Unleashing the Profit Motive in Punishment & Rehabilitation: Prison privatization in the U.S. & Japan

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Profit and Punishment

• Need to get it right – no perverse incentives
  o Undermine national ideals
  o Create unjust systems of punishment and ruin lives
  o Mis-allocate capital from crime prevention
Roadmap

- Prison-Industrial Complex
- US Private Prisons
- Japanese Private Finance Initiative (PFI) Act
- Shimane Asahi
- Conclusion: Post-warehouse prison

Thanks to the Dept. of Sociology, Anthropology & Criminology for a development award that facilitated access and research.
Military-Industrial Complex

- From General/President Eisenhower’s warning of Military-Industrial Complex
  - New permanent armaments industry: “We must guard against the acquisition of unwarranted influence... The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties or democratic processes.”

- ‘Complex’ forms policy in own interest, minimizes outside scrutiny and accountability
  - “Iron Triangle” of legislators, bureaucrats and corp. interests
Criminal Justice-Industrial Complex

“Bodies destined for profitable punishment”

- Politicians (use fear of crime to gain votes)
- Impoverished rural areas (use prisons as economic development)
- Media (sensationalize crime for ratings)
- Private companies (billions spent each year on CJ as a lucrative market)
- Government officials (expand fiefdoms)
Is this a social problem? A business opportunity? Both?

War on Crime and Drugs (Disproportionate Minority Confinement)

Incarceration rate (state and federal prisoners) per 100,000 population
Remember, prison has little to do with the crime rate…
Private Prisons

• Nominal privatization: construction, food, medical care, education

• Operational privatization: private company operates a facility owned by the government and/or manages inmates in a prison that the company owns.

Both are Real Estate Investment Trusts – pay no federal tax and distribute money to shareholders instead.
Business Model

• Revenue measured in “compensated man day” = per diem (daily) fee per inmate
• High fixed costs [admin, staffing, construction], low marginal costs [food, clothing]
• Economies of scale encourage acquisitions/mergers
• MAXIMUM PROFITS from high occupancy – contracts guarantee payment for 90% occupancy
• Lobby govt for access to “raw materials” [prisoners]
Process

- Research promising jurisdictions
- Lobbyists, Campaign Donations
- Hire local officials or ex-govt employees as consultants [watch for conflict of interest]
- Govt writes Request for Proposals (RFP), hundreds of pages describing the service, staffing, health care expectations, etc.

Expensive to write RFP, review responses, negotiate contract – often not considered in cost studies
Concerns I: Legitimacy

- No private police (power to arrest, use deadly force)
- No private courts
- Why are private prisons morally acceptable then?

Argument that private prisons are service in support of a state function, but ...

- Would a privatized death row be acceptable?
- Contract out executions if it saved 10%?
- Have Michigan DOC be a subsidiary of private corp?
Concerns II: Crony Capitalism

- Weak and flawed systems of monitoring
- Companies deal with more contracts and better understand the profit-making potential of certain contractual language
- Few penalties for violating contract, insufficient for deterrence
- “Take or Pay”: Pay for 90 or 95% occupancy regardless of actual number of inmates
Concerns III: “Endanger democratic processes”

Private prisons were born from unjust policy; they depend on its continuation for growth and profit.

GEO Group, 2010 Annual Report “Risk Factors”:

- the demand for our services could be adversely affected by the relaxation of criminal or immigration enforcement efforts, sentencing or deportation practices, and the decriminalization of certain activities. For example, any changes with respect to the decriminalization of drugs could affect the number of persons arrested, convicted, sentenced and incarcerated, thereby potentially reducing demand for correctional facilities to house them.
Concerns IV: Little (if any) savings

Overhead costs
- Executive pay, executive pay consultants
- Customer acquisition (lobbying, political donations)
- Securities and Exchange Commission filings
- Investor relations, shareholder lawsuits
- Consultants for mergers, acquisitions, reorganization
- Auditing (international operations)
- Unused potion of credit line

Top Wage in Public DOC vs. Private Prisons, 2007

<table>
<thead>
<tr>
<th>State/Company</th>
<th>Position</th>
<th>Salary</th>
<th>Inmates Under Supervision</th>
</tr>
</thead>
<tbody>
<tr>
<td>GEO</td>
<td>Chairman, CEO</td>
<td>$2,926,813</td>
<td>54,000</td>
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<tr>
<td>CCA</td>
<td>President, CEO</td>
<td>$1,887,951</td>
<td>72,000</td>
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<tr>
<td>California</td>
<td>Secretary</td>
<td>$225,000</td>
<td>172,365</td>
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<td>Michigan</td>
<td>Director</td>
<td>$145,000</td>
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<tr>
<td>Ohio</td>
<td>Director</td>
<td>$118,205</td>
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</tbody>
</table>

CEO salary excludes stocks and stock options. Inmates under supervision excludes probation and parole.

Selman and Leighton, *Punishment for Sale*, p 137
Concerns VI: Promote Inequality

- Able to make profit and provide the same service with higher overhead costs because of lower salaries for the people who work in the prisons

- Median earnings in 2010 for correctional officers and jailers was
  - $39,040 for government employees
  - $30,460 for private prisons

- Lower wages = More employee turnover

Concerns VII: Save 5% (?) but weaken Michigan economy

Public

$ out of state for supplies, food

Private

CEO pay, Wall St lawyers, banks & consultants, lobbying, campaign donations, supplies, food, etc

Michigan salaries

$
Japan

• After WWII, “self-defense force” and little military industry

• Low rates of crime and incarceration, so little CJ-industrial complex

• Incarceration rate:
  • US – 707/100,000 (2012)
  • Japan – 51/100,000 (2013)

(International Centre for Prison Studies, prisonstudies.org)
1999 Act on Promotion of Private Finance Initiative (PFI)

- Partnerships for “offender rehabilitation facilities” – not prisons
- 50 localities wanted one, built 4

(Definition)

Article 2

(1) The term "Public Facility etc." as used in this Act means the following facilities (including equipments):

(i) Public facility such as roads, railways, ports and harbors, airports, rivers, parks, water services, sewage systems, and industrial water supplies;

(ii) Official facilities such as government buildings and accommodation;

(iii) Public interest facilities such as public housing, educational and cultural facilities, waste treatment facilities, medical facilities, social welfare facilities, offender rehabilitation facilities, parking, and underground malls;

\[1 \text{ Literal translation of this act is "The Act on Promotion of Provision etc. of Public Facility etc. through Utilization of Private Finance etc." We use the term "PFI (Private Finance Initiative)" because this act is widely known as "PFI Act" in Japan.}\]
Shimane Asahi Rehabilitation Center

- Last of four PFI Prisons to be built
- Region rural and elderly; rich farmland, nice scenery
- Capacity 2,000
- Opened 2008

I would like to thank the Warden of Shimane Asahi, Fumiya Tezuka, for allowing me access and giving graciously of his time. Akinobu Sato was a very helpful point of contact and his translation work was invaluable. Atsuko Otsuka also provided high level translation; our subsequent discussions have added considerable depth to my understanding.
US Private prisons v Japanese PFI

U.S.

Government

One Private Sector Company

Warden & Staff

Japan

Government

Warden, Treatment, Support Planning & Contract Compliance

Many Private Sector Companies
3 “pillars” of Shimane Asahi

• Public-private partnership
  o Technology and innovation

• Education, vocational training and rehabilitative programs
  o Special programs, training and therapeutic gardens for emotionally disturbed inmates

• Partnership with the local community
  o “Co-building” – Center for Regional Engagement

…”aims to create prisons that the public can understand and support”

Technology & innovation I

• Scanning equipment for drugs and contraband...

• ... means no strip searches

Better environment for inmates, guards and inmate-guard relationships
Technology & innovation II

• “Location information system” – RFID tags that show the inmates’ location in real time
  - No lockdowns for daily counts
  - Warning when inmates out of place

• +660 cameras
  - Watch inmates and remotely open doors – “moving around unescorted”

• Kiosk (commissary, appointments)

Programs I

“programs that have proved to reduce the recidivism rate in Europe and the United States”

+ Horse (“Equine Assisted”) Therapy and Horticulture

Mentally and emotionally disturbed inmates

- Making masks and beaded costumes for local festival
- Therapeutic gardens
- Social skills training

Programs III (Giving Back)

• Translate books into Braille
• Train Seeing Eye Dogs
  o First Japanese prison-based guide dog program
• Repair bicycles for 3rd World medical workers and Great East Japan Earthquake victims

Minister of Justice with first certified guide dog trained in a prison
(Asahi.com, 20 June 2013)

Obayashi Corporate Report 2012: Financial, Social and Environmental Performance
Regional Engagement

From Akihiko Kimura, The Development of PFI in the Prison Sector in Japan. Presented at the 3rd Annual Meeting for PPP/PFI Promotion Between Japan and Korea
Conclusions

• The problem in the U.S. is the “warehouse prison” from Supreme Court decision in *Brown v Plata*.

  California had to release 46,000 inmates to get down to 137.5% of capacity in 2 years.

  “Needless suffering and death have been well-documented.” (p 3)
The “warehouse prison” problem

More radical still was a proposed amendment to the state constitution requiring it to spend more on higher education than prisons...
The “warehouse prison” problem

We should not be debating how to do this more cheaply and efficiently.
The warehouse prison-industrial complex

Building prisons instead of funding prevention is like mopping water off the floor while we let the tub overflow. Mopping harder may make some difference but does not do anything about the open faucet.

-Elliott Currie
Quoted in Selman and Leighton. 2010. Punishment for Sale. (p 26)

We don’t need an allegedly better mop

The post-warehouse prison

• Reaffirm rehabilitation...

“the rehabilitative ideal draws its power from its nobility and its rationality — from the promise that compassionate science, rather than vengeful punishment, is the road to reducing crime. Rehabilitation allows us to be a better and safer people”

• -Francis Cullen

The post-warehouse prison

• ... but no “industrial complexes”

• Local groups and resources

• Non-profits and NGOs

http://occuprint.org
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More information about him is available on his website, http://paulsjusticepage.com/paul/pauls-cv.htm

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