

The Social Function of the Prisons in the United States

By Bettina Aptheker, 1971

Officially it is maintained that there are no prisons in the United States. There is a Department of Corrections, and there are “correctional facilities” equipped with “educational programs,” “vocational training” and the necessary “psychiatric therapy.” There are also no prisoners in the United States; there are only “inmates.” There are most certainly no *political* prisoners in the United States; only “terrorists” and those who “perpetrate criminal violence” — which is known in the international arena as “criminal communist aggression.”

The semantic somersaults of the prison and State bureaucracy serve a calculated and specific ideological function. Once we penetrate this linguistic shield we have the key to understanding the social and political functions of the prison system.

The dominant theoretical assumption among social and behavioral scientists in the United States today is that the social order is functionally stable and fundamentally just.

This is a very basic premise because it means that the theory *must* then assume the moral depravity of the prisoner. There can be no other logical explanation for his incarceration. It is precisely this alleged depravity that legitimates custody. As George Jackson put it: “The textbooks on criminology like to advance the idea that the prisoners are mentally defective. There is only

the merest suggestion that the system itself is at fault ... ”¹ Indeed, the assistant warden at San Quentin, who is by profession a clinical psychologist, tells us in a recent interview that prisoners suffer from “retarded emotional growth.” The warden continues: “The first goal of the prison is to isolate people the community doesn’t want at large. Safe confinement is the goal. The second obligation is a reasonably good housekeeping job, the old humanitarian treatment concept.”² That is, once the prisoner is adequately confined and isolated, he may be treated for his emotional and psychological maladies – which he is assumed to suffer by virtue of the fact that he is a prisoner. We have a completely circular method of reasoning. It is a closed-circuit system from which there is no apparent escape.

The alleged criminal characteristics of the prisoner must, in accord with this logical sequence, arise from *within* the prisoner himself – the prisoner is “crime-prone” like some people are supposed to be “accident-prone.” In the nineteenth century, leading theorists put forth the idea that the criminal had certain *physical* characteristics which shaped his destiny of crime, e.g. slanted eyes and a broad forehead. The alleged depravity and criminality of the poor – because they are poor – is an even older theme in class society, e.g. the ancient idea of the “dangerous poor”; and the oft-repeated phrase of the Founding Fathers, “the rich, the wellborn and [therefore] the able.” Now our leading penologists and criminologists are much more subtle and sophisticated. They

¹ George Jackson, *Soledad Brother*, Bantam Books, New York, 1970, p. 29

² See the especially good article by Jessica Mitford, “Kind and Usual Punishment: The California Prisons,” *The Atlantic Monthly*, March 1971.

have a veneer of humanitarian instinct but it quickly falls away revealing the racist, anti-human core.

Now, it is argued, the criminal may look like anybody else; but he has acquired certain *psychological* characteristics which dictate his pattern of criminal behavior. To “unacquire” these characteristics a leading behavioral scientist, James V. McConnell, explains that: “We have but two means of educating people or rats or flatworms – we can either reward them or punish them ... ”³ The treatment for what McConnell calls “brainwashing the criminals” to ultimately restructure their entire personality is an alternating sequence of reward and punishment (including especially so-called Shock Treatment) until the prisoner has “learned” what the society defines as noncriminal behavior.

The source of criminality then is psychological rather than social. The solution to the problem is obvious: quarantine the afflicted individuals; then subject them to treatment. Hence we have *correctional* facilities rather than prisons; and we have *inmates* (as in any asylum for the insane) rather than prisoners.

As Herbert Marcuse has so aptly described it: “The language of the prevailing Law and Order, validated by the courts and by the police, is not only the voice but also the deed of suppression. This language not only defines and condemns the Enemy, it also *creates* him; and this creation is not the Enemy as

³ James V. McConnell. “Brainwashing the Criminals,” *Psychology Today*, April 1970, Vol. 3, No. 11.

he really is but rather as he must be in order to perform his function for the Establishment ... ”⁴

In this instance the Enemy is the criminal or the prisoner. The single most important thing to understand in all of this is that the behaviorist view of the criminal *has nothing to do with breaking the law*. Let us explain this with some well-known statistics.⁵

First, it is a matter of common knowledge that only a small number of law violations is detected and reported. Further, even of reported violations only a small percentage actually result in police investigations and arrest.

Second, 90 per cent of all criminal defendants in the United States today *plead guilty without a trial* because they cannot afford a lawyer, and hope for judicial leniency.

Third, 52 per cent of all people in county and city jails have not been convicted of any crime; they simply cannot afford bail. Many will spend months and even years in jail, awaiting trial.

Fourth, between 30–50 per cent of the prisoners in various cities and states are Black and Brown, while Black people, for example, constitute about 15 per cent of the total population. In the State prisons in California there are 28,000 prisoners, 45 per cent of whom are classified as “non-white.”

⁴ Herbert Marcuse, *Essay on Liberation*, Beacon Press, Boston, 1970, p. 74.

⁵ *Time* magazine, “U.S. Prisons: Schools for Crime,” January 18, 1971.

It should be perfectly clear that thousands upon thousands of people presently in jail and prison have broken no laws whatsoever.

The conclusion from all of this is apparent. Professor Theodore Sarbin of the University of California criminology department put it very well: "... membership in the class of people known as 'law-breakers' *is not* distributed according to economic or social status, but membership in the class 'criminals' *is* distributed according to social or economic status ..."⁶

Example: the ten executives of the General Electric Company convicted in 1961 of price-fixing involving tens of millions of dollars are law-breakers, and some of them actually served some months in prison. Still, the society does not consider them criminals.

By way of contrast, a Chicano or Black youth alleged to have stolen ten dollars from a grocery store is not only considered a criminal by the society, but this assumption allows the police to act with impunity. They may shoot him down in the street. Chances are it will be ruled justifiable homicide in a coroner's inquest.

What then is the political function of the criminal and the prisoner as they are created and described by the bourgeois penologists and criminologists?

Consider penology as one aspect of the theory and practice of containment on the domestic front; that is, consider penology as the confinement and

⁶ Theodore R. Sarbin, "The Myth of the Criminal Type," Monday Evening Papers #18, Center for Advanced Studies, Wesleyan University, 1969.

treatment of people who are *actually or potentially* disruptive of the social system.

In an increasing number of ways the entire judicial and penal system involving the police, the courts, the prisons and the parole boards has become a mechanism through which the ruling powers seek to maintain their physical and psychological control, or the threat of control, over millions of working people, especially young people, and most especially Black and Brown young people. The spectre of the prisons, the behavioral psychologists, the Adult Authority, the judicial treadmill, haunts the community.

Examine for a moment the operations of the Adult Authority. In California roughly 97 per cent of the male prisoners are eventually released from prison — all of them via parole. A man is sentenced to a term in prison. In addition to whatever time he actually serves in prison, he is released on parole for five, even ten or more years. The conditions of his parole are appalling. For example, he can be stopped and searched at any time; his house can be entered without a warrant; he needs the permission of his parole officer to borrow money, to marry, to drive a car, to change his job, to leave the county, and so forth. If parole is revoked the prisoner is returned to custody without trial to complete his full sentence. Members of the Adult Authority are appointed by the Governor. They are answerable to no one. This, combined with California law which allows “indeterminate sentences” for felony convictions, e.g. one year to life imprisonment, gives the parole board incredible powers.

This entire complex is a system of tyranny under which an ever-increasing number of working people — again especially Black and Brown people — are

forced to live. As such, it is a prelude to fascism. Indeed, Professor Herbert Packer of the Stanford Law School is exactly right in his conclusion that "... the inevitable end of the behavioral view is preventive detention ..."⁷

For once you accept the behavioralist view of the criminal as morally depraved or mentally defective it is perfectly logical to preventively detain *all* persons who manifest such tendencies and are therefore *potential* criminals. Thus, in April 1970 a leading physician and close associate of President Nixon proposed that the government begin the mass testing of 6- to 8-year-old children to determine if they have criminal-behavior tendencies. He then suggested "treatment camps" for the severely disturbed child and the young hard-core criminal.

Even more consequential in terms of their potential political impact are the proposals of Edward C. Banfield, a professor of Urban Government at Harvard, and the chairman of President Nixon's task force on the Model Cities Program. Professor Banfield has recently written a book entitled: *The Unheavenly City: The Nature and Future of Our Urban Crisis*. Banfield's analysis of the urban crisis exactly coincides with the behaviorists' view of the criminal. That is, the cause of the urban crisis lies with the existence of what Banfield calls the "lower classes" who are poverty-prone. These lower classes are of course working people, and Black and Brown people in particular. They are, Banfield would have us believe, morally depraved and mentally defective. For example, Banfield describes people of the lower classes (quoting from different passages

⁷ Herbert L. Packer, "Crimes of Progress," *New York Review of Books*, October 23, 1969.

in his book) as: “feeble ... suspicious and hostile, aggressive yet dependent ... no attachment to community, neighbors or friends ... lives in the slum and sees little or no reason to complain ... does not care how dirty and dilapidated his housing is ... nor does he mind the inadequacy of such public facilities as schools, parks and libraries ... features that make the slum repellent to others actually please him ... prefers near-destitution, without work to abundance with it ... the morality of lower-class culture is preconventional, which means that the individual’s actions are influenced not by conscience but only by a sense of what he can get away with....”⁸

Banfield’s description of the lower class is in fact a description of the criminal. And it is precisely at this moment when the description of the lower class and the description of the criminal *coincide* that we have a central aspect of the ideological basis for fascism and genocide. This is exactly Banfield’s program.

Summarizing the most salient points in Banfield’s program we find these proposals: that the government avoid all rhetoric holding out high expectations for resolving the urban crisis or any of its aspects; that it try to reduce unemployment by eliminating all minimum-wage laws and by repealing all laws which give trade unions “monopolistic powers,” e.g. the closed shop; that the government abolish all child labor laws and cut compulsory education from 12 to 9 years; that it change poverty definitions from those which encompass

⁸ Edward C. Banfield, *The Unheavenly City: The Nature and Future of Our Urban Crisis*, Little, Brown, Boston, 1970, pp. 53, 62, 112, 122, 163 and 211, respectively. See the review/essay of this book by Herbert Aptheker, “Banfield: The Nixon Model Planner,” *Political Affairs*, December 1970.

relative standards of living to a “fixed standard” and that it encourage or require all persons who fall into this fixed poverty standard to live in an institution or semi-institution; that the government institute vigorous birth control measures for the incompetent poor and send their children to public nurseries; that the government intensify police control and specifically permit the police to ‘stop and frisk’ and to make misdemeanor arrests on probable cause; that the government speed-up trials and the punishment process; and that the government “abridge to an appropriate degree the freedom of those who in the opinion of a court are extremely likely to commit violent crimes...”⁹

This is a *fascist* program. It is a *genocidal* program.

Aspects of it are already to be found in Nixon’s Organized Crime Control Bill signed into law in October (1970). For example, this bill provides for a special category of ‘criminals’ known as “special dangerous offenders.” Such a person is defined, in part, as an offender who has been convicted of two or more offenses of a kind punishable by death or imprisonment for one year, one of which offenses occurred within the past five years and for one of which he has been imprisoned. As the *New Republic’s* columnist, TRB, noted: “That’s a curious juxtaposition—‘punishable by death or imprisonment for more than one year.’ Quite a range, eh?” The “special dangerous offender” can be imprisoned for 20 years at the discretion of the judge, regardless of the prescribed punishment for the original offense for which he was brought to trial.

⁹ *Ibid*, pp. 245–246.

Here then lies the final significance of a mass political movement to expose the prisons and free the prisoners. The issue is not only reform, but also to mount a struggle to abolish the present functions and foundations of the prison system, an effort which can finally succeed only with the abolition of capitalism. For, as Engels observed more than a century ago, the prison system under capitalism is overwhelmingly a repressive institution, an appendage of its state apparatus employed to maintain exploitative and oppressive social conditions. Of course, what reforms can be won in day-to-day battle on the legal and political front will be important concessions. But the point is to attack the whole foundation—all the assumptions—involved in maintaining a rehabilitative prison system which must assume the moral and mental defectiveness of its victims, in the midst of a morally bankrupt, racist, defective and generally deteriorating social order. To do this now is to launch a front-line offense against the increasingly fascistic thrust of the present administrations in Washington and Sacramento.¹⁰ For the movement to abolish the present functions of the prison system attacks a basic ideological pillar of fascism at its root.

It is on the basis of these realities that we in the radical and revolutionary movements must broaden and develop our concept of the political prisoner. For the prison system and its various appendages such as the Adult Authority is increasingly used as a political instrument of mass intimidation, subversion,

¹⁰ See Susan Castro, "Line of Defense Against Fascism," *People's World*, June 1970, p. 10.

manipulation and terror against working people and the Black and Brown communities, *as a whole*.

In this regard we may consider four groupings of prisoners who are prisoners by virtue of their political views and activities or are specially victimized on the basis of class, racial and national oppression. First, of course, there are those who become effective political leaders in their communities, and therefore become the victims of politically inspired police frame-ups. They are not imprisoned for any violations of law; but for their political beliefs. Such political prisoners include Bobby Seale, Ericka Huggins, Reies Tijerina and Angela Davis. There is a second, though similar category of political prisoner; that is, those who have committed various acts of civil disobedience, or refused, for example, to be inducted into the Armed Forces. They are in technical violation of various laws; but their violations were clearly political acts, and they are political prisoners. Such political prisoners include the Berrigan Brothers, and many thousands of draft resisters. Moreover, there are many in the liberation movements who engage in specific acts of resistance or armed self-defense—both within and outside the prisons—which may constitute violations of law. These actions are politically conceived and engendered by the overt acts of brutality, terror and suppression inside the prisons, and in the ghettos and barrios.

Third, there are many thousands of originally non-political people who are the victims of class, racial and national oppression. Arrested for an assortment of alleged crimes, and lacking adequate legal or political redress they are imprisoned for long years, in violation of fundamental civil and human rights though they are innocent of any crime.

Finally there are many in prison who have committed various offenses, but who, in the course of their imprisonment, and due to the social conditions they experience, begin to develop a political consciousness. As soon as they give expression to their political views they become victims of politically inspired actions against them by the prison administration and the parole boards. They too may become victims of politically inspired frame-ups within the prison. There are today many who were either never guilty of any crime at all, or were guilty of some offense, and later developed a political consciousness. These include the Soledad Brothers, Ruchell Magee, and the Folsom Strikers.

The intensification of the oppressive functions of the prison system and the emergence of the liberation movements on a new level in the Sixties create the basis for a change in the political consciousness of people in the communities. More and more people have begun to understand the practical consequences of the prison-police-judicial apparatus. It is this fact which now offers us new opportunities to secure greater and greater mass opposition to the frame-ups and jailings of all political prisoners.

Further, it is precisely this intensification of the socially oppressive function of the prison system, and the stunning rise of the liberation movements, that creates the basis for a political consciousness among the prisoners *as a whole* leading to individual acts of resistance and other forms of struggle, including mass political work stoppages by the prisoners and temporarily taking over prison facilities. The greatest achievement of this movement is its growing awareness of the *class* nature of the prison system. In this way it has been able to unite Black, Brown and white prisoners around specific demands such as we saw in the magnificent Manifesto of the Folsom Prisoners.

The development of a mass movement to free all political prisoners represents the emergence of another front —another aspect—of the growing coalition of all oppressed and exploited peoples against capitalist rule.

If we begin to grapple with some of these developments; if we begin to see the relationship between the prison system and fascist ideology and program; if we begin to see that we must develop our concept of the political prisoner; and if we begin to see the relationship between containment at home and counterinsurgency and aggression abroad—then, we will have opened up whole new avenues for legal and political defense involving many thousands of people which will, in fact, constitute an important part of a peoples' offensive against the Nixon-Reagan-Agnew axis.

Seize the Time!