent and white...” Ironically, victimization rates for crimes against property are similar for white and nonwhites” (U.S. Justice Department’s National Crime Victimization Survey cited in Henwood, 1994: 2). Property crimes, though, seem to not justify the massive outlays involved in expanding the prison sector. “State and local police, courts and prisons cost \$50 billion in 1987, against a total estimated theft-loss of only \$10 billion” (Midnight Notes Collective, 1992: 62). Meanwhile, “black women are 39% more likely than white women to be victims of violent crime other than murder, and black men 62% more likely than white men. Households with incomes under \$7,500 were three times as likely to be violently victimized” (U.S. Justice Department’s National Crime Victimization Survey cited in Henwood, 1994: 2).

⁹⁸ For more on support of law and order strategies by the NAACP and other traditional bastions of black leadership, see Davis: 291. The current mayoral campaign in New York City is a case in point, where law and order incumbent Rudolph Giuliani, a former “tough on crime” district attorney, was endorsed by several representatives of black communities among the city’s boroughs. When considering who votes for law and order candidates, it is again worth pointing out that most prison inmates cannot vote. Therefore a disproportionately Black prison population, taken along with the lack of voting rights among inmates, and sometimes, parolees and ex-cons, amounts to significant disenfranchisement along racial lines (Ransby, 1996: 8).

⁹⁹ While statistics reveal “regional differences in rates of incarceration” they “...do not mirror differences in rates of serious crime” (Morris, 1995: 237). Instead, some research suggest that “problem-oriented policing,” for example targeting efforts to limit guns in order to reduce homicide rates, does achieve results (Currie, 1997: 91, with reference to Sherman).

(Morris, 1995: 236-237). “Prison as a punishment for crime differs from community-based punishments in this respect: if an increasing rate of imprisonment fails to deter criminality, fails to reduce crime rates, that very failure will contribute to a public demand, swiftly echoed by politicians, for still more imprisonment and even less use of community-based punishments.” Ironically, “... the less effective the prisons are in reducing crime, the higher the demand for still more imprisonment” (Morris, 1995: 257). Indeed, this multiplier effect is recognized by investors in prison growth: “Think about the public’s concern about crime and translate that concern into a national agenda—into new solutions, new technologies. How can we build a public demand, and marry that demand to production?” asks Jeremy Travis, director of the National Institute of Justice (quoted in Cusac, 1996: 20).

Regulating Time and Space

*“The capability of controlling settings is one of the major prerogatives of power itself...”
(Giddens, 1979 in Cassell, 1993: 183)*

Earlier in this paper the link between U.S. penitentiaries and factories as sites for industrialization was discussed, but to delve into the similarities a bit further it is interesting to consider similarities that emerge when looking at issues of time and space. Control over space and time, within prisons, can be thought of in terms of so-called “total institutions.” These are “... characterized by their encompassing character symbolized by the barrier to social intercourse with the outside. In total institutions, human needs are handled by the bureaucratic organization, and decisions are made without the participation of inmates. Goffman pointed to the loss of the inmates’ fundamental capacity to communicate and cooperate” (Goffman, 1961, cited in Rotman, 1995: 190-191).¹⁰⁰ Control specifically via surveillance is a defining characteristic of incarceration (most dramatically represented in Jeremy Bentham’s 1791 circular “panopticon” prison design, where no cell escapes the view of a centrally located control tower). Foucault described the panopticon as “...an important mechanism, for it automatizes and disindividualizes power...He who is subjected to a field of visibility, and who knows it, assumes responsibility for the constraints of power; he makes them play spontaneously upon himself; he inscribes in himself the power relation in which he simultaneously plays both roles; he becomes the principle of his own subjection” (1977: 202-203).¹⁰¹ Such a power relation surely dovetails into the goals of supervisors seeking to meet production quotas. In the workplace “time remains today at the centre of capital-labour disputes, as the employers’ weapon of time-and-motion studies, and the workers’ riposte of go-slows, readily attest” (Giddens, 1979, in Cassell, 1993: 184). Indeed, “the degradation of the ‘mass worker’ under Fordism implies deskilled laborers are easily substituted without disrupting the organization and continuity of the labor process.

¹⁰⁰ Social learning rehabilitative experiments were tested as antidotes to these “desocializing patterns” (Rotman: 191). An example of such an experiment was the use of decentralization into small units with counselors at Chino State Prison in California in the early 1960s. The idea was that the inmates would work together to resolve problems through “intensive social interaction. The vehicle of this process were the frequent meetings and group discussion in which decision were reached through the participation of both inmates and staff. The demand for active participation was intended to counteract such notorious negative effects of institutions as depersonalization, dependency, and loss of initiative” (Rotman, 1995: 191). A backlash to the therapeutic model followed in the 1970s, based on accusations of abuse, in the form of “intrusive therapies” and “disguised versions of highly punitive practices” (Rotman, 1995: 191).

¹⁰¹ How influential was the panopticon itself in the U.S. context of designing for control? Though early U.S. prison design was based on similar notions of “segregation, employment, and surveillance of the criminal offender “ in fact “...the Americans’ intellectual debt to England was not great. Few Americans read Bentham, and even fewer took him seriously. (...the English prison that might be thought to represent his ideas, Pentonville, did not open until 1842.) In effect, Americans contrived their own homegrown solutions” (Rothman, 1995: 121). For more on the historical development of strategies of surveillance and control in U.S. prisons, see Appendix B.

This represents an immense leap forward in the level of managerial control over the workers” (Peña, 1983: 135). In a comparison of Just in Time/Total Quality Control (JIT/TQC) production regimes and surveillance and discipline techniques used in prisons, Sewell and Wilkinson noted similar “systems of surveillance which more closely approximate the Panopticon than do those characteristic of the traditional bureaucratic pyramid” (1992: 277). They suggest that as a result, ownership of the *means of control* will emerge as a pertinent political issue for factories contemplating such production regimes (1992: 287).¹⁰²

If regularized human activity using surveillance makes for an attractive workplace in management’s view then the prison milieu is well-suited to the needs of employers. The exact nature of the relationship between prisons and factories, as sites requiring control of time and space, forms a large body of literature.

“In appearance and routine, the prison and the factory did bear a resemblance. Both emphasized *regularity* and *punctuality*...a number of historians have located the origins of the prison in the new economic order. They acknowledge the depth of anxiety and insecurity in Jacksonian America [early 1800’s] about social order and the fate of the new republic, but the source of these fears they locate not in the imbalance between inherited ideas on social order and new realities but in the emergence of separate and hostile social classes, the factory owners and their associates on the one hand and the workers on the other. In this interpretation, the purpose of the prison was to segregate the working class from the criminal element so as to make certain that lawlessness did not pervade the lower ranks. By instilling order in its inmates, the prison was...helping to guarantee discipline and regularity in those who arrived each morning at the factory gate. They would understand that there was no alternative to wage-earning, that an effort to ignore or violate the precepts of the new industrial order was futile. They would line up at the sound of the bell in the factory yard or line up at the bell in the prison yard.”

Though, “...It would be erroneous to maintain that the inspiration for the prison is to be found in the organization and needs of the factory. More was at stake than owners bringing discipline to their workers. Surely the manufacturing enterprises had sources of recruitment broad enough to ignore the determined felon, and the prison was hardly in a position to be a purveyor of *values* to the laboring classes. In fact, in the United States, the prison spread not only through the Northeast—where factories were springing up—but also through the Midwest and the West—where industrial development was still decades away. It seems far more likely...that to the degree that prisons and factories resembled each other, it was ‘because both public order authorities and employers shared the same universe of assumptions about *the regulation of the body* and *the ordering of time*’” (emphasis added, Rothman, 1995: 123-124, with reference to Ignatieff).

Rothman implies that “values” are somehow delinked from ideas or norms based on the control of time or one’s body, but I disagree. Control of women’s bodies, for example, is at the heart of current “family values” debates in the U. S., as is control of time, where traditional values as a euphemism for a patriarchally-shaped hierarchy that positions men above women, assigns women the task of social reproduction.¹⁰³ Indeed, in the context of the Mexican *maquilas* the control of time and space is linked to patriarchal values. “A primer for businesses setting up maquiladoras states that ‘from their earliest conditioning women show respect and obedience to authority, especially men. The women follow orders willingly, accept change and adjustment easily and are considerably less demanding...’” (NACLA report, quoted in Fuentes and Ehrenreich, 1983: 29-30). Once women are on the shop floor, patriarchal roles continue to be played out:

“...Male managers and female operators reproduce at work traditional patterns of male domination. The factory becomes family-like for young women workers—with ‘big brothers’ and a ‘father’ as compelling images of patriarchy in the plant (Grossman, 1979). Indeed, some plants have found that a ‘sprinkling’ of men on the line makes women ‘better behave’ (Van Waas, 1981) (read ‘more productive’)” (Young, 1987:109).

¹⁰² Such a position has been criticized for a lack of empirical back-up (Shenkar, 1988), therefore Sewell and Wilkinson’s observations of an electronics factory utilizing JIT/TQC methods figure prominently in their analysis. They cite Ogbonna 1990; Austrin 1991; Fuller and Smith 1991 and Zuboff 1988 as other examples of empirically-based research that point to the use of surveillance regimes in the workplace (Sewell and Wilkinson, 1992: 286).

¹⁰³ I take reproduction to be a process that “...refers not only to biological reproduction and the daily maintenance of the labor force, but also to social reproduction--the perpetuation of social systems” (Beneria and Sen, 1981: 290).

To return to the notion of prison as *spatial enclaves* separate from larger society, and combine this with the regulation of time, a more apt comparison might be made to American “company towns.” These were the “closed towns” operating as the personal fiefdoms of a lone employer, preceding organized labor—indeed, private police were utilized to shut out or eliminate agents of such change. These towns, modeled on feudal manors, are viewed as key sites of industrialization, the rise of the capitalist mode of production and “the intensification of regulatory controls” (Spitzer, 1979: 315).

“While slavery-based, feudal and monarchic structures of domination were dependent on *extensive, indirect* and *ceremonial* forms of coercive regulation, capitalism was able to transform relations of production and domination in such a way that controls could become far more *intensive, direct* and *banal*” (Spitzer: 315).

The “private authority under which mercenaries operated” gave way to “‘publicly’ legitimated (rational-legal) forms of coercive control” (Spitzer, 1979: 321). The factory has been described as “... the dominant focal point of lived experience and popular culture in nineteenth-century English factory towns...[as] ...the flow of factory life spilt over into the (few) hours outside work, into the form that home, school and leisure took” (Joyce, 1980 cited in Thrift, 1996: 83).¹⁰⁴ So if the prison represents a social requirement for order that is promulgated in other spheres of life (in other institutions, which resemble prisons, as Foucault suggests) then the prison itself is an expression of something more pervasive.¹⁰⁵

In considering the prison as an enclave, it is interesting to return to Sassen’s idea, touched upon in Chapter Two, regarding ethnic enclaves as sites for cheap flexible labor. In some sense, prisons are both geographically separate and possess an ethnic dimension, as, via sentencing laws, offenders of certain ethnicities are overly represented among their populations. If language and culture, for example, set immigrant women in the U.S. apart and thus lead to the formation of ethnic enclaves, open to manipulation due to the existence of those very cultural attributes or positionality vis-a-vis the dominant culture, then I would suggest that prison culture gives rise to similar possibilities for manipulation, given the marginal position of inmates (as well as, importantly, parolees).

Looking at the spatial design of prisons throughout history can reveal the dominant beliefs vis-a-vis public works constructed in the “best interests” of the public. During the original prison boom—the ante-bellum period of prison reform and construction—architecture was recognized as “one of the most important of the moral sciences.” The Boston Prison Discipline Society observed that “There are principles in architecture, by the observance of which great moral changes can be more easily produced among the most abandoned of our race...Other things being equal, the prospect of improvement in morals, depends, in some degree, upon the construction of buildings” (quoted in Rothman, 1995: 117). Reformers of that period saw prison design as a possible model for families and schools—“a grand theatre for the trial of all new plans in hygiene and education”

¹⁰⁴ This “spillover” effect was noted by historians of women’s prisons, who saw the incarceration of women for criminalized “unladylike” behavior as providing a cautionary warning to women living in the vicinity of the prison (Rafter, 1983).

¹⁰⁵ “Foucault offers a mode of entry, almost too convenient in its historical and ideological neatness, to any number of individual texts. ... Foucault’s analysis is a selective vision. Although the penitentiary develops in the last two centuries, *confinement* as an imaginative category is far older. Revision of Foucault’s argument might stress imaginative continuities rather than historical discontinuities” (emphasis added, Carnochan, 1995: 454). A further investigation, using confinement as a measure across history would be fascinating, as it immediately makes visible gender relations via the acceptability of confining women. It would make for a more thorough, less gender-blind spatial analysis, which appears to be the standard in the literature. (Foucault specifically has been taken to task for ignoring the gendered aspect of disciplinary power (Sumner, 1990, cited in Heidensohn, 1992: 16)).

(quoted in Rothman, 1995: 118).¹⁰⁶ Today, “architecture tends to dominate much of the texture of life in prison” (Morris, 1995: 239).

The proliferation of prisons today, and their varying security levels has produced an assortment of prison plans.¹⁰⁷ “The architecture of these diverse institutions varies greatly, from traditional concrete and brick behemoths, filled with tiers and ranks of steel-barred cages with vast congregate dining halls, to campus-like facilities with scattered houses, each holding thirty or forty inmates in home-like conditions” (Morris, 1995: 239).¹⁰⁸ With growth and overcrowding, some real estate previously designated for other uses has been given over to incarceration facilities. The INS, for example “...has been trying to shoehorn privatized microprisons into unsuspecting inner-city neighborhoods” (Davis, 1990: 256), while police detention centers are being created within public housing complexes (Parenti, 1994: 5).

Perhaps more remarkable than the “flexibility” of prison architecture, is the extent to which the prison aesthetic has been mainstreamed. If surveillance, enclosure and control had once been the sole domain of the “total institution” they are now fixtures in an increasingly wide array of everyday life venues: From housing to shopping malls designed in the panopticon style, with centrally-placed police substations; the liberal use of electronic eyes to the ubiquitous razor wire (Davis, 1990: 223, 228, 242-243, 256).

The dominant factor influencing spatial relations *inside* U.S. prisons today is overcrowding. In 1993, U.S. prisons housed 121,000 more inmates than they were designed for (Bryce, 1994: 2). Overcrowding in Texas led administrators to move 700 prisoners into tents at three separate facilities in 1994.¹⁰⁹ Every facility in the California state system is currently operating far above its designed capacity (see Appendix F). Facilities within the federal prison system are operating at an average of 25% over capacity (Federal BOP, 1997: 3). The complete abolition of parole in approximately 18 states (Rafter, 1997: 3), or for certain crimes, and at the federal level has contributed to swelling prison populations.

Enacting the PRLA creates a more permissive environment from the vantage point of prison handlers, as monitors have fewer options for challenging management decisions and operational methods. Previously, judicial oversight had meant a commitment to meeting court-ordered standards.¹¹⁰ With the passage of the PLRA Congress not only puts obstacles in the way of prisoners seeking to appeal convictions, but also the conditions of confinement. In this sense, at a time when prisons are overcrowded, the PLRA limits the power of federal courts to alleviate overcrowding (Erickson, 1996: 1).

¹⁰⁶ The family also was importantly invoked in early prison design for women. The Albion Reformatory was described architecturally as made up “... of a central administrative building around which clustered ‘cottages’ for 30 or so inmates. Each cottage was to operate as a family unit, headed by a mature, respectable matron...” (Rafter, 1983: 289).

¹⁰⁷ The practice of designating inmates with a security threat “label” is another mechanism that can be manipulated for purposes of segregation, punishment or to disrupt communication. This will be further discussed below.

¹⁰⁸ Of course the prison boom has also had an impact on the business of architecture. “...More than a hundred firms specialize in prison architecture alone, and these firms now receive between \$4 billion and \$6 billion in prison construction business a year” (Knepper and Lilly 1991, quoted in Christie, 1993: 99). The American Institute of Architects now has a “Committee on Architecture for Justice” to focus on this burgeoning specialty (AIA, 1997).

¹⁰⁹ The temperatures at the tent facilities were reported to be over 100 degrees. Tent inmates often work on chain gangs, in South Texas for example they clear prickly pear cactus and mesquite, where their summer of labor saved the state an estimated \$1 million in 1994 (Bryce, 1994: 2).

¹¹⁰ In South Carolina federal oversight resulted in \$350 million in new construction and “sweeping changes.” Under the PRLA that legal mandate for change was lifted (ACLU, 1996b: 1). Prisoner advocate Jonathan Smith described the legislation as a “‘get out of jail free’ card for wardens,” noting that limits on judicial interventions allows the sector to “...run their fiefdoms without interference,” he said (quoted in ACLU, 1996a: 1).

Not only is space a contested issue in terms of the human rights of inmates, but it has the potential of influencing the *form* prison industry growth takes, as overcrowding becomes a possible gateway to *mobile* inmate enclaves. Deregulation in some cases does away with prisoners' right to visits from family thus facilitating the transfer of inmates to facilities in other states. Some states may emerge as resettlement areas for other states' criminals.

The Massachusetts Department of Correction touts "Operation Lonestar" as one of their "major achievements of 1996." This involved the secret transport of 299 medium-security inmates from Massachusetts, which ranks third worst in the nation for prison overcrowding,¹¹¹ to the Dallas County Jail in Texas. "Because of overcrowding in the prison system, correction officials initiated an agreement with the Dallas County Sheriff to obtain space in the underutilized jail...This air transfer was the largest mass movement of inmates in U.S. history, and was successful in large part due to the confidential nature of the transfer operation" (DuBois, 1996: 1).

It is perhaps too early to construe the prison population as a migrant labor force, but the ease with which inmates are being shipped out of their communities, such as this midnight flight out of Boston, is noteworthy. Already, incarceration serves as a significant means of relocating urban inhabitants to other locations.¹¹² That inmates will ultimately tend to be relocated to states where work laws are laxer is something to be monitored.¹¹³

This notion of mobility, can also mean mobility within the ranks of a single prison or throughout a prison system. Inmates are subject to a system of categorization based on the level of threat they pose to themselves, their surroundings and to other inmates. Such a system of classification is necessary but also open to manipulation, as classification itself becomes an act of punishment or reward. In this way, security level designation can operate as an instrument of control.¹¹⁴

In California a point system is used to rank prisoners by security level—over 52 points is level IV, maximum security, while 0 to 18 is Level I, minimum security. "The primary factor in determining the point level is the length of sentence...The CDC also considers...a prisoner's perceived stability. Two points may be added if a prisoner is under the age of 26; has not been married or in a common-law relationship for at least a year before the term started; failed to graduate from high school or have a recognized trade; was not employed for at least six months; and, for men, had no military service"¹¹⁵ The CDC also considers past behavior in state

¹¹¹ At the end of 1996 Massachusetts prisons were operating at 140% capacity (Dubois, 1996: 1).

¹¹² For example, in New York "...about 75 percent of the state's prison population" comes from seven New York City neighborhoods (Marks, 1997:3).

¹¹³ For a discussion of convicts as a mobile workforce, with a large percentage relocated out of urban areas, and source of human capital in the context of Australia, see Nicholas, S. and P. Shergold (1988).

¹¹⁴ Systems of classification have been used for workers as well. They have been criticized for being in the service of capital, seeking to prevent workers from organizing to strengthen their bargaining power. "... Many methods have been employed to create such divisions; the increasing hierarchization and proliferation of job classifications has increased the degree of separation between and control over individuals in the workplace (Gordon 1972, Edwards 1979, Wachtel 1975, and Piore 1975). The development and employment of select technologies has furthered divisions in the working class, increasing capital's ability to control, while "proletarianizing" many primary occupations and further deskilling secondary jobs (Braverman 1974, Zimbalist 1979). Discriminatory hiring and wage policies, based on sex, racial or ethnic origin, and language ability have further diminished the ability of workers as a class to develop a common identity" (Green, 1983:279). This relates to the prison milieu to the extent that work is privilege in prison, and access to this privilege can hinge on a prisoner's classification by security threat.

¹¹⁵ This last point has been challenged by a jailhouse lawyer, but remains (Erickson, 1996: 3).

institutions, and current conduct. "Medical restrictions, enemy situations, detainers, work skills, gang affiliations, and other factors will be weighed as 'administrative determinants'" (Erickson, 1996: 4).¹¹⁶

Acts of disturbance, such as violence or agitation, upset prison order. Such acts are met with even more segregation and isolation. "...Most prisons are characterized by a high degree of order most of the time, since most prisoners want order and safety and thus accept its maintenance...prisons have their prisons, their 'holes,' their punishment cells. They also have a further armamentarium of disciplinary punishments, ranging from the withdrawal of privileges to the prolongation of the term to be served, as well as transfer to a higher-security, more rigidly controlled institution—or to a lower-security, more relaxed institution as a reward for conformity" (Morris, 1996: 248). The ultimate enclosure for those within the prison community is incarceration in or transfer to a "super-maxi" prison, which utilizes methods of near-total isolation (23 hours/day) for inmates.¹¹⁷ An extreme example is the new Wallens Ridge, Virginia facility where a chunk of an Appalachian mountaintop has literally been lopped off to make an isolated perch for the new prison. "The segregated units mostly will be used to house prisoners who have committed offenses inside prison" (Finn, 1997: 2).

Prison Industry As a Means of Control

"...The systems of forced labor under which millions suffered and died were masked by a slogan that could have been devised by a nineteenth-century penal reformer explaining the liberating value of labor: 'Arbeit Macht Frei' (Work Makes You Free)" (O'Brien, 1995: 217).

"The best way of punishing them is to employ them" • J. P. Brissot, 1871 (quoted in Foucault, 1977: 106).

Inmate work programs are billed as a deterrent to violence, because they alleviate idleness (Sexton 1995: 4).¹¹⁸ "Work is the best management tool wardens ever see. Prisoners put in a full productive day, and we know where they are," says Tony Ellis, director of prison industries at the South Carolina Department of Corrections...where inmates

¹¹⁶ The existence of gangs in prison is widely recognized, though their membership numbers are contested. The National Gang Crime Research Center estimates that nationally 20% of inmates belong to gangs, situated the strongest presence in the California, Illinois and New York state prison systems (Gonnerman, 1997). In California, the state recognized several gangs operating within the prison system: the Aryan Brotherhood, the Black Guerrilla Family, Nuestra Familia, the Mexican Mafia (EME), and the Texas Syndicate (Erickson, 1996: 6). Gang violence and affiliation are without question important factors in shaping the reality of prison life, not only with regard to an individual's exposure to systems of mutual protection or violence, but also in terms of different treatment by prison officials (for ex. policies of debriefing and segregation). Unfortunately a thorough discussion of the impact of gangs on the dynamics of social control in prison, is beyond the scope of this paper.

¹¹⁷ Commonly known as "Marionization," this system of control takes its name from the Marion Federal Penitentiary, in Illinois that instituted the 23-hour lockdown in 1983 and never lifted it. Since then, 36 states have created similar control units, "maxi-maxis," which function as prisons within prisons. Often the lockdown is complemented with windowless cells without bars, just stainless steel slots for food trays, and solitary exercise periods (Christie, 1993: 87-89). Human rights activists allege that the control units employ physical torture (hog-tying), mental torture (sensory deprivation and forced idleness) sexual intimidation and violence to achieve "spiritual, psychological and/or physical breakdown" of inmates (AFSC, 1997). A study of "Marionization" in 20 institutions in the U.S. revealed human rights abuses and "frequent violations of the U.N. Standard Minimum Rules for the Treatment of Prisoners" (HRW, 1991, cited in HRW, 1997: 8). "Almost all the political prisoners in the U.S." are housed in maxi-maxis. Conditions for condemned inmates operate on a similar system of extreme isolation. Architectural planning for death row facilities often means incorporating requirements that inmates have no visual contact or communication possibilities, except with correction officers, and are under non-stop surveillance (Stimson, "A Better Design for Safer Detention on Death Row," cited in Christie, 1993: 85). For more on conditions for political prisoners and death row inmates in the U.S., see Bin Wahad, D. (1981) "The Cutting Edge of Prison Technology," Abu-Jamal, M. (1989) "Interview from Death Row," and Abu-Jamal, M. (1992) "The Prison-House of Nations," all in Fletcher, J., T. Jones, and S. Lotringer (1993) *Still Black, Still Strong*, Semiotext(e), Brooklyn.

¹¹⁸ Though violence is rooted in the problem of overcrowded facilities, "...Riots seem to be confined to the larger, overcrowded prisons characterized by idleness and racial tensions" (Morris, 1995: 249).

have sewn lingerie sold by Victoria's Secret and currently make drapery and bedcovers for a hotel industry supplier" (quoted in Perlman, 1997: 8).

Though overcrowding is probably the largest problem facing U.S. prisons, inmate idleness is another pressing concern.¹¹⁹ Therefore, in prison, work is a justifiable form of discipline. The regulation of daily life in prison also creates conditions where work will be appreciated. Boredom in prison allows for work to be meted out as a reward. Often this is a reward for conformity, as the opportunity to participate in prison industry is often based on security level of the institution and the inmate.¹²⁰

"For me, and many like me in prison, violence is not the major problem; the major problem is monotony. It is the dull sameness of prison life, its idleness and boredom, that grinds me down. Nothing matters; everything is inconsequential other than when you will be free and how to make time pass until then. But boredom, time-slowing boredom, interrupted by occasional bursts of fear and anger, is the governing reality of life in prison," wrote one male inmate at Illinois' Stateville Correctional Center (quoted in Morris, 1995: 228).¹²¹ Says one inmate who volunteered to work on a chain gang for 20-30 cents per hour out of boredom: "It's not the pay. It makes my time go faster" (Simington, quoted in Cusac, 1997: 31).

Work is redefined as the salvation of the criminal, an activity with therapeutic properties. Which allows prison industry rhetoric, couched in therapeutic jargon, to co-opt the reformist position.

"There is a trend in America to demand that prisoners at least *be allowed* to work when they want to," according to Hardy Rauch of the American Correctional Association (quoted in Armstrong, 1989: 7, emphasis added). Commenting on the use of female inmates to do telephone and office work, Greg Gilstrap, Arizona tourism director, was refreshed by their enthusiasm for the work: "Given the fact that their alternative is cleaning up the prison ground for about 3 cents an hour, they tend to be very appreciative" (quoted in Holmstrom, 1994: 2). Indeed, prisoners can choose to participate in work programs but is "choice" really the appropriate way to describe a situation where the alternative to a work assignment can be a longer sentence and fewer privileges?

Prisoners are forced to work, says Luis Talamantez, a 20-year veteran of the California prison system who now heads up a prisoners' rights project. Indeed, in California, the Prison Industry Authority reports that "if prisoners refuse work assignments, they are usually transferred from dormitories to cells and denied some canteen privileges..." Those who do participate have one day taken off their sentences for every day worked (Erlich, 1994: 8).

In some cases the pretense to choice is done away with. In Oregon, for example, voters "... recently approved a ballot referendum requiring state prison inmates to spend 40 hours a week on the job or in job training, with their products exempt from competitive bidding rules" (Kameras, 1995: 3).

This is not to say that some prisoners don't want to work: "The best thing for me in prison was work," says Jane, a 45-year-old ex-inmate. "I was a year and a half in Morgantown, and a year and a half in Lexington. Both places had factories, and I was able to work, including overtime, day and night. I was able to do the time that way. The time didn't do me."

¹¹⁹ Warden Ken Morgan, of the Racine Correctional Institution, in Wisconsin, acknowledges that idleness is a problem. "But it is primarily due to overcrowding" (quoted in Cusac, 1996: 21).

¹²⁰ For example in the California Joint Venture Program "employee selection is based on discipline free behavior, skill level and prison placement" (Marich, 1997).

¹²¹ One portion of Stateville has the distinction of being the last of the circular cell-blocks (i.e., based on the panopticon design) in the United States (Morris, 1995: 229).

Geraldine, a 43-year-old former inmate agrees: "Prison was the closest to normalcy that I ever lived. I got up every morning, and I went to work, and I came back on time. I looked forward to going to that job. If they needed me for overtime, I would do it. I was accountable—which I never was in the street" (both quoted in *WRB*, 1997: 12).

If the control of time is taken to be an element of structures of domination, as Giddens suggests (Cassell, 1993: 184) it is certainly an element immediately recognizable in prison routines, as well as in prison industries, one well-appreciated by employers. The quantity of time on prisoner's hands not only lays the foundation for the popularity of work among prisoners, but is popular with employers in search of workers with flexible schedules. If control of this time represents potential savings or profit, then employers recognize that they have near exclusivity to their inmate work force's time. Isolated from the outside world of responsibilities and temptations, inmates work in a controlled world where there are few impositions on the big chunks of time that employers crave. As one prison industry magazine reports: "Inmates aren't in a hurry to go anywhere"....Howard Skolnik, assistant director of the Nevada Department of Prisons, explains that "A prison work force is...reliable: workers don't get stuck in traffic, aren't detained by weather and don't spend the day on coffee breaks. 'The difficulty in the private sector is getting someone to sit for seven or eight hours a day and polish a bolt until it shines' " (quoted in Perlman, 1997: 8)

Workers who have fused gratitude with the opportunity to work in a highly-disciplined environment make model employees in the eyes of some employers. Richard Watkins, the general manager of Big Ed's Restaurant, which uses inmate labor through a work release program in North Carolina, was pleased with the attitudes and performance of such workers, finding some of his other employees to be less cooperative and hardworking. "They just haven't made it there (to prison) yet," he said (quoted in NCDOC, 1996: 2).

Importantly, the fear also exists that time not spent working can be spent on self-education especially with regard to the law. Death row inmates in Arizona do farmwork, as it is hoped that productive work will keep them too busy to pursue "frivolous lawsuits in attempts to circumvent their death sentences" (Press secretary to the governor of Arizona, quoted in Parenti, 1996b: 29). A twice-weekly course "Alternatives to Violence," taught by an inmate using books donated by Georgetown Law School and the University of Maryland Honors Program, including texts by Gandhi, King, Tolstoy, and Merton, was declared a "front for criminal activity" by the Virginia Department of Corrections, shut down and the inmate instructor was transferred out of state and placed in solitary confinement (McCarthy, 1997: 24).¹²²

That prison work programs have a rehabilitative potential, and are therefore justified, is a significant claim, especially when a growing segment of the population is being redefined as criminal. But do veterans of prison industries re-enter society as better-credentialed workers? Is there a high demand in the U.S. for the labor-intensive work that prisoners are being "vocationally trained" to perform? "Does anyone expect a released prisoner to go to Guatemala or El Salvador to get a job sewing clothes for the U.S. market at a dollar a day?" wonders Wright (1995: 1). If work is the "best management tool" for wardens because it is a way to maintain control, that seems at odds with its alleged rehabilitative function. Control implies a lack of agency, a state of dependency, and disempowerment, that does not appear oriented toward altering the (perceived) mentality of the incarcerated, at least in a manner that reflects independence or personal responsibility.¹²³

¹²² Silence, a distinctive feature in early U.S. prisons, no longer prevails as prisons are now extremely noisy due to overcrowding, but silence does prevail in such segregated units. In this sense the old rule of silence still exists for those perceived to have something to say, that might be disruptive or contrary to the power structure.

¹²³ The concern over the contradiction of prison strategies and a goal of "reforming" citizens to take up a place in "free" society is not new. "The 1931 report to the National Commission of Law Observance and Enforcement pointed

Recidivism as a marketing tool

"Recidivism doesn't prove that we can't be rehabilitated, it just proves that we aren't being rehabilitated,"
• Jane, 45-year-old ex-inmate (quoted in WRB, 1997: 13).

The goal of law and order rhetoric is to reduce crime through incarceration. As stated above, this has been married to the notion that incarceration which includes work performs this magic best—economically efficient, productive punishment which churns out rehabilitated felons. Critics charge that this strategy is based on faulty assumptions:

"Neither the lash nor the executioner, neither the psychiatrist nor the psychologist—and certainly not the prison—has been shown to provide measurable increments of crime control. Despite the long history of punishment, scholarship has so far failed to establish a link between punishment and crime control, other than in the individual case" (Morris, 1995: 257).

Though the link between incarceration and a lower crime rate remains unclear, the combination of lock-up and work is pitched as a solution to high rates of recidivism. More long-term study is needed to monitor the impact of this new wave of work programs, especially joint ventures with private industry which specifically feature a "post-prison job-training" nuance to their checklist of benefits. Currently, the charge that work programs breed fewer recidivists is a contested one.

In a study of over 7,000 former federal inmates, 57% who had worked in prison industries, 19% with a combination of work experience and vocation training and 24% who had vocational or apprenticeship training or a combination of the two, researchers found that after 8 to 12 years after release recidivism rates were 31.6% for the men and 19.4% for the women (Saylor and Gaes, 1995: 3). They concluded that "the impact of in-prison employment in an industrial work setting and vocational or apprenticeship training can have both short- and long-term effects reducing the likelihood of recidivism especially for men" (Saylor and Gaes, 1995: 4). They found that "although fewer women were likely to fail, those who did failed much earlier than their male counterparts. This may have some interesting implications for the design of men and women's programs." (3). "Although the effect of vocation and apprenticeship training was in the desired direction it did not achieve statistical significance due to the small number of study group women involved in this type of training" (3)

After four years, a recidivism rate of only 16% was reported for participants in Florida's PRIDE program, while the general rate of recidivism for those coming out of Florida's state prisons is about 50% (*Tallahassee Democrat*, 1997a: 1). This has been one of the major selling points of the Florida program, both at home and across state lines (in California, for example, where PRIDE is seen as an attractive model for a revamped PIA).

But as demonstrated above, not *all* inmates are working in prison industries. Skill levels and security levels for work assignments serve to screen out those who might be more at risk of becoming repeat offenders.

out that in most prisons, the life of the inmate was controlled for the prisoner, giving him or her no chance for initiative or judgment. Penal institutions, with their treadmill and mechanical quality of existence, did little to prepare them for the resumption of a law-abiding social life" (Rotman, 1995: 185). The contradictory goals of prison industries has also been well-documented: "...Are the primary goals to be those of punishment (through the deprivation of liberty and a requirement to work), rehabilitation (through work activities and the acquisition of either particular skills or general work habits and attitudes) or merely those of social control and 'warehousing' (the avoidance of idleness)," asks Lightman, adding to the list financial savings to the state (1982: 36).

A 1988 study on prison labor and recidivism among former inmates of seven New York State maximum-security prisons, found that industry participants did have a lower rate than nonparticipants, “but that when difference between the groups on other characteristics associated with recidivism were controlled, the recidivism rates of participants and nonparticipants were virtually identical” (Maguire, Flanagan, and Thornberry, 1988: 1).

In lieu of real data on the impact of prison industry on recidivism, proponents such as Moore, assistant warden at the Wackenhut-run Lockhart facility in Texas point to an implicit causal relationship: “They will have references they can use when they are released” (quoted in Bryce, 1993: 9). One has to wonder how potential employers weigh such a reference against the taint of its prison source.

While the jury is still out, so to speak, on whether work in prison industries really keeps former inmates from returning to prison, it’s worth noting that programs, such as education, which have had impressive results, have not been embraced with equal enthusiasm. For example, a New York Theological Seminary program, which aims to give inmates master’s degrees in theology and boasts graduates with a recidivism rate of only 5% (while the state rate is 42%). The program is now at risk, “not from budget cuts—the program is paid for entirely by the seminary and private donations—but from a lack of qualified students. Three years ago, at the height of the get-tough on crime backlash, both the federal and New York State governments made prison inmates ineligible to receive educational grants” (Marks, 1997: 1).¹²⁴

If prisoners are being pressed to work under the guise of vocational training, rehabilitation and reduced recidivism (Sexton 1995: 4), the actual *use* of an inmate’s labor is overshadowed by what the *act* of work bestows upon the worker. Employing inmates is seen as part of a strategy to boost their self-esteem and facilitate their empowerment.¹²⁵ Work is “beneficial” to workers. Taking on near a medicinal quality, working puts inmates on the path to full recovery, where recovery is behavior in line with societal expectations. For the majority of prisoners—male—this involves a reinforcement of the traditional role of breadwinner. Because “in Western, industrialized, capitalist societies, definitions of masculinity are bound up with definitions of work...the qualities needed by the successful worker are closely related to those of the successful man...The roots of gender identity are interfused with expectations of achievement—‘becoming someone’ through working, ‘making something of yourself’, to be breadwinner for the family...” (Tolson, 1977, quoted in Brittan, 1989: 84).¹²⁶

¹²⁴ Rev. George Webber, the director of the program at Sing Sing prison, argues that cutting off education is shortsighted, as it’s less likely for a higher educated prisoner to return to prison. “It’s a bone-headed idea. Like so much of what we’re doing, it’s stupid on fiscal grounds: it costs so much more to put them back in prison.” Meanwhile, state officials do not see individual improvement as something on their agenda for inmates. “Quite simply, prison is for punishment,” according to Chris Chicester, director of communication for NY’s budget division. “New York is not in the business of rewarding those who commit crimes with a subsidized education” (both quoted in Marks, 1997: 1).

¹²⁵ This is not to imply that work cannot have such an impact. “...There is strong evidence that ‘work plays a crucial and perhaps unparalleled psychological role in the formation of self-esteem, identity, and a sense of order (Kahn, quoted in Sayers, 1987: 724). [A 1978 Canadian study of inmate employed in an abattoir, for example, noted a statistically significant improvement in self-esteem, but reported that “improved pre-release self-esteem ‘can be attributed not to the Abattoir Programme but to the availability of post-release employment’ (Irvine, 1978)” (Lightman, 1982: 41).] At the same time, “work is often routine, oppressive and stultifying” (Sayers: 224). The justification of work in a prison context draws upon debates about the role of work in identity-formation in the larger world, as participation in prison work programs offers a pathway to the “benefits” of work. For discussions on work, see Sayers, 1987; Suptot, 1996 and Castel, 1996.

¹²⁶ Indeed, in the African American community, which has experienced the highest rates of male incarceration in the U.S., the specter of male employment is seen to be the key to all progress. “Two major traditional masculine roles are providing for and protecting the members of their households. The double-digit unemployment rates of black males for most of the last two decades reflect the special difficulties black men face in serving as both providers and protectors. Deprived of those roles, black males have frequently behaved in asocial, if not pathological, ways. The feminist movement’s effort to redefine male roles has hardly alleviated this problem, or the issue of powerlessness among black men; indeed, it has confused, stultified, and alienated them” writes Kenneth Tollett, Sr., lawyer and Distinguished

In this sense, if male prisoners work it will reinvigorate their masculinity. Though, it is not my intention here to define a singular “prison genre” masculinity. It *is* my intention to consider notions of masculine identity when discussing the appeal to work among inmates in U.S. prisons. Masculine identities are innumerable, both in and outside prison, as they are shaped by a multiplicity of factors. While the all-male culture of the prison milieu suggests a sort of “masculine hegemony” this is diluted by other factors: Not only the unique circumstances of each inmate’s lived experiences, but the influences of organized sub-cultures operating in prison, of which there is considerable variety, ranging from the racial/ethnic gangs (see note 116), homosexual hierarchies, or religious fundamentalist groups such as the Nation of Islam (homophobic and patriarchal).¹²⁷

While promotional materials often state that prison work programs will introduce inmates to the mysterious “world of work,” of which they have no prior knowledge, in fact, most prisoners *do* have experience of work.¹²⁸ This prior knowledge most likely contributes to their marketability to private industry.

Inmates are more likely to have a place in the “free” world if they embrace work. An inmate who rejects such a proposal does so to his/her own detriment, because placement in work programs is seen as willingness to embrace the order of society on the outside.

“In work programs, inmates feel like they’re paying back society,” according to Charles Colson, who served seven months in prison for Watergate-related offenses and went on to set up Prison Fellowship. “Work restores their sense of dignity—and it’s useful to society” (quoted in Smolowe, 1994: 3). Prized jobs, such as telemarketing work, allows prisoners to literally break through the prison walls, momentarily breaching the isolation of the enclave. Regarding an inmate telemarketing program for the department of tourism, one manager explains: “The turnover rate in tourism is extremely low as the inmates consider this job one of the better jobs available at the institution. They take great pride in a job well done; they also enjoy the contact with the outside world” (Wittry, 1997). For male inmates, the majority of the incarcerated, becoming an inmate worker represents a break from the inmate identity (dependent, powerless) and a shift toward the world of work (representing financial independence and “personal responsibility”).

Similarly, it has been suggested that export-oriented factory work has an empowering potential for women workers, as their role as wage-earners gives them more bargaining power within the household (Foo & Lim 1987, cited in Lim, 1990: 112) or via the opportunity to “come together in a gender-segregated setting where they can recognize their joint interests as women workers” (Ward, 1990: 14). But how to weigh issues of skills-training, wages, working conditions, and job (in)security, for example, against measures of the “liberating” capacity of *maquila* work? “There is...a very clear difference between the fate of male and of female workers under capitalism. While for the former the ownership of his labor power brings with it a literal

Professor of Higher Education at Howard University (1995: 165). The “key to the reconstruction of the black family, and the socio-economic re-integration of the black community” in his view is to “achieve full employment for black males.”

¹²⁷ The impact of religious groups operating in prison or the availability of religious materials in prison is most likely significant, as the 1991 census of state prison inmates revealed that “Bible clubs and other religious activities attracted the most inmate participation” (32%) (Beck, Gilliard et al., 1993: 27).

¹²⁸ According to the 1991 Survey of State Prison Inmates, “two-thirds of inmates were employed during the month before they were arrested...; over half were employed full time” (BJS, 1997). Similar assumptions are made regarding female *maquila* employees. While many have probably previously been employed in the informal sector, as recent entrants to documented employment they are perceived as newcomers to the economically active population (Pearson, 1995: 144).

'liberation' from reproduction work, for the woman, ownership of her labor power as capacity for reproduction does *not* 'free' her from production work" (Fortunati, 1995: 13).¹²⁹ "Given that women in the electronics industry and other secondary sector manufacturing industries are not hired because their cheaper labor reflects an inferior level of productivity, it must therefore be argued that 'women enter the capitalist (and other) labour markets already determined as inferior *bearers of labour*' (Pearson and Elson 1978: 29). Male control over familial relations and their long-standing dominance in the market sphere determine women's economic dependence and, thus, the lower value of their labor power (Beechey 1978, West 1978, Pearson and Elson 1979)" (Green, 1983: 318).

Summary and Observations

Fear of crime is seen as a pressing, politicized issue and support exists for tougher sentencing laws stipulating longer terms of incarceration as a salve for that fear. As a result, higher levels of surveillance have become the norm in "free" society. This chapter presents information on new criminal sentencing laws and their correlation with the growth of the prison population, which has resulted in severely overcrowded prisons. The formation and application of some sentencing rules are influenced by factors such as race/ethnicity, age and sex. As a result, rates of incarceration among juveniles and women have increased significantly.

In addition to isolation from society-at-large, prison inmates live in an environment where time and space are regulated. Overcrowded conditions aggravate the task of maintaining order, and require additional controls. Work programs are among those programs which are said to make the inmate population more manageable. Work programs are also seen to be beneficial because they offer skills training, which is seen as a way to reduce recidivism, as well as generating revenues to cover imprisonment costs. Conformity, one aspect of control within prison precincts, can be a prerequisite for participation in prison industry, as participation in work programs is linked to standards of acceptable prison behavior. The byproduct of a need for control, therefore, is linked to the creation of an inmate work force. That reduced rates of recidivism and increased levels of self-worth or empowerment are also byproducts of participation in prison industries is also part of the debate. The next chapter returns to the concept of flexibility, using the criteria outlined in Chapter Two to more thoroughly consider the case of inmate workers in prison industries.

¹²⁹ This should not be taken to mean a direct link between capitalism and patriarchy, because they do not always operate in a manner supportive of each other. "The state's commitment to capitalist development has led to the undermining of traditional patriarchal structures, generating contradictions between capitalist and patriarchal interests," notes Chhachhi (1991: 150)

Chapter Five

Prisoners as Flexible Workers

"We're employing Americans," explains Gordon Horwitz, vice president of marketing and sales for Kwalu, Inc., a South Carolina manufacturer of plastic seating for hotels, restaurants and hospitals. "They just happen to be incarcerated" (quoted in Perlman, 1997: 8).

As the historical synopsis in Chapter Three demonstrates, correctional facilities were utilized as factories when necessary. As a workforce, inmates have been mobilized upon demand. Much like women workers, prisoners were drawn into the workforce (during wartime) and then cast out (during the Great Depression), depending on the economy's needs. This section will examine how the processes of deregulation, described in Chapter Three, in conjunction with the mechanisms described above, have constructed a "worker" identity for prison inmates.

As spatial zones where strong systems of control exist, opposition to formal organizing can be found in both the *maquiladora* sector in Mexico and the workshops of U.S. prisons.

The 1977 Supreme Court decision that curtailed unionization in prison referred specifically to a prison's duty to control. In the District Court ruling preceding the final appeal, the court noted that "[Appellants] sincerely believe that the very existence of the Union will increase the burdens of administration and constitute a threat of essential discipline and control. They are apprehensive that inmates may use the Union to establish a powerbloc within the inmate population which could be utilized to cause work slowdowns or stoppages or other undesirable concerted activity" (*Jones v. North Carolina Prisoners' Union*, 1977: 3).

At that time, the Court reaffirmed its belief (stated in *Price v. Johnston*, 1948) that "lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system" (1977: 4). They found that the First Amendment ("obviously") is the first right to be curtailed. "The concept of incarceration itself entails a restriction on the freedom of inmates to associate with those outside of the penal institution." Prisoners very status "as prisoner" and the "operational realities of a prison" mean that associational rights must be restricted (1977: 4).

Testifying in the case, David Jones, the Secretary of the North Carolina Department of Correction at that time reported that "The purpose of the union may well be worthwhile projects. But it is evident that the inmate organizers could, if recognized as spokesmen for all inmates, make themselves to be power figures among the inmates... Work stoppages and mutinies are easily foreseeable. Riots and chaos would almost inevitably result... the potential for a dangerous situation exists, a situation which could not be brought under control" (1977: 5).

Legal obstacles to prisoners formally coming together in unions are coupled with the decline of other rights to file legal challenges while incarcerated—thus hindering claims regarding working and living conditions.¹³⁰ Meanwhile, prisoners' rights activists in California, for example, report that prisoners often work with outdated and unsafe equipment (Talamantez, quoted in Erlich, 1994: 8).¹³¹

¹³⁰ Traditional unions have not been useful mechanisms of change for female *maquila* workers. Within the power structure of the national unions, Mexican women are underrepresented: for example, women were only 4.3% of the main executive board of the Confederacion de Trabajadores de Mexico (CTM) in 1991 (Rostagnol, 1996: 41). Of this union, the ILO noted: "...the CTM plays the role of monolithic organisation, which for more than 40 years has exerted such control over the labour movement that it actually inhibits workers' genuine demands" (quoted in ICFTU, 1996: 33). Attempts to form independent unions are discouraged. Meanwhile, Mexican women are not well-represented within other formal power structures. In 1992 the number of women holding the position of municipal president (equivalent of mayor) was only 2.9 percent. At the national level, women in the national directive bodies of the largest political parties represented 11.8 percent in the PRI, 17.9 percent in the PAN, and 21.9 percent PRD (Rostagnol,

The “aspiration” wages of inmate workers are low. Though the “breadwinner” designation is invoked vis-a-vis the dignity of work argument used to justify the programs to some extent, it is not used to call for full wages. Inmate workers are seen as being “in debt” to the system that incarcerates them. Their labor is used to work off the benefits (room and board) they receive from the department of corrections.¹³²

While “Fernandez-Kelly (1983) has argued that, sociologically, the large labor pools—chiefly women—employed in border-city maquiladoras represent a new incarnation of the debt peons of the colonial hacienda” (Arreola and Curtis, 1993: 207), today’s indebted inmate workers are portrayed as a work force in direct competition with Mexican *maquila* workers. According to a report from the National Institute of Justice on prison-private sector joint ventures “Companies are attracted to working with prisons because inmates represent a readily available and dependable source of entry-level labor that is a cost-effective alternative to work forces found in Mexico, the Caribbean Basin, Southeast Asia and the Pacific Rim countries” (Sexton, 1995: 4). One executive reported that “Domestic content is an important benefit of using a prison-based work force compared with using an offshore labor market... We can put a Made-in-the-USA label on our product. In fact, our sales staff told us that the retention of these jobs in the United States influenced purchasing agents at two large organizations to buy our product rather than a competitor’s whose product is made offshore” (Sexton, 1995: 4).¹³³

Patriotic rhetoric aside, outsourcing to prisons is being cast as an attractive option for U.S. multinationals because of location. Oregon Congressman Kevin Mannix suggests that locally-based MNCs, such as Nike, reconsider outsourcing to Indonesia, where daily wages are about \$1.20. “We propose that they take a look at their transportation costs and their labor costs. We could offer prison inmate labor,” he said (quoted in Kameron, 1995: 1).

In South Carolina, during a campaign to find corporate clients, the head of that state’s corrections industries secured a positive response from one company when they calculated that using prison labor was more cost-competitive than moving operations to Mexico, as they had been considering (Sexton, 1995: 6). In Florida, Patricia Foote, spokesperson for the PRIDE program, which is seeking to expand its prison industries beyond contracts with government agencies, said that “the program may even help keep some businesses from leaving Florida in search of cheaper labor overseas” (Associated Press, 1997b: 5C).

1996: 40). To the extent that some U.S. prison inmates are disenfranchised, they are also shut out of traditional political structures. Inmate workers, as tax-payers, suffer from taxation without representation (Wright, 1995:2).

¹³¹ As described in Chapter Two, deregulation has made the workplace a continuing site for struggle: “Since the Occupational Safety and Health Act was passed in 1970, no one has even been sent to gaol for violations of the Act. The average fine for a violation resulting in a death has been \$284. As a result, safety has been deteriorating in the workplace” (Salmi, 1993: 97). With limitations on access to legal challenges, outlined in Chapter Three, and no unions acting as watchdogs, working conditions in prison industries are unlikely to be *better* than those found “outside.” Though, exemptions from such standards are part of the package offered to investors considering prison industries. In Washington, for example, “class I venture industries pay no rent, electricity, water or similar costs. They are exempt from state and federal workplace safety standards, pay no medical benefits, unemployment or vacation/sick leave” (Wright, 1995: 2).

¹³² A similar call to exchange work for benefits figures significantly into revamped programs of means-tested assistance to women with dependent children. Therefore the 38% of female inmates (and 13% male) who previously were receiving social security, welfare benefits or charity prior to incarceration (Bureau of Justice Statistics, 1993: 1) would be familiar with such a refrain.

¹³³ He made the (dubious) claim that “keeping the jobs in the country helped line workers in our other plants accept the idea of a prison-based work force” (Sexton, 1995: 4).

In some cases, the attraction is a local low-wage workforce that will not migrate unexpectedly. "Finding entry-level workers can be tough for companies in many parts of the country. Businesses in Hawaii, with its high cost of living, were importing low-pay agriculture workers from Micronesia and Mexico. Now many of Hawaii's inmates are out in the fields picking pineapples and macadamia nuts or inside packaging papaya for Hawaiian Tropical Products. Inmates also carve native koa wood into dolphins and sew brightly colored aloha shirts for Hawaii's Burger Kings" (Perlman, 1997: 8).

Merv Epstein, president of Third Generation, a garment maker that operated a joint venture inside the Leath Correctional Facility, where women inmates sewed leisure wear and lingerie, also saw inmates as a remedy to the dearth of cheap workers with the skills he wanted: "We could not find enough qualified industrial sewers in rural South Carolina, and the prison solved a real problem for us in that respect. These women were good workers, they took pride in the products they made..." (quoted in Sexton, 1995: 9).

An inmate work force is appealing in its flexibility of size. The supply of workers can be constant: "Here, companies have a guaranteed work force. If someone is out sick, we have replacements trained and ready, so there is no down time for a company," explains George Moore, assistant warden of the Lockhart facility in Texas, a privately-run prison that has a work program (quoted in Bryce, 1993: 9). While employers benefit from such labor market flexibility, they are not saddled with the cost or responsibility of maintaining an on-call workforce. The same constant flow of workers can be shut off when necessary. An inmate workforce, therefore, is useful in meeting irregular demands:

"Prison labor ... is a good bet for businesses that have seasonal or cyclical demand. Prisons can assemble a work force on short notice. That's been helpful for an airline such as TWA, which needs a different size work force to take airplane reservations depending on the season. It finds that kind of flexibility by staffing its phone lines with youthful offenders between the ages of 18 and 25. When Nevada trains inmates to rebuild limousines and then doesn't get any orders for six months, the labor force stays intact while the prison waits for a contract. 'It's a rubberbanding work force that shrinks or expands on demand,' Skolnik says" (Perlman, 1997: 8).

Without access to the wage guarantees or contractual agreements that workers doing the same jobs "outside" might enjoy, inmate workers represent a different entity to employers. They are different from "real" workers and their conditions of employment vary accordingly. Just as inmate workers, designated not "real" workers, accommodates the cyclical demands of employers, the same rationale has been used in selecting women for *maquila* employment. Researchers have suggested that categorizing women's factory work as something "extra," merely supplemental to the family wage brought in by a male breadwinner "serves the economic system by justifying low female wages and by making it easier to mobilize women into and out of the work force to meet the economy's fluctuating labor needs" (Saffioti, 1975; Beechey, 1978; Vaughan, 1977, cited in Tiano and Ruiz). Patriarchal norms—that households are headed by men—establish the conditions of employment:

"Maquiladora management holds strongly to the belief that women do not support families; they are secondary earners whose income is "optional." Thus, it is "all right" to offer women only dead-end assembly jobs because they have limited financial responsibilities as well as limited career aspirations. Yet it is the economic need of their families that prompts young women's entry into the maquila force (Fernandez Kelly, 1983). As members of households in which fathers, brothers, or husbands are sporadically employed or underemployed, women do not merely provide supplementary income. The conviction on management's part that they do, however justified a pattern of cyclical layoffs" (Young: 108).

High turnover has been an important characteristic among the *maquiladora* workforce.¹³⁴ Turnover is often cited as a “problem” in the gender-blind evaluations of the sector, while others note that this does not seem to dampen productivity, as skills are learned quickly and employers save on the cost of benefits (Young 1987: 108-198).¹³⁵ Indeed, women’s reproductive role has been manipulated to *increase* their turnover, another instance of patriarchy working to construct them as more “flexible” workers.¹³⁶ As Elson and Pearson explain: “...The phenomenon of women leaving employment in the factory when they get married or pregnant is known as ‘natural wastage’, and can be highly advantageous to firms which periodically need to vary the size of their labour force so as to adjust to fluctuating demand for their output in the world market” (1981: 149).

A 1995 Human Rights Watch study found that pregnancy discrimination was a routine feature of *maquiladora* management practices. In interviews with women workers at 42 plants at various border cities:

“...With few exceptions...in the course of the hiring process employers require women applicants to submit to pregnancy exams...Maquiladora staff also try to determine a woman’s pregnancy status by asking intrusive questions about the woman applicant’s menses schedule, whether she is sexually active, or what type of birth control she uses...should she become pregnant shortly after starting to work, maquiladora managers sometime attempt to reassign women to more physically difficult work to demand overtime work in an effort to force the pregnant woman worker to resign” (1996a: 4).

This imposition of bodily control upon workers can also be found in the prison context, where drug testing, pat downs and armed surveillance are not out of the ordinary. High levels of security at prison industries mean “... there are no alcohol-or substance-abuse problems and they don’t have to worry about inventory loss,” says Asst. Warden Moore (quoted in Bryce, 1993: 9).¹³⁷ Private sector employers express approval of a highly controlled workforce and work space: “I feel safer in here than I would in an outside shop. Security personnel are always nearby, and I know that weapons are not going to be brought into *this* shop because there’s a metal detector outside,” says Linda Knight, a production manager for Jostens, the largest U.S. manufacturer of graduation gowns, which operates a joint venture in a women’s prison, which serves as a “feeder plant” for its nearby main plant (Sexton, 1995: 7-8).

One overview on private industry joint ventures in prison observes that “Only certain types of businesses are suited for prison—those that are labor intensive and for the most part don’t require a high skill level... inmates are ideal for such tasks as tearing down copiers and harvesting salvageable items for the innards...” (Perlman, 1997: 9). “You don’t do brain surgery in this setting,” according to Barbara Auerbach, who oversees the federal prison industry program (quoted in Perlman, 1997: 9). Indeed, some companies use prison workers to handle their “least complex” jobs, but their rationale for selecting inmates for such jobs is to accommodate cyclical demands (as described above). For example, Pat Timms, a vice president at Escod¹³⁸ explains that “..We concentrate in the prison our simpler, labor-intensive products that are susceptible to

¹³⁴ Absenteeism has also been noted in the prison context (Sexton: 7).

¹³⁵ Nevertheless, the very nature of assemblyline work “... associated with the destruction of craft-skills in production...makes possible continuous production in spite of high turnover rates” (Peña, 1983: 135).

¹³⁶ In a case study of several sectors, including electronics *maquilas* “not merely *maquila* workers, but urban women generally, rarely acquired significant seniority at their workplace (Tiano, 1987: 93).

¹³⁷ In some prison systems specific mention is made of flexible systems of production. For example, the ability to produce custom-made products upon request. MassCor, the Massachusetts Correctional Industries which sells products and services to public and private customers says that making custom products is “one of our strengths. Many of our manufacturing processes allow a large amount of flexibility” (MassCor FAQs, 1996).

¹³⁸ Escod, a division of Insilco Corp. an Ohio-based “Fortune 500” company, employs inmates to assemble electronic cables that are sold to IBM and Canada’s Northern Telecom Corp (which in turn sells the cables to Eastern European countries laying the groundwork for new telecom systems).

customer demand spikes, and we put most of our higher-cost products in our nearby civilian plant. This strategy buffers our regular employees against layoffs and rehiring caused by fluctuating customer demand cycles, and, at the same time, it lowers our unemployment compensation rate. As a result, we're more cost-competitive in the long run" (quoted in Sexton, 1995: 7).

Meanwhile, Auerbach's statement seems at odds with the observations of one entrepreneur involved in a prison work scheme: "It turns out one of the best advantages for us is the higher quality workmanship," says Anthony Pusateri, who helps run a limousine manufacturing program in a Nevada prison. When the limos are finished, he buys them from the state and resells them (Armstrong, 1989:7). In some cases private sector employers are able to take advantage of the training prisoners are given in the state-use industries.¹³⁹ The Chesapeake Cap Company selects workers for its Connecticut prison joint venture from "a pool of inmates employed in the prison's sewing plant, which makes inmate uniforms for the State's prison population." The baseball cap manufacturer also notes the benefit of working with inmate workers with longer sentences—less turnover (Sexton, 1995: 10).¹⁴⁰

Information on the education level of inmates participating in prison work programs, and specifically joint ventures with private industry, is hard to come by. Wardens refer to inmate average levels of education, which are usually low. In California, for example, the average reading level of inmates is eighth grade (CDC Facts, July 1, 1997). A study of inmate characteristics showed that between 1986 and 1991, the number of high school graduates in state prison rose from 29% to 34%. Including those who had received a general equivalency degree (GED) the number of inmates with a high school diploma or its equivalent reached 59% (Beck, Gilliard, et al., 1993: 3).¹⁴¹ But as work programs, especially joint ventures with private industry, are limited, they can be highly selective. Inmates who do telemarketing work, for example, are chosen on the basis of specific skills. "Inmates desiring to work in Teleresponse are interviewed by the staff and must have typing skills," explains the manager of such a program in New Jersey where female inmates do telephone work for the state's Department of Tourism (Buehler, 1997). In Iowa, male inmates do the same job and are selected based on "their communication/grammar skills, their offenses, and their prison conduct since being incarcerated," according to the manager of Iowa Prison Industries (Wittry, 1997). North Carolina screens inmates for reading and math ability before selecting employees for work in their sign or printing plant. Recently they developed a program "to identify offenders with construction experience" (Poston, 1997).

¹³⁹ Indeed, the expertise of managers in state-use industries also has value: they are recommended as useful recruits to private industry joint ventures in the prison sector (Sexton: 15).

¹⁴⁰ In her account of state-use industries in the California state prison system of the 1970s, Mitford reported that during periods of heavy production "prisoners say that...key workers in the factory who would normally be eligible for parole find themselves mysteriously denied a release date...Robert Montilla, for many years assistant administrator in the California Department of Corrections, confirms that the needs of prison industries take precedence over the much-vaunted 'programming' and 'classification' of prisoners according to their 'individual progress.' 'When I was assistant to Richard McGee I was quite shocked,' he told me, 'because we could have dropped the population at San Quentin to 2,000 by transferring a number of men with good records to a minimum-security facility. But the conclusion was we couldn't reduce the number at San Quentin, there were too many commitments to the correctional industries'" (quoted in Mitford, 1974: 211-212). Whether or not such manipulation of prisoners in terms of time (denial of parole) and space (geographical location within a state prison system) is commonplace now, or is a factor in private industry joint ventures is not easily established, or disproven.

¹⁴¹ Interestingly, an influx of highly-educated inmates into federal prisons took place during World War II, when conscientious objectors were incarcerated. As a result, there was agitation challenging racial segregation in prison, though "... no action was taken by the bureau until after the school desegregation cases were decided by the Supreme Court" (Rotman, 1995: 188).

Bert Christy, the plant manager of the Escod Industries prison facility mentioned above, remarked that “the inmate work force has higher education test scores and more extensive work experience than many individuals applying for jobs at the company’s main plant...he believes many inmate workers are overqualified for the jobs they hold” (Sexton, 1995: 7).

The very selectivity of inmate work programs would also imply a weak bargaining position. If they are among the lucky inmates who have something to occupy their time with, as well as the benefit of training and income, why should they complain and why should others have sympathy for their situation, considering the situation of most prisoners. To some extent such a rationale has been used in the *maquila* context. Factory work is seen as more lucrative and liberating than domestic service, and less exploitative than prostitution. Some have suggested that Mexican women working in export factories come close to being “the elite of the working class” (Lim, 1990: 112). Indeed, “Although *maquila* salaries are abysmally low compared to those paid to workers in the North, they still are relatively high compared to other available jobs. Workers in the *maquilas* in Monterrey, Juarez and Tijuana earn almost three times the legal minimum wage” (Kopinak, 1993, cited in Gabriel and Macdonald, 1994: 542). But is the minimum wage, which research shows women do not usually exceed in *maquila* work, though they usually do not fall below it, a living wage? “Seventy-six percent of all Mexicans (69 million out of a total population of 90 million) live below the poverty level—a daily income of *two times the minimum wage*, which in February 1996 was the equivalent to US \$2.71 per day...” (emphasis added, Heredia, 1996: 87-88). Meanwhile, while productivity in the *maquilas* might go up, wages do not.¹⁴²

Maquila employees have had to undergo trial periods of employment before entering into work agreements (HRW, 1996a: 13).¹⁴³ The probationary period is a time for workers to demonstrate their ability/willingness to conform to the requirements of the workplace. But incarceration on the whole is one big probationary term. Only conforming perfectly--being a good prisoner, which might include being a good worker, can lead to the ultimate goal--release. In a sense, the ultimate goal can include serving as a temporary worker. While in the *maquilas* the goal for employees is more often to secure permanent employment.

Another point on which the inmate labor force differs from the majority female *maquila* workforce regards obligations to perform reproductive work. “Flexibility is now designed to meet the needs of employers for low-cost labor rather than that of employees who must balance the demands of waged and unwaged work (Elson, 1995)” (Howes and Singh, 1995: 1903). For female *maquila* workers who have not renounced their reproductive jobs—and most haven’t (Tiano and Ruiz, 1987: 237) “...The new order has not devised a coherent plan for social reproduction. Indeed, its phallogocentric and patriarchal underpinnings appear to blind it to a fundamental contradiction. It places women simultaneously in the workforce and in the home. This provides a formula for a crisis in social reproduction” (Brodie, 1994:58). In this regard, prisoners, largely stripped of reproductive obligations, offer increased possibilities for flexibility. While female *maquila* employees often have to contend with caregiving duties before and after their waged factory shifts, on a daily basis inmates have to

¹⁴² “While...productivity rose by 41 per cent between 1980 and 1992, the wages and benefits of a Mexican manufacturing worker [in 1992] were only 68 per cent of what they were in 1980, a low level to start with” (Shaiken cited in Dwyer, 1994: 30). While on the subject of wages, it is important to note here that important differences exist among the female *maquila* workforce, not only with regard to wages, but in terms of age or skill-level, for example, or employer preference (in the electronics sector vs. the textile sector, for example) (Fernandez-Kelly, 1983: 4-5, 111; Pearson, 1995: 148-150).

¹⁴³ It has been noted that “... the importance of such probationary periods appear to be less the acquisition and improvement of manual skills and more the smooth integration of the probationary workers into a secondary occupational slot within the hierarchy of the workplace (Edwards 1979: 137, 179)” (Green, 1983: 312).

only care for themselves. This should not imply that I minimize the difficulty of looking after oneself in a U.S. prison.¹⁴⁴

As discussed in Chapter Two, “feminization” is a dimension of the “cheap” labor debate. Feminist economists challenged blanket assumptions about women and “cheapness” revealing complex interactions of various factors that position women in some contexts as the low-wage workers of choice. Some of these factors have been discussed above.

When looking at sex-based job segregation explanations have suggested (1) that women lack interest for certain jobs and therefore it is by choice that jobs tend to be “feminized” and (2) that employers make the choice whether or not to hire women (Schultz, 1992: 300). With a captive labor force, employers choose the jobs that are coming to the workers, not the other way around, but does segmentation based on gendered assumptions still exist in the context of prison, where reproductive roles are different?

Women In Prison as Workers

“We will never have factories for women offenders. You would object to them and all of the women of the country would object to them” • U.S. Superintendent of Prisons, 1923 (quoted in Freedman, 1981: 150).

Following WWI, women convicts were seen as belonging to “the more reformable sex,” and a differential system for dealing with women in prison was set up (Freedman, 1981: 148). “Sexually segregated prisons have freed women from some exploitation of their labor.”¹⁴⁵ In mixed prisons, Hodder observed in 1922, “It is not humanly possible to avoid making women subservient to men so it results that women prisoners treated on this principle major in mending, washing, ironing and sewing for men prisoners” (quoted in Freedman, 1981: 152). Industrial work was not seen as a suitable vocation for women inmates. In 1923 the U.S. Superintendent of Prisons rebuffed congressional attempts to introduce industrial training in women’s facilities:

“I have never known of the building of factories for women offenders, and the care you give to women prisoners is vastly different from the care you give the men and the kind of training you give them is different. You have to train them as individuals in a sense that you do not deal with men prisoners” (quoted in Freedman, 1981: 150).

A 1927 report by the National Committee on Prisons and Prison Labor rejected 85% of industries that women were already employed in as being inappropriate for female inmates: ammunition ““was psychologically wrong”; ‘printing is a man’s industry’; dental goods require ‘too much skill and application’; pottery required too many men; tobacco was ‘inadvisable for women’s institutions’” but found that ‘household work, power sewing, laundering, and farming’ were acceptable. Farming became most dominant, because this had been “women’s work” prior to the industrial revolution. As one prison superintendent observed: “the care of helpless animals is work that appeals particularly to women” (quoted in Freedman, 1981: 150).

¹⁴⁴ The prison milieu creates its own dynamics, including informal “contacts” between inmates that can involve many of the duties associated with reproduction. Prison “wives,” for example, might perform domestic chores and sexual duties in exchange for physical protection or drugs. While acknowledging that these relationships are significant, they do not figure directly into this study which is limited to the creation of an inmate labor force for industry. Interestingly though, research suggests that relationships between female inmates were not exploitative, as were relationships between male inmates (Ward and Kassebaum, 1965 and Fox, 1982 cited in Dixon Shaver, 1993:145).

¹⁴⁵ In the sense that they were doing domestic work for themselves and “...the absence of men requires that women perform a variety of tasks, including farming, carpentry, and painting” (Freedman, 1981: 152).

While women-only prisons may have alleviated the sexual abuse and some degree of overcrowding female inmates experienced while housed within men's facilities, it has had other effects vis-a-vis work in prison:

"The training programs available to women prisoners from the founding of the institutions to the present have reinforced the economic disadvantages that some reformers blamed for causing female criminality. In spite of Progressives' effort to deemphasize domesticity, it has remained the core of reformatory training during most of the twentieth century. Eventually some new skills were introduced, and by 1970 women inmates could learn clerical work, beauty care, and key punching—all sexually segregated, low-status, poorly paid women's jobs. While men's prisons offer training for the higher-paying, male-stereotyped skills—auto mechanics, electronics, welding, and machine repair—two industrial jobs have predominated at the women's prisons—garment making and laundry" (Freedman, 1981: 154).¹⁴⁶

Despite being such a fast-growing sector of prison populations, women today still comprise only about 6% of the prison population. In this sense, "Gender appears to be the single most crucial variable associated with criminality....most crime is committed by men; relatively little crime is committed by women" (Heidensohn, 1987: 22). Historically, this is explained by women's different relationship to other mechanisms that control their behavior or disempower them. Changing definitions of criminal behavior has altered the number of women incarcerated. An overview of the current situation of women inmates is difficult to present, as little data by sex is available.¹⁴⁷ "The reason there is no information is that the system itself is not collection the information" (Thomas, 1997: 14).¹⁴⁸

Recent research suggests that once in prison, women are more strictly controlled than men,¹⁴⁹ through the application of formal rules and informal structures of control, such as threats of sexual abuse.¹⁵⁰ A comparative study of male and female inmates in Texas revealed that women were more likely to be cited for violating prison rules and received citations for different offenses than men. Men were more often cited for "refusing to work," while women were cited for "violating posted rules" and were "more likely than men to receive the most severe sanctions, including solitary confinement" (McClellan, 1994, cited in Chesney-Lind, 1997: 5). Recent inquiry into human rights violations of female inmates found the problem to be systemic.

¹⁴⁶ Similar trends were recorded in the UK's history of female incarceration and work programs: "...emphasis which continues to be placed upon the teaching of traditional 'women's subjects' to a population whose social circumstances dictate other priorities. Most of the women in our study were either single parents and thus the sole breadwinners for their children, or totally dispossessed of any home and family. The emphasis upon the inculcation of domestic skills and the relative lack of realistic education and training in skills relevant to the job market serves to reinforce the women's own feelings of entrapment as well as their practical dependency upon the welfare state and the men who pass through their lives" (Genders and Player, 1987: 171, with reference to Carlen (1983a)). "All the recent findings on women's prisons suggest that they are still run on the assumption that women are housewives and mothers, to whom real, non-domestic work, education and training are unimportant" (Dobash et al., cited in Heidensohn, 1987).

¹⁴⁷ "If you want to know how many women are in prison, you can find that out. If you want to know what their economic background is, what their race is ...what offenses they've committed, you can find that out. But if you want to know what's happened to them once they're in prison, you can't find that out...The system itself is not structured to monitor this, either at the state level or at the federal level" (Thomas, 1997: 14).

¹⁴⁸ In an overview of literature and prison experiences a similar gap has been noted. "Though not exclusively male, the literature of the prison is largely so. Any survey that focused on women and prison literature would yield a different account of how claims of order compete with those of freedom" (Carnochan, 1995: 431).

¹⁴⁹ Some suggest that female inmates are "...seen as...doubly deviant—as rare, abnormal female offenders for breaking social rules and as 'unfeminine an unnatural; women who have broken out of their conventional roles" (Heidensohn, 1987: 20). Meanwhile, others suggest that there is more "sympathy" on the "outside" for women inmates than for male prisoners (Rafter, 1997: 4). This requires further study.

¹⁵⁰ An abusive environment should be considered in the context of a population that has a high likelihood of having already survived abuse. "More than 40 percent of women in state prisons and 44 percent of women in jail had either been physically or sexually abused at some point prior to their incarceration. Women in prison are three times more likely to have a history of abuse than men in prison" (Bloom, 1997b: 7).

Male officers are not trained in proper conduct and women inmates are not informed of their rights (Thomas, 1997: 15).¹⁵¹ "...In virtually every prison system that we investigated, women were complaining of sexual abuse, largely at the hands of male officers..." noted the co-author of a Human Rights Watch study of sexual abuse of female inmates (Thomas, 1997: 14).¹⁵²

To my knowledge there has been little analysis regarding women's participation in inmate work programs. Remarkably, the Federal PIE program does not have information on participation in joint-venture programs by sex (Mumola, 1997a). Despite a small overall presence in prisons, women appear to be very much present in prison industries. While the New Jersey Department of Corrections (Deptcor) has data processing facilities at other institutions, the only Teleresponse Unit in the state is located at the Edna Mahan Correctional Facility for Women. Two shifts of female inmates answer phone calls requesting information regarding travel and tourism within the State of New Jersey. The program has been in operation for six years (Buehler, 1997).¹⁵³

In the large California state prison system 620 women are employed in Prison Industries and 21 in joint ventures (JV). While their total numbers are low, they are proportionately significant. Joint ventures with private industry are located more often in facilities for female offenders. Female facilities are also more likely to have PIA and JV programs. (See Appendix G). Program administrators explain that the selection of sites for such programs are based on security level, behavior and skill base (Marich, 1997). Meanwhile, they report that they "...do not routinely test vocational or educational skill levels" (Marich, 1997). This points to security level and behavior as key factors in selecting an institution and inmate work force. Both seem to be categories shaped by factors of gender. Women in prison are more likely to be serving sentences for nonviolent offenses than men, this points to a lower security population (Bloom, 1997b: 7). Lack of information on inmate educational levels by sex and regarding prison industry placement (in male vs. female facility) make it difficult to fully investigate the decisions being made which shape the overall inmate workforce.

Summary and Observations

While the low-wage status of *maquila* workers is well-documented, pay scales in prison industries receive less coverage. Indeed, it is difficult to generalize as great variety exists in wages paid to working inmates. In 1995,

¹⁵¹ This should be coupled with observations that the tradition of jailhouse lawyers seems to be a male one, attributed to women's (limited) educational opportunities in prison (Rafter, 1997: 4).

¹⁵² Lawsuits document such abuse in various states. In December 1995 "a federal court in the District of Columbia found prison officials liable for the systematic sexual harassment, rape, sodomy, assaults, insults, and other abuses by prison staff in a prison for women." They also found that the facility itself was "dilapidated and a health hazard," that medical care was "woefully inadequate, and that the inmates were "discriminated against on the basis of their gender by being provided with inferior programs than those available to similarly situated male prisoners." In Georgia, women filed suit charging they were "forced to have sex with prison guards, maintenance worker, and a prison chaplain" In a California suit female inmates alleged that a lack of prenatal care while they were pregnant in prison resulted in the birth of deformed or stillborn babies. (Women Prisoners of the District of Columbia DOC v. District of Columbia; Cason v. Seckinger; Yeager v. Smith; Harris v. McCarthy, all cited in Wright, undated: 1). Groups such as the California Coalition for Women Prisoners have organized demonstrations and campaigns to draw attention to conditions in that state's prisons for women, noting specifically insufficient medical facilities and inappropriate medical procedures (see CCWP, 1997). For more on the sexual abuse of incarcerated women see Stein, 1996 and HRW "All Too Familiar: Sexual Abuse of Women in U.S. State Prisons," December 1996.

¹⁵³ Their main client is the State of New Jersey. However, joint ventures with private industry are currently being explored by Deptcor. This business would come through the Division of Travel and Tourism which is part of the Department of Commerce. Deptcor is involved in various other industries: "Sewing Industry, Sign Shop, Furniture Shop, several bakeries, an Automobile License Plate Bureau and a Metal Industry which fabricates steel bunk beds, shelving and other metal products for State Use Industries" (Buehler, 1997). This would suggest that inmates literally make their beds and lie in them.

for example, inmate workers at Oakhill Correctional Institution in Wisconsin making office chairs for state-use purposes were paid between \$.20 and \$1.50 per hour (Elbow, 1995: 1). While the minimum wage in the Mexican context was mentioned earlier, it is worth considering the significance of the U.S. minimum wage which is paid to some inmate workers (for example, it is the wage floor in PIE programs). When the Oakhill workers were earning \$.20 to \$1.50 per hour the minimum wage was \$4.25 per hour, or just 56% of the poverty line for full-time workers with a family of four (DeMause and Ascoly, 1996: 24). If prison work programs *do* succeed in training inmates for minimum wage jobs, it should be understood that the minimum wage is not regarded as a living wage. Though one of the conclusions that can be drawn from this research is that the relationship between recidivism and work programs must be more thoroughly interrogated.

Although employers perceive risks and limitations to using an inmate workforce, the information presented in this chapter demonstrates that inmate workers have a “flexible” profile. They constitute a local supply of low-wage labor, in some instances placed in direct competition with “offshore” labor pools. Women are found among the ranks of inmate workers, though, and there is little reason to believe that expansion in this sector would bypass them. While women “might be the most flexible robots of all” for employers setting up shop in EPZs, it remains unclear if employers perceive women inmates in such a way.

Chapter Six

Considerations and Conclusions

Remarking on the 5,000 inmates employed by private industry, out of a total prison population of 1.2 million in 1992, Christie concludes that “prisoners are important for the economy of the U.S., but that is for what they need for keep and food, not for what they produce” (1993: 116). But while the use of inmates in state-use industries, public works projects or private industries might be statistically small, the potential for growth exists and the development of such a policy and its acceptance is important to monitor.¹⁵⁴ It is perhaps too early or too alarmist to conclude that prisons will become the dormitories for new legions of flexible workers or that “criminalization” will replace “feminization” in the new chapters of labor theory, but incarceration policies *have* spawned a huge industry and the warehousing of a large population *has* already happened. Tracking the development of inmate labor will involve considering the issues that arise from these phenomena more holistically. Therefore, before concluding, I offer an inventory of the items that are the loose-ends of this investigation into inmate labor.

Considerations for the Future

"Freedom is about authority. Freedom is about the willingness...to cede to lawful authority,"
• NYC Mayor Rudolph Giuliani (quoted in BMT, 1994: A3).

Why incarcerate so many people? Is it too cynical to say that it creates a space for low-wage workers? If “chain gang capitalism” is to become a development model for U.S. economic restructuring, this suggests a path of downward harmonization, where individual immobility is portrayed as the route to personal freedom. Is the U.S. taking the low-wage route (in terms of dealing with regional integration) by moving funds out of education and into incarceration? This would represent a direct contradiction to the portion of the NAFTA discourse, for example, which has suggested that integrating a high wage nation with a low wage nation would send low wages trickling up. With the political climate now favoring clampdowns on the entry of traditional sources of low-wage workers (illegal immigrants) into the U.S., will incarceration serve as a means to consolidate a substitute low-wage work force? While this question is not answered here, this research might provide more food for thought when considering the regional forces at work in shaping the labor market.¹⁵⁵

Is the U.S. trying to compete at high wage and low-wage levels—creating a two-tiered system of citizenship? Projections for educational requirements suggest that in the future *more* jobs in the U.S. will

¹⁵⁴ Indeed, the importance of the *maquiladora* sector in geopolitical terms is also recognized. “In Mexico...the maquilas represent 10 per cent of industrial employment, but their contribution to the balance of payments is considerable, far greater ...than tourism. Politically, their presence along the 3,000 km border with the United States is such that they play a strategic role in Mexico’s economic policy and its bilateral relations with the United States” (ICFTU, 1996: 19). Considering the emphasis law and order rhetoric places on repaying one’s debt to the community, the political cache of putting inmates to work in the community should be recognized and problematized.

¹⁵⁵ It is ironic to consider the current militarization of the U.S./Mexican border and note that 100% of the bulletproof vests worn by U.S. border-patrol agents are manufactured by federal inmates employed by UNICOR (Parenti, 1996c: 2). Meanwhile, it is interesting to note that the 1990 U.S. census reveals (unusual) patterns of domestic migration (intra-state) with “out-migration rates among people with a high-school education or less that are greater than the rate for college graduates” (Frey, quoted in Cassidy, 1997: 41).

require *less* education: "...By the year 2000 over half of all jobs will require only a high school diploma or less" (Sassen, 1994: 111). "The expansion of low-wage service jobs in large cities and the downgrading of many manufacturing jobs suggest that a good share of jobs in cities will be among those requiring only a high school education or less" (Sassen, 1994: 111).

A troubling implication of law and order budgeting is the siphoning of funds from education, with the result that instead of a university track, for many a "prison track" emerges. When considering access to prison vs. access to education; among some populations the disparities are glaring. Decisions made to fund one "track" over another results in the emergence of two polarized visions of the future. When a community only appropriates revenue for a prison for its teenagers, but has no funds for a high school, the "university track" seems not to be an easily visualized option. (For more on one New York City neighborhood where this is the case, please see Appendix H).

The case of California presents the clearest example of defunding education and giving priority to prison expansion. While funding for K-12 education is mandated (through Proposition 98) by the state's constitution, higher education is not (RAND, 1994: 3). It appears to have become another casualty of three strikes mandatory sentencing. "As the percentage of the state budget devoted to higher education has fallen from 14.4 percent to 9.8 percent, the share of the budget for corrections has risen from 3.9 percent to 9.8 percent" (Macallair, 1994: 19).

"Prisons are built but cannot be opened for lack of funds to run them. Educational budgets are cut to find dollars for prisons. Perhaps the choice between schools and prisons will force a break in the political rhetoric favoring incarceration" (Morris, 1995: 258). But, if the impact of prioritizing law enforcement/criminal justice spending over education and social services funding can be measured in terms of U.S. youth—who have "the highest rates of childhood homicide, suicide and firearms-related deaths of any of 26 of the world's richest economies (Centers for Disease Control and Prevention, 1997, cited in Havemann, 1997: 1)—then security needs have already won out.¹⁵⁶ "At the state level, California's celebrated educational system has been in steep decline, with per capital student expenditure falling from ninth to thirty-third place, or merely a third of the per capita level of New York" (Davis, 1990: 307). In Los Angeles, the head of the City Council Committee dealing with gang violence sees the spending as justified: "A budget is a statement of priorities and if fighting gang violence in this city is our highest priority it should be reflected in our budget and it will be at the expense of virtually anything else" (Yaroslavsky, quoted in Davis, 1990: 291).

A 1996 study by the Center on Juvenile and Criminal Justice found the impact of California prison spending to have a disproportionately negative effect on African-Americans vis-a-vis education:

"Fee increases at the University of California have far outpaced the growth in median household income, a disparity that has been a greater burden for black families than white families; Between 1980 and 1995, the number of black men in prison has increased more than 500%—from 8,139 to 41,434. The number of black men in public higher education, meanwhile, has risen only 30%, from 8,066 to 10,479" (ACLU, 1996j: 1).¹⁵⁷

¹⁵⁶ Another school of thought attributes this to a "decay of traditional values" as expressed by the increasing number of women working outside of the home and higher divorce rates (Havemann, 1997: 1).

¹⁵⁷ Looking specifically at one Los Angeles neighborhood, the figures are even more shocking: "...Black males from South Central are now three times more likely to end up in prison than at the University of California" (Davis, 1990: 307). Meanwhile, a spokesperson for Governor Pete Wilson, who has presided over much of this redirection of policy, labeled the study "mindless drivel" (ACLU, 1996i: 1). Bill Jones, one of the co-sponsors of the three-strikes legislation dismissed concerns over the funding of such a policy, saying that "Funding for schools, libraries, and parks is important and must be maintained. But just as important is the ability to visit these public resources safely" (Jones, 1994: 18).

Indeed as a career path, in some instances, incarceration holds more financial promise than education. "The average salary and benefits for prison guards in California exceeds \$55,000—the highest in the nation" (Macallair, 1994: 19). The "starting pay of correction officers, now, is often higher than the starting pay of teachers" (Bencivenga, 1984: 18). In California the defunding of education and youth employment schemes has resulted in "the juvenation of poverty" (in one generation, the statewide percentage of youth living in poverty has doubled; in Los Angeles 40% of children live on or below the official poverty line (Davis: 306) leaving "many thousands of young street people with little alternative but to enlist in the crypto-Keynesian youth employment program operated by the cocaine cartels. UCLA industrial relations economist Paul Bullock discovered that ...the last rational option open to Watts youth—at least in the neoclassical sense of utility-maximizing economic behavior—was to sell drugs" (Davis: 309).

Inside prisons severe overcrowding will most likely be a catalyst for change: whether this means vocational training, private industry employment, education or increased lockdowns remains to be seen. "The convict who enters prison illiterate will probably leave the same way," commented Wilbert Rideau, editor of *The Angolite*, the Louisiana State Penitentiary newsmagazine (1994: 2). "Most convicts want to be better than they are, but education is not a priority. This prison houses 4,600 men and offers academic training to 240, vocational training to a like number. Perhaps it doesn't matter, about 90% of the men here may never leave this prison alive."

Instead, an atmosphere of heightened concern about crime has paved the way for circumscribing the rights of the incarcerated.¹⁵⁸ In places like California, where "three strikes" offenders are settling in for lifelong sentences amidst violent offenders, the impact is measured in overcrowding and strained inmates relations: "These young men will be angry and feel they have nothing to lose," admitted a captain.... "We're going to see a lot of changes in the near future. All for the worst" (Wisely, 1996: 1).¹⁵⁹

Outside the prison, Los Angeles police, for example, report that suspected third felony perpetrators now resist arrest more vigorously, in the face of three-strikes imprisonment (Wood, 1996: 3).¹⁶⁰ Law and order rhetoric, characterized by calls for punishment in the service of deterrence, rehabilitation and therefore an improved, safer society has not been accompanied by empirical proof that supports prison growth.¹⁶¹ Indeed, current law and order strategies do not solve old problems. Current drug sentencing policies, for example, have not impeded drug use, but they have, altered the prison population. A 1996 national poll of police chiefs found

¹⁵⁸ This is especially significant because in the U.S. context it is political rights and due process (as opposed to social and economic) rights, as constitutionally outlined, which are equated with human rights (Goldstein, 1987: 430).

¹⁵⁹ To accommodate the influx of prisoners sentenced to long terms, including three strikes offenders, California revealed a transfer plan in 1996 to consolidate level IV prisoners in specific facilities. Prisoners rights advocates criticize the move for exacerbating the break up of families. For more on the transfer plan, see Wisely, 1996. In California, the projected cost of such legislation was \$4.5 to \$6.5 billion annually at the time of passage. A RAND Institute analysis concludes that this type of prison expansion is not worth it due to existing California budgetary constraints and the possibility of cheaper and more effective alternatives (RAND, 1994: 1).

¹⁶⁰ "You might compare a possible third-striker to a cornered animal. If he knows he is going to get life in jail, he is definitely going to up the ante in eluding his captors," says Lt. Anthony Alba of the LAPD, which attributes gun-fire and hostage taking to such phenomena. Though others suggest that this is contrary to general trends and is merely an attempt to explain away troubling increases in instances of shootings by police officers (Cook, cited in Wood, 1996: 3).

¹⁶¹ "Despite the long incarceration boom, violent crime has remained nearly stable, and new three-strikes penalties have little deterrent effect on 18-year-olds, who are most likely to commit violent crime" (*The Nation*, 1995: 224). Via mandatory minimum sentences for drug offenders, a significant number of non-violent offenders are finding their way into prison (at the federal level 30% of inmates convicted of drug offenses were found guilty of non-violent offenses, but were serving longer sentences than violent offenders (*The Nation*, 1995: 224).

that 60% believed current antidrug strategies were ineffective (Bertram and Sharpe, 1997: 2). "Two of New York City's most prominent federal judges announced 'that the emphasis on arrests and imprisonments rather than prevention and treatment, has been a failure, and that they were withdrawing from the effort.'" California Superior Court Judge Lawrence Antolini refused to apply the three strikes law in one case, deeming it "cruel and unusual punishment" and therefore unconstitutional (Armstrong, 1994: 1). An estimated 50 of 680 federal judges refused to hear drug cases in 1993 (Bertram and Sharpe, 1997: 1). In California the overflow of three strikes cases led to civil court shut downs, as staff was shifted to handle criminal cases (Armstrong, 1994: 1).

As entire political campaigns rest on crime-control posturing, observers say that legislators cannot be expected to initiate changes (Kirkpatrick, quoted in Marks, 1997: 1). Nevertheless, in view of the burden on courts and prison systems there have been some reversals of mandatory drug sentencing; in North Carolina, Oklahoma and Arizona, for example (Marks, 1997: 1). The Los Angeles County Board of Supervisors rejected a proposal to allocate funds away from general relief programs and use them to make operational a 4100 bed \$373 million state-of-the-art jail that has yet to open due to a lack of funds (ACLU, 1996i). Families of those serving time in prisons have begun to organize and could potentially exercise pressure. Families Against Mandatory Minimums started in 1991 with just a few people now has a national membership of 33,000 (Marks, 1997: 1).

There are new problems associated with ongoing policies that favor incarceration. In the process of accumulating prisoners, long-term problems, associated with aging, for example, have to be considered. "Prisons have always held a disproportionate number of young male offenders, and they still do; but with the increasing numbers of people now being sent to prison and with the duration of sentences lengthening greatly, several federal and state prison systems are facing the difficult problem of incarcerating ... a substantial number of aged and terminally ill prisoners. AIDS and Alzheimer patients are but the most visible and challenging groups that prisons must accommodate in running a geriatric prison-hospital" (Morris, 1995: 252). Policymakers will need to consider that mandatory minimum sentences entail great costs, not only in the short term (as incentives to plea bargain dwindle court costs increase), but also in the long-term as incarceration costs and the greater expense of prisoners who not only will be unable to work, but require costly medical care.

As more people are incarcerated, even more people are touched indirectly by the experience. As more jobs are created in the prison sector, the impact of a growing number of people involved in implementing and maintaining the incarceratory structures should be considered. "The 'other prisoners' are, of course, the prison staff. During their working shifts, day and night, they too are within the security perimeter of the prison, subjected to a routine reflecting that of the prisoners" (Morris, 1995: 253).¹⁶²

Policymakers should also note the support staff that prison industries require. Based on his experience with an inmate program providing tourism information to the public, Ken Wittry, manager of Iowa Prison Industries informed me that "I would most definitely recommend such a program to other wardens, not only for the financial factor but prisons are constantly in need of jobs for the ever-growing prison populations, especially meaningful jobs that can help train an inmate for a marketable skill. However, I would also caution them that the program requires very close monitoring and supervision" (1997: 2).

The impact of increased incarceration influences society's entire zeitgeist. "As Nicholas Pastore, former police chief of New Haven, Connecticut, has observed, the US has an entire generation growing up 'prison-

¹⁶² "The number of corrections officers who leave their jobs each year differs from state to state; some states have an annual turnover rate of 5 percent, whereas others lose nearly a third of their officers each year. The average career of a corrections officer lasts about ten years" (Morris, 1995: 254).

educated and prison-behaved'. The public consequences may prove disastrous, since sooner or later all but the most violent of these offenders reach the end of their sentences and will wind up back on the streets" (Shapiro, 1997: 22). Commenting on the use of stun belts, Christopher Ahmuty of the ACLU of Wisconsin says "All the punitive, degrading and dehumanizing things you're doing to prison inmates, and then these people are going to be put back in society" (ACLU: 1996f). What will the impact of vast numbers of men serving time have for constructions of masculinity and social relations in general? "Going into the 21st century, most of the adult male leadership in the black and Latino communities is going to come out of the prisons: we simply have more black and Latino men in prison, than in college. At some point, that prison experience is going to have to be a transforming experience," says Eddie Ellis of the Community Justice Center in Harlem (quoted in Marks, 1996).

The growing feeling that inmates should "pay it all back" can be interpreted as an extension of personal responsibility rhetoric currently influential in domestic policymaking, which places the onus on those seeking assistance to evolve into self-sufficiency and see their own way out of problematic situations. As incarceration becomes a rite of passage for many youths, is pull-yourself-up-by-the-bootstraps individualism combined with the politics of "competitive" economics and articulated in the language of self-help a remedy for success or failure? "The new common good is one which promotes efficiency and competition. In turn, the good citizen is one who recognizes the limits and liabilities of state intervention and, instead, works longer and harder in order to become self-reliant (Drache, 1992: 221)" (cited in Brodie, 1994: 57). But such attitudes seem short-sighted and ultimately disempowering if they favor an increasingly punitive environment, with less access or control over resources for a growing number of people.

Policies of increased incarceration not only effect the communities-of-origin for high percentages of convicted criminals, but also those that are become their new homes. While communities appreciate the jobs that prisons bring, some worry about the extra baggage of being a correctional facility town. In Hutchinson, Kansas for example, locals say the influx of inmate relatives has facilitated the spread of juvenile gangs (*Time*, 1997). The small town of Calipatria, home to a California state facility housing 4,000 inmates is a member of the Association of California Cities Allied with Prisons, and is generally pleased with the economic impact of the prison following the collapse of the local agricultural industry. But most of the high-wage prison jobs have gone to outsiders, and the influx of people has lead to overcrowded schools without supplying the tax base (prisons are exempt from local taxes) for expansion (Davis, 1995:232). The cost to Texas and Florida taxpayers for private prison industry initiatives gone amuck was documented in Chapter Three.

The implementation of law and order doctrine, beyond incarceration (including such measures as zero-tolerance policing and curfews, crack downs on freedom in order to protect it), has disproportionately reduced rights on the "outside" in certain communities. The immediate impact of incarceration has to be weighed against the long-term impact of these heightened levels of surveillance and this too needs to be problematized in terms of gender. Though police might employ "stop and search" procedures when encountering young Black or Latino men, the repercussions of such strategies are much broader. Increased surveillance of men also effects women: "...Contrary to the notion that increased policing and repression apply solely to Black men, Black women and children are the primary residents of public housing in most major cities and these housing projects increasingly resemble minimum security prisons—at best" (Ransby, 1996: 7).

Prison overcrowding has contributed to the current recasting of prisoners as workers and will certainly be a driving factor in continued change in the sector. Because if work solves idleness, it does *not* solve overcrowding. If "The Answer is Work," as the title of a video produced by Missouri's prison joint venture program declares (CIA:

1997), then why not create a mechanism for doling out jobs on the “outside,” as a preventative measure to prison overcrowding? Workforce demand needs to be applied to the issue of recidivism.

Already “the problems created by the overcrowding of the prisons in the 1980s and 1990s, and the sheer expense of supporting so many prisoners, generated political pressure to substantially increase the imposition of ‘intermediate punishments.’ To confine punishments to imprisonment and probation, which broadly describes current practice, is like prescribing either surgery or an aspirin for every body pain” (Morris, 1995: 256) Alternatives to incarceration include house arrest, residential and non-residential substance abuse treatment programs, electronic controls on individual movement for “comprehensive supervision,” boot camps, community service, fines and restitution.¹⁶³ Such alternatives might lessen overcrowding, when the terms are obeyed and reincarceration does not take place, but lessened recidivism has not been demonstrated (Morris, 1995: 256-257). Alternative forms of incarceration, such as home confinement using electronic tagging systems offer potential for abuse, just as confinement to an institution.¹⁶⁴

Conclusions

“It is impossible for an American to touch the subject of prisons without pardonable pride!”

• *Enthusiastic participant at the first Congress of the National Prison Association, 1916 (quoted in Milford, 1974: 37)*

In this paper my intention was to make visible the processes involved in creating a “cheap” labor force. A gender analysis of the largely female *maquiladora* work force in Mexico has already shown that “cheapness” is the result of a variety of factors, many of which are male-biased assumptions which serve to create job segmentation and influence working conditions and pay scales. Using such a technique of analysis opened up my investigation of prison labor in the United States to the complexities involved in positioning inmates as workers.

The analysis presented in the preceding chapters demonstrates how the lure of the prison locale has now become the unlikely competitor to the attractive packages presented by export-processing zones. While threats by factory management to move operations “south” have been documented in the U.S., inmate workers have been interjected into the debate. Ownership and the hands-on management of prisons themselves is being contracted out, making the public sector less aware and as a result less accountable for the daily functioning of U.S. prisons. Privatization, an important element of structural reform packages foisted on developing nations, such as Mexico, also surfaces as a factor in the operation of the prison industry.

“Communal disorganization and maximum vulnerability in front of law courts and police” are important features of today’s cheap labor force (Midnight Notes Collective, 1993: 322). Without question, this is the position of an inmate workforce. The spatial characteristics of this sector—that of a coercive space where demands for conformity and the threat of punishment are understood to constitute an acceptable part of the

¹⁶³ Such intermediate punishments have been tested in the U.S., but utilized more frequently in Europe, “...but nowhere in the United States have they been institutionalized into a comprehensive and graduated system of punishments” (Morris, 1995: 256).

¹⁶⁴ For example, a dystopian view of home incarceration would couple confinement in the home with work: homeworkers under electronic surveillance. (Electronic reporting systems are already used as automated probation systems in Minnesota, Washington and Louisiana. New York City recently awarded nearly \$1 million to Pacer Infotec, Inc. to install such a system (Gladstone and Daly, 1997).

mission of the institution—create the conditions in which disciplined workers operate. Bodily control and legal limitations, such as bans on union organizing, are found in prison workshops, just as in the Mexican *maquila* context, though the justification is constructed somewhat differently. Definitions of masculine identity were found to be prominent in justifications for work programs. The underpinnings of such a strategy—a male breadwinner—has resonance in the *maquila* context as well. More research is needed regarding the impact of the prison experience on identity and this should be investigated on a number of levels: most urgently in terms of sex, age and race/ethnicity. The use of some notions of masculinity, patriarchally-defined “values,” and the possible renegotiation of gendered identities in the context of work in prison were discussed in this paper, though their interplay needs to be pursued further. Availability of data was an obstacle to a thorough interrogation of questions relating to the gendered division of labor in prison industries. This points to an area worthy of further investigation. As women are the fastest growing portion of the prison population, an analysis of gendered patterns of participation in work programs takes on added urgency.¹⁶⁵

To consider the case of inmate workers it was necessary to consider the role of prison at this particular time in history. The growing number of prisons in the U.S. is shown to be influenced by societal perceptions. Political rhetoric is fed by and feeds into socially-constructed notions, in this case, regarding fear of crime and insecurity. Meanwhile, factors such as race, age, sex and class position people differently vis-a-vis the issues of security, crime, and incarceration. Differences rooted in the socio-economic context “outside” are carried over into prisons via arrest and sentencing policies and procedures. Issues for future consideration, articulated in the section preceding this one, demonstrate that the social relations which underpin the creation of an inmate workforce will not stand still. Therefore it is necessary that the policies and popular sentiment, shown throughout this paper to have an impact on prison growth and relationship to the identity of inmates as workers, continue to be evaluated and reinterpreted.

Ultimately, the future of prison industries and the use of inmate workers seems inextricably linked to future policy decisions regarding incarceration. Out of a society increasingly preoccupied with law and order—the need for enhanced structures to maintain order—has emerged a seemingly insatiable ideology of incarceration, where only the extreme application of coercive and social means of control can keep criminals at bay. “The social perception of threat becomes a function of the security mobilization itself, not crime rates” (Davis, 1990: 224). Indeed, during the high-profile gyrations of law and order posturing the likelihood of automobile accident injury is twice that of injury at the hands of a criminal (BJS cited in Henwood, 1994: 2). To what conclusion will such a strategy be taken?

The need to redefine flexibility both in the “North” and “South” has been articulated by several who have carried out a gender analysis of recent trends in the labor market and processes of production.¹⁶⁶ Ironically, as industrialization teams up with incarceration yet again, the challenge remains to apply some degree of *flexibility* to the strategies used to combat crime. The substance of this analysis, I believe, highlights the

¹⁶⁵ An exception to the near media blackout on women in prison as a “women’s issue” is the recent double issue (Summer 1997) of *The Women’s Review of Books*, devoted to this subject, though this did not include anything on women in prison work programs.

¹⁶⁶ “...Labor market regulations should be designed to protect the interests of both workers and employers for flexibility [Elson, 1995; Albin and Appelbaum, 1988]. In some cases this may require that functional flexibility based on skill enhancement be promoted over financial flexibility—the use of low wage labor in nonstandard employment. ...Equal pay and opportunity regulations must also ensure that functionally flexible jobs are not exclusively male jobs. More generally, women would seek institutional arrangements and regulations which provide them access to good jobs and which encourage both men and women to take flexible jobs without long-term financial penalties during child-rearing years” (Howes and Singh, 1995: 1907).

interrelationship of many factors in what can never be construed as merely the simple business of economic restructuring. Indeed, that the pathway between a *maquiladora* industrial park and a U.S. penitentiary is not such a distant one points to the contradictory impulses at the heart of neoliberalism.

Appendix A
Overview of Trends in U.S. Incarceration

Federal Prison Population (1997)

Facilities	90
Inmates	109,131*
Average Age	37
Sex	
Male	93%
Female	7%
Race	
White	57%
Black	40%
Asian	1.5%
Native American	1.5%
Ethnicity	
Hispanic	27%
Non-Hispanic	73%
Citizenship	
U.S.	73%
Mexico	8%
Colombia	4%
Cuba	3%
Other/Unknown	11%

State Prison Population (1991)

Facilities	1,239		
Inmates	711,643		
Age		35-44	23%
17 or younger	1%	45-54	7%
18-24	21%	55-64	2%
25-34	46%	65 or older	1%
Race or Hispanic Origin		Sex	
White**	35%	Male	95%
Black**	46%	Female	5%
Other**	2%		
Hispanic	17%		
Citizenship			
U.S.	96%		
non-U.S.	4%		

* The data presented here relates only to 97,978 offenders housed in BOP facilities (11,153 federal offenders are housed in contract facilities)

** Non-Hispanic inmates

Sources: Federal Bureau of Prisons, 1997; Bureau of Justice Statistics, 1997

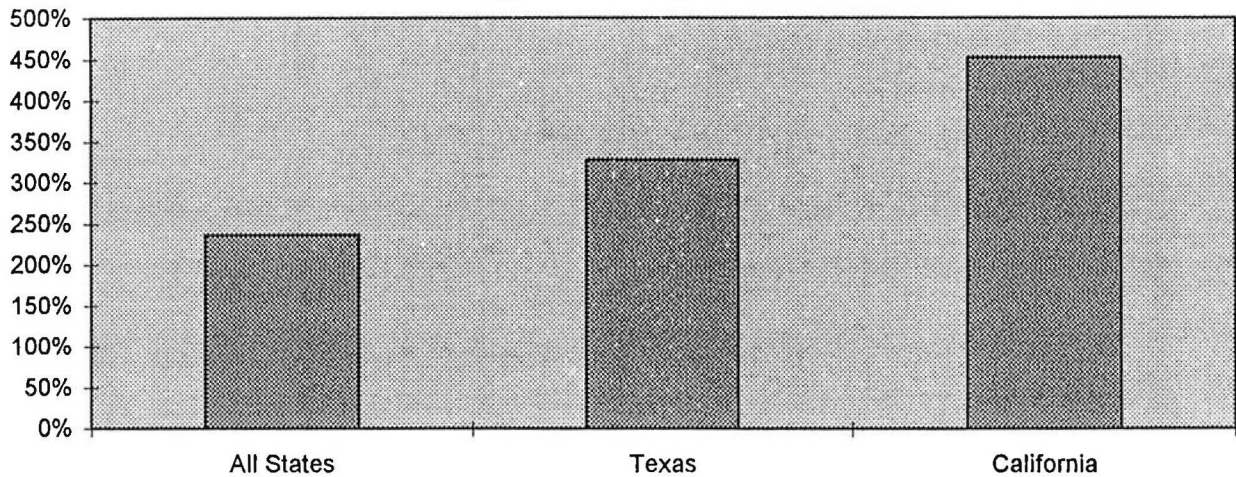
Comparing Federal and State prison inmates:

In 1991, Federal inmates were more likely than State inmates to be

- women (8% v. 5%)
- Hispanic (28% v. 17%)
- age 45 or older (22% v. 10%)
- with some college education (28% v. 12%)
- noncitizens (18% v. 4%)
- employed prior to their arrest (74% v. 67%)

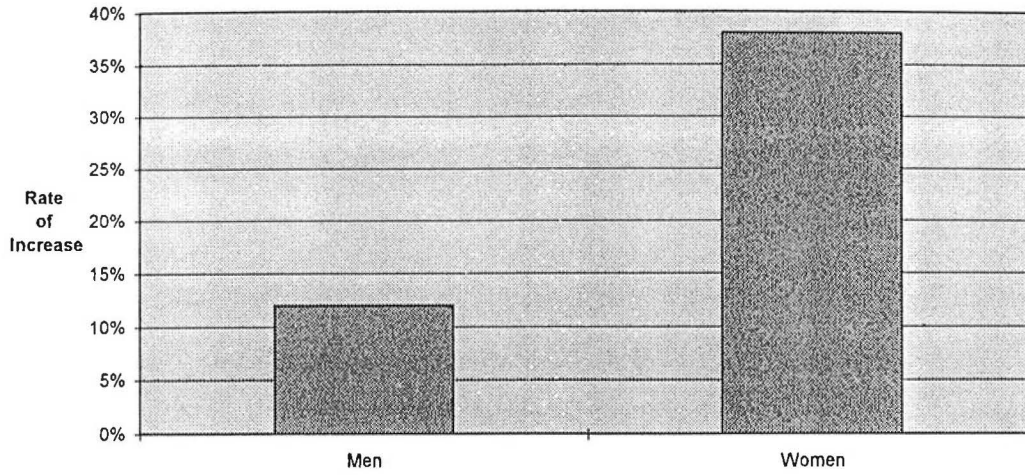
An estimated 58% of Federal inmates in 1991 and 21% of State inmates were serving a sentence for a drug offense; about 17% of Federal inmates and 47% of State inmates were in prison for a violent offense

State Prison Inmate Populations, Percentage Change 1980-1995



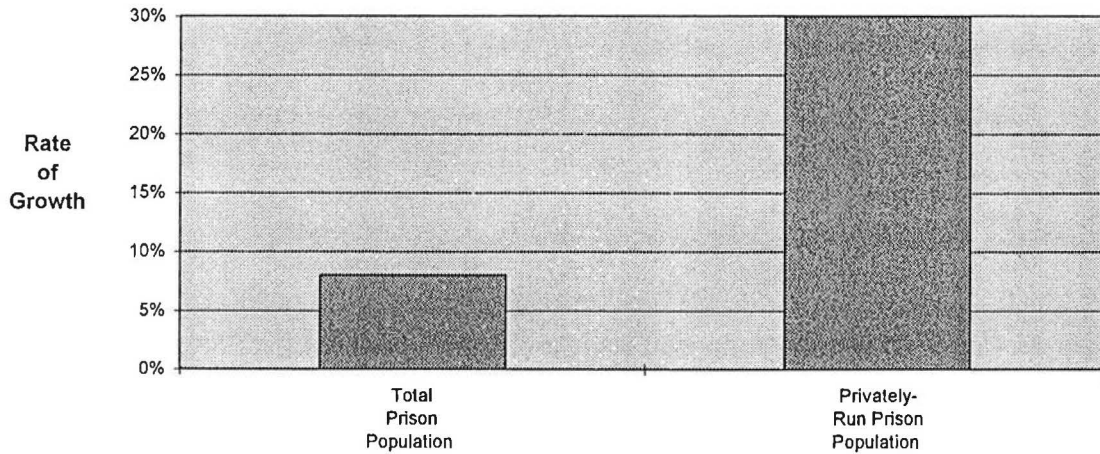
Source: BJS, 1996

ARRESTS: % Increase 1986-1995



Source: Bureau of Justice Statistics, 1997

1993 Prison Population Growth



Source: Univ. of Florida, Private Prisons Project, 1993

Appendix B

Historical Roots of Methods of Control: U.S. Prisons in the Ante-Bellum Period

The two models of penitentiary organization which shaped the early U.S. prison system, were the Auburn system and the Pennsylvania model, both based on the notion that prison time was rehabilitation time, that by following the routines of prison life convicts would emerge as "law-abiding citizens." Choosing between the two was the subject of hot debate as the states began to build prisons, though both "emphasized isolation, obedience, and a steady routine of labor" (Rothman, 1995: 117). In the Auburn system, prisoners slept in their own cells but ate and worked together. Meanwhile, in the Pennsylvania model inmates operated in total isolation, eating, sleeping and working in the solitary confinement of their cells for the duration of their incarceration (Rothman, 1995: 117).

"Perhaps the most distinctive feature of American prisons in the pre-Civil War decades...was the silence that pervaded the institutions" (Rothman, 1995: 121). "As Tocqueville and Beaumont noted after their visit to Auburn in 1831, "Everything passes in the most profound silence, and nothing is heard in the whole prison but the steps of those who march, or sounds proceeding from the workshops"" (Rothman, 1995:121). Rules of silence, regular labor and discipline prevailed in the early U.S. prisons. A routinized military model emphasized more "securing obedience than on inflicting cruel and unusual punishment" (Rothman, 1995: 121-122). The Pennsylvania system was obviously the pricier option, and it was the Auburn model that prevailed (Rothman, 1995: 119).

Auburn, built in 1816, was world famous and became one of New York State's top tourist attractions. The facility operated on a modified version of the Pennsylvania model. Enforcing only partial isolation was meant to counter the high rates of suicide and mental illness that had been experienced in the total isolation system (Metzger, 1996: 118-119).

At Auburn, warden Gershom Powers put into action his belief that the will and identity of the inmates must be totally subjugated. "The constant surveillance and activity, the perpetual threat of beatings, the utterly unchanging routine, were maintained to literally dehumanize the prisoner. The goal was to make him into a uniform being with no identity, 'a silent and insulated working machine.' Penologist Orlando Lewis visited the prison at the turn of the twentieth century and said that it had 'the beauty of a finely functioning machine. It had reduced the human beings within the prison to automata'" (quoted in Metzger, 1996; 121). Visitors could observe the inmates at work through peepholes. Eventually the entrance fee had to be doubled to limit the crowds, curious to view the spectacle of discipline on display (Metzger, 1996: 119-120).

The history of Auburn reflects the changes in U.S. penological thinking. Nearly 100 years later, during the "Progressive" era, another Auburn warden, Thomas Mott Osborne, pursued his ideas of self-government and self-reliance for the inmate population. He pioneered "anti-institutional" methods, easing the rigid routines of the earlier era, introducing recreation activities and tossing out the prisoner's shroud of black stripes. By 1929, correctional officers and politicians had dismissed Osborne, by then warden of Sing-Sing, New York's most famous prison, leading to the collapse of his Mutual Welfare League (Rotman, 1995: 180).

Appendix C

Work Assignments: State Prison Inmates, 1991

	Percent of Inmates
Work assignments	69%
General janitorial	13%
Food preparation	13%
Maintenance, repair, or construction	9%
Grounds and road maintenance	8%
Library, barbershop, office or other services	8%
Goods production	4%
Farming, forestry, or ranching	4%
Laundry	3%
Hospital or medical	1%
Other	12%
No work assignment	31%

Note: Inmates could report more than one work assignment. About 10% of all inmates were assigned jobs outside the prison grounds, including 3% who performed grounds or road maintenance.

Source: BJS, in Beck and Gilliard, 1993: 27.

Type of Work	% of all Inmates	% of working inmates paid money	% of working inmates receiving nonmonetary compensation	Average pay per hour
All	69%	68%	43%	\$.56
Goods Production	4%	77%	49%	\$.84
Other work	65%	67%	43%	\$.54
On site	57%	66%	44%	\$.38
Off site	8%	72%	38%	\$1.81

Note: nonmonetary compensation includes "good-time" credit (time off for good behavior) or extra privileges.

Source: BJS, in Beck and Gilliard, 1993: 27.

Appendix D

Women and Incarceration

“Crime knows no gender, and neither should punishment”

- Sheriff Joe Arpaio at a 1997 roadside press conference to commemorate the first female chain gang in U.S. history (quoted in Vanderpool, 1997: 14).

There was only the limited use of prisons for women until 1840.³ Instead, institutions such as the church and family served as controls on women’s behavior (Freedman, 1981: 11) Women were neglected, though not benignly, in early U.S. prisons which lacked facilities for female inmates (Freedman 1981: 15). They were placed in overcrowded facilities, treated harshly and sexually abused. Though isolated from the main (male) prison population, in such facilities as the Auburn penitentiary, at least one woman during this period, when placed in solitary confinement emerged pregnant (Freedman 1981: 15). There was little interest in developing productive labor programs for women, who were kept busy mending the stockings of male inmates for hours on end (Freedman, 1981: 16).

Since female convicts were seen to be beyond reach “...it seems to have been regarded as a sufficient performance of the object of punishment to turn them loose within the pen of the prison and there leave them to feed upon and destroy each other,” remarked one 19th century prison official (quoted in Freedman, 1981: 17). “Prison reformers had worried whether men would be able to tolerate the inactivity and lack of exercise that being confined to their cells entailed. But few of these concerns seemed to apply to women, who were said to be passive, even ‘naturally sedentary’” (Zedner, 1995: 338).

The reformatory movement, linked to the predominately middle-class social feminist and social purity (temperance and anti-prostitution) movements of the Progressive era, was driven by two goals: “to rescue and to reform” (Rafter, 1983: 290)⁴ and took on the issue of women and criminality. Women’s prisons emerged within the U.S. prison system, as a result, giving rise to a “separate but equal” policy of incarceration, inadvertently reinforcing “sexual difference and sexual inequality” (Freedman, 1987: 144). Though they intended otherwise, the reformers “in fact institutionalized the double standard, prisons that punished women for behaviour often overlooked in the case of men; held women for terms longer than those to which men were liable; and

³ “The conviction and imprisonment of women resulted from many of the social changes that fostered a general increase in European and American crime rates between 1815 and 1860. Movement from rural to urban areas, or across the Atlantic, as well as the gradual transformation from a family to a market economy, disrupted the lives of migrant, immigrant, and working-class men and women. A growing number of individuals lived outside of the traditional institutions of church, family, and community. Many led economically marginal and geographically mobile lives. Especially in the rapidly growing cities, they came into conflict with new agents of social control, such as urban police forces and moral reformers. Not serious crimes against person or property, but *unlawful personal behavior*—drunkenness, idle and disorderly conduct, and vagrancy—brought the majority of criminals of both sexes into courts and prisons” (emphasis added, Freedman, 1981: 13-14).

⁴ “...Working-class offenders and the middle-class reformers—met, so to speak, at the gate of the women’s reformatory. The struggle between them was economically functional in some ways to the reformers: it helped maintain a pool of cheap domestic labour for women like themselves, and, by keeping women in the surplus labour force, it undergirded the economic system to which they owed their privileged positions” (Rafter, 1983: 307). But again, the reform aspect should not be downplayed, because to some extent they did “reform” women into accepting their own values, reshaping them in their own gendered image (Rafter, 1983: 307).

deliberately feminized penal practices, thus legitimating differential treatment of the sexes. Their understanding of 'woman's nature' led logically to advocacy of special help for the frailer sex" (Rafter, 1983: 307).⁵ In 1835, Mount Pleasant Female Prison, in New York State became the first separate state prison for women in the U.S. (Zedner, 1995: 337).⁶ Work programs followed ideas of acceptable female tasks. "Prisoners labored under a monotonous regime of sewing, button-making, and hat-trimming, apart from a brief period, from 1844 to 1847, when, under matron Eliza Farnham, a period of radical experimentation was instituted" (Zedner, 1995: 337).⁷ It was not until the 1870s that other women's facilities were opened (Zedner, 1995: 337).

The first federal female prison was not built until 1927 (Freedman, 1981: 144-145). A dramatic increase in women's criminal convictions and imprisonments occurred at the time of the Civil War, when the departure of male wage earners might have forced women to commit crimes, such as theft or prostitution (Freedman, 1981: 13, 14).⁸

Further increases in rates of female incarceration occurred "only after certain categories of female crime emerged within a sexual ideology of female purity" (Freedman, 1981: 10-11).

"Women's crimes, however, had additional economic and sexual origins. The limited opportunities for wage earning and the lower salaries paid working women placed them in the most marginal economic position in the society. Prostitution provided a temporary source of income for poor women throughout the century...Although laws against sexual misconduct had regulated both women and men in colonial America, a stricter code of female morality in the nineteenth century led to the overrepresentation of women in this category of crimes...Arrest, conviction, or imprisonment for offenses against chastity, decency, or public order carried a unique penalty for the nineteenth-century female criminal—the label of 'fallen women.' In the past a woman convicted of even a sexual offense might repent, accept her punishment, and return to society. Now, however, a new moral standard helped create a permanent category of female criminals" (Freedman, 1981, 14-15).

The "fallen woman" was considered to be beyond hope, in part because they were seen to be more like children than adults. Infantilization was a technique of control used at New York State's Albion Reformatory during this period: "At the reformatory they were supervised by matron-mothers, and at parole they were usually released to

⁵ In the UK context similar observations have been made: "Since the establishment of separate facilities for women prisoners, the adaptation of regimes has continued to be dominated by forms of patriarchal control" (Genders and Player, 1987: 162).

⁶ The very first prison for women was built in 1645 in the Netherlands. Located in Amsterdam, the popular tourist attraction, was known as "the Spinhuis," because inmates spent their days spinning for the Dutch textile industry (Zedner, 1995: 329).

⁷ This was also noted in the UK context. "In the late nineteenth century the work performed by women prisoners revolved around the upkeep of the prison and the provision of laundering and other services for men's prisons. The main purpose of education and training in women's prisons was disciplinary and limited to imparting rudimentary skills. According to the superintendent of one women's prison, education should 'awaken the minds of prisoners, and improve their natural comprehensions, to make them more docile, more easily brought to see the value of cleanliness and order, and to inspire them with a considerable self-respect' (Carpenter 1864, quoted in Dobash et al., 1986). This orientation is still evident in penal work and training programmes today" (Genders and Player, 1987: 162-163).

⁸ This points to a larger ongoing debate that raises such issues as "what causes the patterns of women's crime, why does it differ significantly from men's and how far and in what ways are these gender divisions linked to other crucial divisions of age, class and race:....these questions should be recast to emphasise the production of conformity rather than deviance in women, and that social institutions, values and culture operating in mutually reinforcing ways to create this" (Heidensohn, 1987: 21). But if "...there is no such unitary object as 'women's lawbreaking'" then there is no "...symmetrical relationship with a unitary 'women's conformity'. In other words, the inversion of a control theory explaining why the majority of women appear to be law-abiding will only partly explain why *some* other women break the law in the first place. It will be even less useful in explaining why a few of all women lawbreakers go on to become recidivist criminals and prisoners. Instead, therefore, of only analysing the processes that condition the conformity of women who are law-abiding, it might also be useful to conceive of the diverse processes that converge in the production and representation of those who are *not*, as being epiphenomena of women's *powerlessness*" (Carlen and Worrall, 1987: 10). This suggests a measure of women's (dis)empowerment.

family situations in which they had a dependent status” (Rafter, 1983: 299).⁹ “Disruption of inmates’ ties with their families was another mechanism used by the reformatory to encourage inmates to rely on it and adopt its values. Familial disruption was a technique to which women were especially susceptible, their roles being so intimately involved with family life...Albion developed policies relating to mail and visitors that intensified the break...” (Rafter, 1983: 299).¹⁰

Following World War I, the number of federal female inmates “more than doubled as a result of the Harrison Act (1914), which outlawed narcotics; the Volstead Act (1919), which implemented prohibition; and the Jones-Miller Act (1922), which made automobile theft a federal offense.” “If Progressivism had two spirits, one of uplift and one of social control, it was the latter that lived on in the years after the Armistice in new efforts to repress vice by isolating and punishing its victims” (Freedman, 1981: 146). The WWI boom in the incarceration of prostitutes is an example. “The greatest destroyer of man-power ...is venereal disease. The greatest source of venereal disease has been prostitution....For military efficiency,—and for social welfare,—prostitution must go,” explained one Sanitary Corps officer (quoted in Freedman, 1981: 147). By 1940, 23 states had separate women’s prison, and “by 1975 all but 16 lacked them.”

Today, facilities for women are still but a small part of the federal and state prison systems. “There can never be parity when women are such a small minority,” says Warden Roberta Richmond. “Legally they’re entitled to the same services, but when there are budget crunches and...crises, if you’ve got violence...escapes and murders in prison, you know that the attention and all the resources are going to be devoted to what is on the front burner” (quoted in Nichols, 1997: 18). Women prison wardens note that the penal system is based on a masculinist model. Warden Teena Farmon of the Central California Women’s facility in Chowchilla described the system as a “white, male-dominated, paramilitary organization.” Memos and policies sometimes refer to staff and inmates only in masculine terms, notes Mary Leftridge Byrd, superintendent of the State Correctional Institution in Muncy, Pennsylvania. Says Warden Richmond “a prison is a sexist organization” (all quoted in Nichols, 1997: 16-17).

⁹ This has resonance today, as a recent interview Warden Roberta Richman of the Rhode Island Dept. of Corrections Women’s Facility referred “maternalistically” to female inmates as “immature,” though she felt that “institutions infantilize women by giving them almost no opportunity to make their own decisions” (Nichols, 1997: 8, 10).

¹⁰ Again, this resembles the female prison experience today, as 67% of women have a child or children under the age of 18. While 56% of male inmates have children under 18, male inmates were more likely (90%) to report that their children were living with their mothers, whereas only one-fourth of female inmates at the state level reported their minor children were living with their fathers (Beck and Gilliard et al., 1993: 10).

Appendix E

Drug Sentencing in New York State: A 1997 Case Study from Human Rights Watch

With the support of then Governor Nelson Rockefeller, New York State enacted new sentencing laws for drug and second felony offenders in 1973. The laws, known as the Rockefeller laws, have been described as ‘extraordinarily punitive,’ (HRW, 1997: 6) a necessary measure in the context of “the epidemic of drug abuse” (*People v. Broadie*, 1975 cited in HRW 1997: 6). Because the laws were based on possession of a fixed amount of a drug, in 1988 they were amended to contend with the appearance of crack cocaine. “New York law, unlike U.S. federal law, does not distinguish between powder and crack cocaine. Crack is generally sold to users in vials containing a small quantity of the drug, and customers typically purchase a small number of vials at a time. Prior to the 1988 amendments, possession of one-eighth of an ounce of cocaine was the minimum threshold for liability for a felony violation. One-eighth of an ounce of crack would be the equivalent of between 25 and 40 vials—more than a mere user would be likely to possess at one time. To be able to reach people possessing or selling a few vials of crack, the 500 milligram threshold was added” (HRW, 1997: 7).

The HRW analysts note that “recognition is widespread that mandatory sentencing laws have failed to achieve their drug control objectives. New York’s highest court has pointed out that the ‘harsh mandatory treatment of drug offenders...has failed to deter drug trafficking or to control the epidemic of drug abuse in society, and has resulted in the incarceration of many offenders whose crimes arose out of their own addiction and for whom the costs of imprisonment would have been better spent on treatment and rehabilitation’ (*People v. Thompson*, 83 N.Y. 2d 477, 1994, quoted in HRW 1997:5).¹

HRW concluded that when drug crime sentencing is based on possession of the drug “people of vastly different roles and culpability are...swept together in the same felony class” (1997: 3). Mere users or low-level dealers are viewed, through the eyes of the law, as equally threatening to their community as bigger drug “players” involved in distribution. Meanwhile, the “legal straitjacket” judges perceive themselves to be in, forces them to impose what they sometimes see as “unjust” sentences, which puts the gravity of the conviction on the same level as murder or rape. “We find no argument persuasive by which every adult selling a couple of ounces of cocaine to other adults has engaged in conduct as harmful or reprehensible, for sentencing purposes, as taking the life or violating the physical integrity of another” (HRW, 1997: 3). They recommend that the state:

1. “Limit lengthy penalties to cases in which specific, serious harm is caused or threatened...”
2. “Eliminate mandatory minimum sentences for nonviolent drug offenders who do not have major roles in drug distribution operations.”
3. “Revise the classification of drug offenses to correct the current exclusive reliance on the amount of the drug involved; other relevant factors should be reflected in sentencing calculations.”
4. “Grant the judiciary the authority to depart from statutory sentencing ranges...”
5. “Increase the availability and use of alternative sanctions for nonviolent drug offenders...and increase the availability of substance abuse treatment on demand” (HRW, 1997:6).

¹ For more on how this policy of mandatory sentencing for low-level drug offenders was recognized as failing to deter the rising tide of drug offenses after just a few years, see: Association of the Bar of the City of New York/The Drug Abuse Council, Inc. *The Nation’s Toughest Drug Law: Evaluating the New York Experience*, (Final Report of the Joint Committee on New York Drug Law Evaluation, New York: Association of the Bar of the City of New York/The Drug Abuse Council, 1977).

Appendix F**California State Prison System—Occupancy Rates**

Facility Name	Current Population	Design Capacity	Percent Occupancy
Male			
ASP	5771	2320	248%
CCC	5880	3682	159%
CCI	5925	2781	213%
CIM	6456	3078	209%
CMF	3106	2315	134%
CMC	6538	3884	168%
CRC	4071	1814	224%
CAL	4011	2208	181%
CEN	4360	2208	197%
COR	5032	2916	172%
LAC	4159	2200	189%
SAC	3268	1728	189%
SQ	5782	3283	176%
SOL	5796	2110	274%
CVSP	3554	1738	204%
CTF	6986	3281	212%
DVI	3966	1787	221%
FOL	3860	2071	186%
HDP	4291	2224	192%
IRON	4516	2200	205%
MCSP	3662	1700	215%
NKSP	5043	2692	187%
PDC	910	0	-
PBSP	3768	22880	165%
PVSP	4650	2208	210%
RJD	4587	2200	208%
SVSP	4258	2224	191%
SRTA	701	0	-
SCC	6030	3606	167%
WSP	5767	2984	193%

<i>Male Total</i>	<i>136,704</i>	<i>69,722</i>	<i>196%</i>
Female			
CIW	1822	1026	177%
CRC	912	500	182%
CCWF*	3338	2004	166%
NCWF	711	400	177%
SCC	330	320	103%
VSP	3278	1980	165%
<i>Female Total</i>	<i>10391</i>	<i>6230</i>	<i>166%</i>

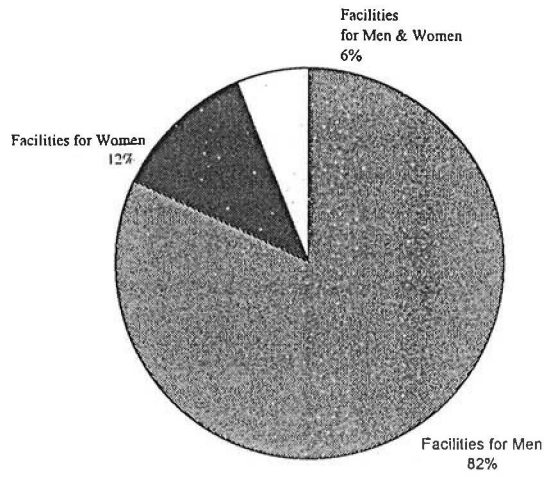
*Central California Women's Facility is the world's largest prison for women (CCWF, 1997).

Source: CDC Data Analysis Unit, Estimates and Statistical Analysis Section, Offender Information Services Branch, 1997

Appendix G

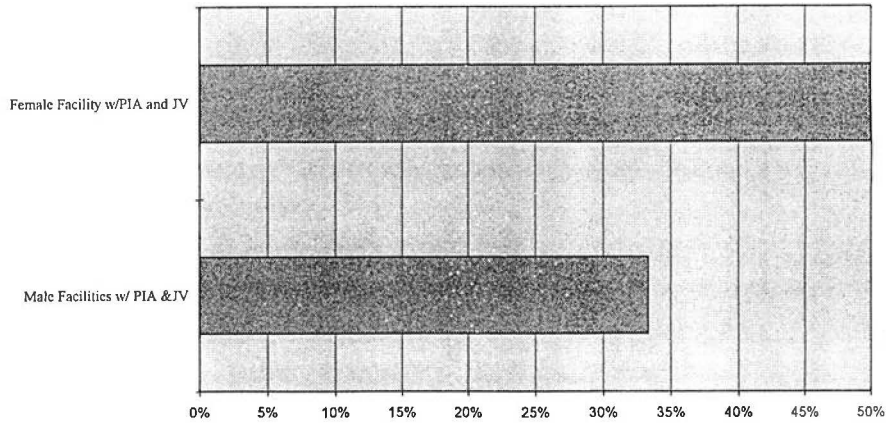
California State Prison Facilities

(Total Number of Facilities = 33)



Source: CDC, 1997

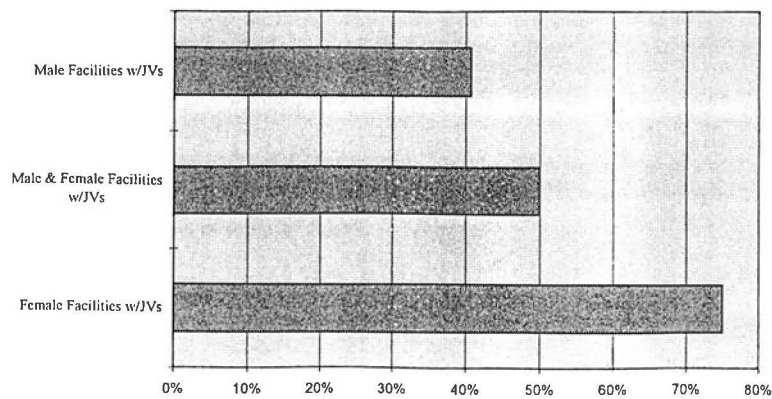
California State Prisons with Joint Venture & PIA programs



Source: CDC, 1997

California State Prisons with Joint Venture Programs

(45% of CA correctional facilities now have joint venture programs)



Source: CDC, 1997

Appendix H

Brownsville, New York: Incarceration or Education?

When New York City's Department of Juvenile Justice sought a new site to construct a juvenile jail to replace a crumbling facility in the Bronx, they chose Brownsville, Brooklyn. One of the poorest and most crime-ravaged neighborhoods in New York City, Brownsville is home to nine public housing facilities, which house 50,000 people (Gottschalk, 1995: 34).² The site was justified by the high (40%) percentage of inmates coming from Brooklyn. Ironically, the spot they chose for years had been the focus of community attention. Local activists had organized a campaign to build a high school on the same parcel of land. While attempts were made to secure the funding necessary to construct the school, Brownsville's *first* high school, the site was leased to refuse handlers. For 15 years trash accumulated on the site, and Brownsville's children attended classes elsewhere (Pfister, 1994: 9-10, 13).

Incarceration prevailed. In 1994 ground was broken at the construction site, marked with a sign touting "Building for the Future of New York," and work began on the juvenile jail (Pfister, 1994: 10). Ronald Ward, an anti-jail activist and member of the local Community School Board 17, said the failure to halt such an unpopular prison construction project reflected the perceived status of Brownsville's residents:

"They just treat you like you don't exist: 'So what your kids are going to jail a little earlier, they're gonna go there anyway'" (quoted in Pfister, 1994: 13).

² For more on life in Brownsville, see Donaldson, G. (1995) *The Ville: Cops and Kids in Urban America*, Anchor Books.

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