

Critical Dialogue: The Carceral State

Arresting Citizenship: The Democratic Consequences of American Crime Control. By Amy E. Lerman and Vesla M. Weaver. Chicago: University of Chicago Press, 2014. 312p. \$85.00 cloth, \$27.50 paper.

The First Civil Right: How Liberals Built Prison America. By Naomi Murakawa. New York: Oxford University Press, 2014. 280p. \$99.00 cloth, \$24.95 paper.
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— Marie Gottschalk, *University of Pennsylvania*

Fifteen years ago, a small group of scholars and activists began embracing the term mass incarceration to refer to the unprecedented explosion in the size of the U.S. jail and prison population since the mid-1970s. At the time, it was an obscure concept.

Today, high school and college students across the country are taking courses on mass incarceration. Numerous church and community groups have been reading Michelle Alexander's *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2010). Public figures spanning the political spectrum from Grover Norquist to Eric Holder to Rachel Maddow now identify mass incarceration as a leading public issue. So does *Sesame Street*. In 2013, the popular children's show introduced the first Muppet who has a parent in prison.

The general public has been slowly waking up to the idea that the United States is the world's warden, incarcerating more people in absolute and proportional numbers than any other country. Meanwhile, scholars and activists have started to popularize a new concept: the carceral state, or what I like to call "the prison beyond the prison."

Embedded in an ostensibly democratic state, the carceral state operates an extensive and unprecedented system of surveillance and punishment through a set of institutions, including police departments, prosecutors' offices, corrections departments, and the courts, that are increasingly unaccountable to the wider polity. The carceral state metes out an enormous and growing array of penal and nonpenal sanctions. It surveils and controls wide swaths of people, many of whom have never been charged or convicted of a crime. The brunt of the carceral state falls hardest on the most dispossessed groups, including the poor, people of color, the mentally ill, and immigrants. But in levying more punishments and controls on these groups, the carceral

state has begun to deform the wider polity and society in significant ways, as Naomi Murakawa, Amy Lerman, and Vesla Weaver show.

The carceral state has become a key governing institution in the United States and a major source of political, social, and economic inequalities. It is no longer just a problem largely confined to the prison cell and prison yard and to poor urban communities and minority groups—if it ever was. The U.S. penal system has grown so extensive that it has begun to metastasize. It has altered how key governing and public institutions operate, everything from elections to schools to social programs like public housing and food stamps.

The emergence and consolidation of the U.S. carceral state is a major milestone in American political development that arguably rivals in significance the expansion and contraction of the welfare state in the postwar period. In *The First Civil Right*, Murakawa persuasively challenges the conventional view that dates the origins of the carceral state to the mid-1960s and the emergence of the Republican Party's racially charged southern strategy based on restoring "law and order." She identifies "race liberals" associated with the Democratic Party as key architects of the carceral state. "In the end," she argues, "the Big House may serve racial conservatism, but it was built on the rock of racial liberalism" (p. 151).

According to Murakawa, the ways in which President Harry Truman and other race liberals initially formulated the law-and-order issue made it ultimately vulnerable to capture by "race conservatives" calling for more punitive measures. Long before the national crime rate began its sharp decade-long climb upward in the mid-1960s, law and order had already catapulted to the forefront of national politics. The numerous disputes and protests over instances of police brutality and over police inaction in the face of organized and wide-scale white violence in the 1940s directed at blacks, Mexican Americans, and other people of color forced white liberals to take action. For a fleeting moment, Truman and other race liberals embraced an encompassing vision of the law-and-order problem, she explains. As articulated by Truman's Committee on Civil Rights, defending "law and order" meant defending the "first civil right," which it defined as freedom from violence in all its manifestations. Foremost among them

was violence perpetrated by the state and by organized groups of whites against blacks and others who were challenging the country's entrenched color line.

Race liberals singled out prejudice itself as the main source of white lawlessness and called for greater federal leadership and enhanced law-enforcement resources to purge the criminal justice system of bias and discrimination. They rejected a more structural understanding derived from the anticolonial movement that viewed racism as a deeper systemic problem that pervaded the country's social, economic, and political structures. Race liberals told a causal story in which decades of state-sanctioned segregation and discrimination under Jim Crow had acutely damaged the psyche and culture of many blacks and had rendered the legal system illegitimate in their eyes. As a consequence, they argued, blacks were more prone to criminality. For race liberals, ending Jim Crow and building a more procedurally fair, neutral, and uniform criminal justice system that constrained the discretion of whites to act on their racial prejudices would resolve both the law-and-order problem and the civil rights problem.

This turned out to be a costly and risky strategy, according to Murakawa. As early as 1943, Phileo Nash, a special adviser to Truman, was warning against tethering the cause of civil rights to promises that more proceduralism would yield less crime. Doing so, he said, would leave the civil rights agenda and the Democrats who promoted it politically vulnerable. In what turned out to be a chillingly prescient observation, Nash noted, "If a public relations program in race relations is developed around a pronouncement from a high official on the importance of law and order, then every breach of law and order is a slap in the face of the program and speaker" (quoted in *The First Civil Right*, 2014, p. 28).

Race liberals associated with Truman sought a greatly expanded role for the federal government in the administration of criminal justice and law enforcement at the local and state levels and in the prosecution and punishment of civil rights crimes. They supported a flurry of bills in the 1940s and 1950s to provide greater federal assistance to equip, train, and professionalize local and state police forces so that they would be better able to protect African Americans and their allies from violence directed at them by whites defending the color line.

Meanwhile, conservative southern Democrats opposed to desegregation and civil rights were challenging race liberals by formulating their own association among civil rights, criminality, and blackness. Southern Democrats began pushing for enhanced police forces and law enforcement, but for different reasons than the race liberals associated with Truman. They sought an expanded criminal justice apparatus as a way to stem what they charged was the increased lawlessness on the part of African Americans and their supporters who sought to bring down the Jim Crow regime.

Between the mid-1960s and mid-1970s, the national homicide rate doubled. The lack of a consensus on what caused the alarming increase in violent crime opened up enormous space to redefine the law-and-order problem and its solutions. Foes of civil rights increasingly sought to associate concerns about crime with anxieties about racial disorder, the transformation of the racial status quo, and the wider political turmoil of the 1960s.

Aiming to neutralize conservative critics, President Lyndon B. Johnson signed the Omnibus Crime Control and Safe Streets Act in 1968, which accorded the federal government a new and much larger role in criminal justice and law enforcement. As this landmark bill moved through Congress, southern Democrats and their Republican allies outmaneuvered race liberals time and again. They enshrined funding formulas that gave state governments—not cities or the federal government—enormous leeway to distribute the money as they saw fit, as Murakawa explains.

In the face of massive urban unrest that was increasingly criminalized and racialized in public debates, many states opted to prioritize riot control and militarization of the police over crime prevention and rehabilitation, two of the stated goals of the Safe Streets Act. In doing so, they legitimized and institutionalized the idea that greater law-enforcement capacity was the best way to combat crime and political unrest. This legacy was dramatically on display on the streets of Ferguson, Missouri, in the aftermath of the death of Michael Brown, who was killed by police officer Darren Wilson last August.

When President Johnson launched his war on crime, he linked it to the war on poverty and stressed the need to address the root causes of crime. But the root-causes approach, which called for addressing the crime problem by investing more in education, health, welfare, and other social and economic programs, not just law enforcement, lost out in public debates.

The conventional view accords conservatives a pivotal role in delegitimizing the root-causes approach. Murakawa, however, argues that race liberals were central actors in the turn away from root causes. Dating back to the 1940s, race liberals had consistently prioritized greater investments in law enforcement and neutral procedures over addressing the root causes of crime. Many—but not all—race liberals remained confident over the decades that establishment of a modernized, rationalized, and uniform sentencing structure and of professional police forces was the best way to combat crime and guard against the creation of a criminal justice system that was excessively punitive and excessively biased against minorities.

By the late 1960s, southern Democrats, Republicans, and some northern liberals had converged on important common ground with respect to the law-and-order question, according to Murakawa. For Republicans and southern Democrats, the expansion of civil rights

fostered crime “by disrupting the harmonious segregation of the races and by validating black civil disobedience” (p. 14). For many race liberals, the incomplete civil rights agenda was the main cauldron of crime. Both explanations identified “blacks as default subjects in the crime problem” and thus generated support for a vast expansion of the law-enforcement apparatus, but for different reasons (p. 14).

Murakawa takes Gunnar Myrdal, President Truman, Senator Edward Kennedy (D-MA), and other race liberals to task for embracing the idea that the original sin of white individual prejudice was at the root of black criminal propensities. In doing so, the liberal law-and-order regime entrenched powerful notions of black criminality (p. 151). It also deflected attention away from the myriad ways that violence perpetuated by the state—whether by militarized police officers, or by prison officials largely immune from criminal charges or civil suits, or by prosecutors who casually dispense decades-long and life-long sentences, or by parole and probation officers who control the most mundane aspects of peoples’ lives—has continued to circumscribe the life chances of African Americans and other dispossessed groups in the United States and to render them second-class citizens. The intense national spotlight on instances of sensational violence in the South—including the 1955 murder of Emmett Till and the lethal bombings of black churches—drained political attention away from what Murakawa characterizes as the “routine violence of standard policing and legal incarceration” throughout the country (pp. 57, 67).

By the 1970s, combating the root causes of crime and discrimination was a distant secondary concern for many race liberals. By then, the two major political parties had come to align themselves in remarkably similar ways on the law-and-order question. These developments ushered in what Murakawa describes as “The Era of Big Punishment” in the 1980s and 1990s. She presents damning evidence of the complicity of race liberals in the passage of the signature punitive legislation of the Reagan and Clinton years. She charges that the Democratic Party’s punitive turn entailed a deliberate distancing from racial egalitarianism. The punitive turn gained such traction largely due to the institutional legacies from the law-and-order crusades that began in the 1940s.

The First Civil Right is a fresh and compelling account of the origins, development, and lasting consequences of the carceral state. Indeed, it is a shining example of many of the hallmarks of what was once the exceptional niche that scholars associated with historical institutionalism and American political development carved out a generation ago: a willingness to tackle big, important political questions that often have enormous public policy and normative implications and that cannot be neatly sliced and diced; a high tolerance for answers that are sometimes messy and often not parsimonious; a healthy skepticism toward the neat and conventional periodizations that

bookend political moments like the “the law-and-order era”; use of some basic analytical tools and frameworks from history, politics, and sociology in order to illuminate an important political phenomenon or problem but not necessarily to develop a grand theory of politics; a foregrounding of substance over methodology; and, finally, an enthusiasm for tackling what Ira Katznelson once described as the “silences” in the study of politics and public policy, especially the complex and intersecting ways in which race, class, ethnicity, and gender have altered the course of American political development (“Rethinking the Silences of Social and Economic Policy,” *Political Science Quarterly*, 1986).

Murakawa’s book is a poignant reminder of what has been increasingly lost, as a display of mixed methods has in many instances become the price of professional admission for scholars of historical institutionalism and American political development. This has meant, in many cases, the sacrifice of what had once been so distinctive about historical institutionalism and its approach to the study of American politics. It has entailed a slide down the slippery slope of posing smaller questions that can be nailed with methodological rigor but that yield neat but “so what” conclusions. Fortunately, Murakawa has defied these trends and written a big, important book on the carceral state that will be a touchstone for discussions of race, liberalism, and penal reform for years to come.

While Murakawa focuses on the politics and ideologies at the elite level that built the carceral state, Lerman and Weaver are primarily concerned with the “lived experiences” of the millions of people caught up in the carceral state. They call for expanding our analytical gaze beyond the 2.3 million people sitting in jail or prison today to encompass the tens of millions of other “custodial citizens.” The overwhelming majority of these people have never been found guilty of a serious crime or indeed of any crime. They include people who have been stopped by the police but never arrested, or arrested but never charged, or charged with a minor offense like loitering or graffiti or public drunkenness that in another era would have been overlooked or mildly sanctioned. Lerman and Weaver put a much-needed human face on these millions of custodial citizens, who are often overlooked or demonized in public debates about crime and penal policy.

As the authors persuasively demonstrate in *Arresting Citizenship*, the vast number of custodial citizens and the vast controls and pernicious stigmas they must negotiate on a daily basis raise deeply troubling questions about the health of democratic institutions in the United States and about the character of the liberal state. Lerman and Weaver artfully mine a trove of general survey data and original interview data to document in mournful detail how millions of custodial citizens face powerful barriers to full citizenship that are largely invisible to the wider public but are politically, socially, and economically debilitating.

The denial of core civil liberties and social benefits because of a criminal conviction, the deeply stigmatizing effects of contact with the criminal justice system, and the daily fear of being stopped by the police send a powerful negative message to custodial citizens. According to one of their interview subjects, the resounding message is: “We don’t really consider you a citizen. You look like us. You talk like us. You bleed like us. But you’re not really like us” (p. 125).

Many custodial citizens have a deep sense of political alienation. For them, the criminal justice system and the government are synonymous. As such, they describe their lives as if they were living in a semiauthoritarian country. They portray the government as a “nefarious force that was mostly impervious to their will and could rarely be held accountable for its actions” (p. 143).

These feelings have a basis in reality. Lerman and Weaver provide an excellent survey of the ways in which major institutions of the criminal justice system—the police, prosecutors, jails, and prisons—have increasingly failed to effectively balance the goals of coercion and responsiveness and to address the problems of crime and public safety while remaining democratically accountable (p. 61). Many of their interviewees know a lot about politics and have strong views about the government. But they recoiled from electoral politics (even when there were no formal barriers to voting) and many other acts of political expression. Reinforcing the findings of Cathy Cohen (*Democracy Remixed: Black Youth and the Future of American Politics*, 2010), Traci Burch (*Trading Democracy for Justice: Criminal Convictions and the Decline of Neighborhood Political Participation*, 2013), Alice Goffman (*On the Run: Fugitive Life in an American City*, 2014), and others, Lerman and Weaver describe the ins and outs of the ways that custodial citizens cope by pursuing a strategy of staying below the radar screen.

Black custodial citizens experience an additional layer of entrapment. Many of them subscribe to a complex racial narrative that is an impediment to the development of a collective consciousness to mobilize against the carceral state (p. 197). As the authors explain in *Arresting Citizenship*, “black custodial citizens seeking to make sense of racially inflected institutions and experiences are left struggling for a clear framework that integrates the ideology of personal responsibility with their lived experiences of structural disadvantage and racialized poverty” (p. 169).

Lerman and Weaver’s nuanced excavation of the origins and manifestations of this complex narrative in custodial citizens is one of the highlights of the book. Along with Murakawa, they take racial liberalism to task for enshrining the idea in public discourse that ending overt discrimination would soon end racial inequality and for rendering invisible the structural factors and implicit biases that keep a disproportionate number of African Americans ensnared in the carceral state.

Lerman and Weaver also take to task the long line of public figures, including some leading African Americans, who have stressed the preeminence of personal responsibility—not structural factors—in determining who climbs up the economic ladder and who is more likely to remain at the bottom and to run afoul of the law. Jails, prisons, and reentry and rehabilitation programs reinforce this message by bombarding custodial citizens with messages about the need “to make better choices” and “take responsibility for your life” (p. 168).

The carceral state is a deeply entrenched institution that is politically enervating, especially for the millions of people most directly damaged by it. Lerman and Weaver’s qualified optimism in their conclusion—that we may be at the cusp of an important turning point away from the carceral state—may not be justified. Murakawa’s pessimism may be more on the mark. So long as we fail to confront the damning fact that the bricks of racial liberalism were important building blocks of the prison beyond the prison, according to Murakawa, we will remain mired in administrative tinkering that leaves the carceral state largely intact.

Caught: The Prison State and the Lockdown of American Politics. By Marie Gottschalk. Princeton: Princeton University Press, 2014. 496p. \$35.00.

The First Civil Right: How Liberals Built Prison America. By Naomi Murakawa. New York: Oxford University Press, 2014. 280p. \$99.00 cloth, \$24.95 paper. doi:10.1017/S1537592715001371

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We are extremely pleased to have been invited to take part in this “dialogue.” First, we appreciate the opportunity to situate our own book in a broader conversation with two excellent scholars whose work we have long admired. More significantly, however, we hope that this exchange highlights a rapidly growing body of work by political scientists on the important topic of crime and punishment.

The two books we review here, Marie Gottschalk’s *Caught* and Naomi Murakawa’s *The First Civil Right*, are important not just as individual works but because they showcase the many ways in which the theories and tools of political science enable us to extend, alter, and complicate the study of crime control in America. In this review, we point to the key ways in which these books not only provide new evidence on crime and punishment but also begin to apply a set of different frameworks—employing tools of the trade in political science—to these important subjects of inquiry. We conclude by posing a number of additional questions these books raise and laying out an agenda for the continued growth of work on criminal justice and governance in America.

The Political Science Puzzles of Crime and Punishment

These two books provide distinctly different entrees into the politics of mass incarceration. Murakawa's is a detailed political history, tracing racial framings of the crime problem in federal policymaking since the 1940s. Gottschalk's study is a broad assessment of the state of imprisonment today, offering a thorough and pointed critique of the notion that fiscal pressures on state budgets will necessarily usher in the beginning of the end of the carceral era. Yet these books both provide sweeping and magisterial accounts of the political forces—the frames, interests, actors, and institutions—that propelled the rise of incarceration in the United States.

Most are at least passingly familiar with the dramatic rise of incarceration in this country, and its disproportionate impact on racial minorities and the poor. The political dimensions of these developments, perhaps more than any other, involve a set of theoretical puzzles. Why, amidst a liberal tradition and trenchant “dread of government,” was the vast and expensive carceral state so enthusiastically constructed? How did the carceral state become so deeply entrenched that—even as crime rates began to decline, as the drug epidemic ebbed, and as state budgets became increasingly strapped—incarceration rates continued to rise? How, in an era when the nation had at last partially dismantled state-sanctioned race control, was a system of racial inequality so quickly and enthusiastically built? And why, at key moments during its rise, was there so little opposition to the tremendous development and maintenance of mass incarceration, even and especially by those most affected? Taken together, Gottschalk and Murakawa offer three lines of insight into these important questions.

1. In These Accounts, the Political Development of the Carceral State Provides a Stark Lesson in the Ways That Policy Proposals Can Fail to Engender a Coherent and Organized Opposition

The singularly ambitious contribution of *The First Civil Right* is that it meticulously documents the important role that the liberal “law and order” ideology played in constructing the foundations on which the carceral state was built. Murakawa's account shows us that too often, popular and scholarly accounts of the postwar rise of criminal justice have focused on the strategic policy framings, goals, and interests of conservative elites and racially resentful whites during the 1960s. Murakawa reminds us that liberals, too, were strategic actors in this period; in ignoring the political Left, we have missed “liberal racial criminalization that thrived in the full light of day” (p. 8).

Liberal framings of the issue made several perilous moves that, Murakawa argues, amounted to ceding broader attacks on the system of racial injustice, opening the way for sizable state building in the carceral domain,

and reinforcing a punitive policy direction. The liberal strategy of seeking a more predictable and race-neutral criminal justice system—a “proceduralist, rights-based state” that was “purged of discrimination”—eschewed broader justice claims. Importantly, because the new system they envisioned was based on the quality of procedures and administrative modernization, however well intentioned, it was bereft of a full-throated critique of the racial order and ended up obscuring “racial power.” By legitimizing federal intervention, constructing a new criminal code, and increasing funding to police, this strategy wound up building the very system of “lawful racial violence” that would confine blacks in the post-civil rights era. Worse, by “correcting” racism in the system, liberals ended up naturalizing the remaining racial disparities as attributable to black criminality.

Just as crucial was that liberals framed the issue of black violence and lawlessness as being psychological in nature, an automatic and natural outgrowth of white racial animus. Here, Murakawa's account follows Khalil Muhammad's brilliant analysis of the intellectual currency of “black crime” through the early part of the twentieth century in *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (2010). However, more than Muhammad, Murakawa blames liberals for their part, rather than examining (as Muhammad does) the social, political, and cultural contexts that led them to reaffirm “notions of black criminality” (p. 13). The question her analysis leaves at bay is why American political elites, intellectuals, and reformers so frequently respond to violence and other social ills through punitive state building rather than market-based alternatives or expanded safety nets that would deal with vulnerability in all its forms. As Lisa Miller pushes us to see, insecurity from predatory violence and insecurity from state punishment are two sides of the same coin of “state failure.” (“Violence and the Racialized Failure of the American State,” 2014). And works by Jonathan Simon (*Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*, 2007) and Joe Soss, Richard Fording, and Sanford Schram (*Disciplining the Poor: Neoliberal Paternalism and the Persistent Power of Race*, 2011) make clear that the logics of crime control are inextricably tied to the logics that motivate welfare and other social programs.

Gottschalk's telling gives us a distinct lens on this issue, pointing out that the building of the carceral state was fundamentally a project based on “maximum control at minimum cost with little outside oversight” (*Caught*, p. 56). This is an incredible, wide-ranging book, and it leaves no stone unturned in its account of what has not just led to but also sustained punitive politics in the United States. In Gottschalk's account, the absence of opposition was driven in part by the development of zones outside

democratic accountability and by the growth of economic dependence on the carceral state by strong interest groups. Gottschalk argues that prison practices evolved outside of public awareness not only because costs were hidden from the voting public but also because prison conditions were given little oversight, monitoring, and regulation and the Department of Justice (DOJ) was reluctant to interfere. (As she notes on p. 39, “independent oversight of U.S. prisons and jails is minimal or nonexistent compared to other Western countries.”)

2. *The Narratives Offered by Each of These Books Trace the Processes by Which Race is Continually Constructed (and Reshaped) by Political Actors and Institutions*

Both works give refreshingly new accounts of the role of race in the expansion of punishment. Gottschalk, in particular, departs from the existing narratives that identify the war on drugs, and its racial targeting, as the main engine of carceral buildup. For Gottschalk, the problem is cast in contemporary terms: First, the focus on racial aspects of incarceration has edged out other important dimensions of the issue; second, the carceral state is distinctive not just because of its huge racial disparities but because it locks *everyone* up at higher rates than other nations and in prisons that are comparatively less humane; and finally, by focusing exclusively on the black/white disparity, we miss the important effects that the carceral state has had for immigrants, poor whites, and women. Most importantly, though, race is not the grounds on which to mount sustained penal reform movements: “an emphasis on racial egalitarianism in penal policy does not necessarily result in a fairer, less punitive carceral state” (*Caught*, p. 135).

Gottschalk reminds us that “it is a sobering fact that if all drug cases were eliminated, the U.S. imprisonment rate would still have quadrupled over the past thirty-five years” (p. 128). Indeed, a central and welcome contribution of this book is its detailed documenting of a host of institutional (and institutionalized) interests in criminal justice, and the wide array of economic and political issues that do not centrally concern racial disproportionality. Yet while her attention to issues outside of race is surely welcome, does she ultimately wind up understating its centrality, ignoring how deep the roots of race run throughout political dialogues about crime and punishment in America today? A reader could plausibly conclude from Gottschalk’s account that race is only incidental to either the buildup or maintenance of mass imprisonment. However, it seems difficult to separate even the seemingly race-neutral dimensions of the carceral state from the racial biases that underlay it. Here, we agree with Claire Kim’s understanding of racial power: “The genius of racial power . . . is that it does not require intentionality on anyone’s part to reproduce

itself” (*Bitter Fruit: The Politics of Black-Korean Conflict in New York City*, 2003, p. 158).

Murakawa picks up on these themes, providing a historical analysis and distinct lens. For Murakawa, it was the singular drive to rid the system of bias that, paradoxically, ended up leading in a more punitive direction. “Race liberals” focused on procedural improvements and ending the “corrosive effect of individual prejudice” within criminal justice, while largely conceding and naturalizing its structural dimensions. Again, this particular angle provides a novel and intriguing perspective on a familiar set of issues. Readers will surely see how liberals shaped, complicated, reinforced, and even were co-opted by the conservative logics of crime control. But does Murakawa overstate the claim that it was liberals who “built the prison state”? Failing to respond appropriately to something before it occurs does not equate, as she would have it, to “building,” “constructing,” “accelerating,” or “propelling” the carceral state, all active verbs used throughout *The First Civil Right*.

In hindsight, we can all agree that the procedural, “color-blind,” race-neutral reforms brought about by racial liberalism had great costs; they often, as Lani Guinier has argued, brought “formal equality and nothing more” (“From Racial Liberalism to Racial Literacy: *Brown v. Board of Education* and the Interest-Divergence Dilemma,” 2006). However, we must be careful of present-ism in laying blame at the doorsteps of racial liberals—imputing knowledge to actors from the higher ground of the present. We know *now* what these decisions wrought. But what action was available to Harry Truman and others? As Ira Katznelson has written about Franklin Roosevelt’s Faustian bargain not to undermine Jim Crow while delivering to the nation the modern welfare state: “It makes no sense to write a retrospective morality tale condemning politicians and citizens who were imprisoned by Jim Crow. We should not imagine a freedom of action they did not have” (*When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America*, 2005, p. 29). Murakawa’s reader frequently feels that she is being asked to blame Truman for the carceral state because he sought to punish lawless whites for lynchings, or civil rights leaders because they advocated for color-blind institutions, or the Johnson administration because it urged the professionalization of police forces. Murakawa seems at points to suggest that nothing short of fully dismantling “global capitalism,” “colonialism,” and “structural racism” would have been enough.

3. *These Retellings of the Rise of the Carceral State Help Illuminate the Wide Variety of Ways That Policies Can Become Self-Reinforcing*

Both of these accounts point to the path dependence of policy design; public policies create interests, institutions, and ways of understanding the nature and solution to

a problem that more deeply entrench those policies, and help foreclose alternative solutions that might have been possible at an earlier period. In Gottschalk, we see that although the carceral state may have been built initially by political interests, economic actors and interests were quick to follow. State and local governments rapidly became accustomed to, and even dependent on, federal grants and funds from asset forfeitures. Private companies sprang up to handle lending (frequently at very high rates of return) for posting bail and covering other legal financial obligations and fees. Corporations were formed that initiated lucrative contracts for monitoring parolees and probationers, building and staffing private prisons, and handling a host of other tasks connected to prison, parole, and probation services.

At the same time, those who might logically be most opposed to the unceasing trend toward wider and harsher punishment—the communities that are most directly impacted by these moves—were systematically disempowered, disenfranchised, and ignored. Gottschalk argues, as we do in our own work, that “the government’s penal, welfare, social service, surveillance, governing, economic, and political functions have become deeply entangled in ways that are creating troubling gradations of citizenship and belonging” (*Caught*, p. 13).

More broadly, the historical accounts provided by Gottschalk and Murakawa help illustrate that the forces that grew the prison state are distinct from those that sustain it. In Murakawa’s account, we are urged to see how the defining of a problem in particular ways can have a lasting legacy decades later. She concludes that “liberal problem framings and policy solutions shaped, complicated, and ultimately accelerated carceral state development” (*First Civil Right*, p. 13). At key moments, crime “opens up political space” to frame agendas and solutions, highlighting the importance of problem definition and framing in constraining policy choices. As has been noted elsewhere, policies are constructed through a political sequence “in which institutional development renders some interpretations of problems more persuasive and makes some prospective policies more politically viable than others” (Margaret Weir, “Ideas and the Politics of Bounded Innovation,” in *Structuring Politics: Historical Institutionalism in Comparative Analysis*, 1992). Essentially, the structuring of a given problem in a particular way can lead to one set of solutions that precludes alternative policy options.

As the logic of imprisonment took hold, institutions and agencies asserted their interests and gained substantial power in political and policy debates. State Departments of Corrections became very “powerful, independent political actors in their own right” (*Caught*, p. 50). Correctional officers unions used their considerable leverage to lobby for labor protections, and California and several other states also became independent

political actors that threw their weight behind favored politicians and punitive policies. Private interests likewise engaged in the political process, lobbying policy-makers for continued access to the stream of revenue that mass incarceration had wrought.

Factors Helping Us Understand the Future of the Carceral State

These three lines of insight from *Caught* and *The First Civil Right* should leave us with a fair bit of pessimism about whether we will witness the end of the prison boom any time soon. Certainly, both authors are wary that the political movement to assert law and order that has dominated the modern era leaves room for any real discussion about the structural causes of crime. Instead, they suggest that the legacy of imprisonment politics has left us with a self-reinforcing system whose logic is driven by the pursuit of administrative efficiency and the fiscal imperative. As Gottschalk cautions, economic constraints alone do not mean the end is in sight. The economic interests of private actors—who now constitute major players in nearly every stage of the criminal justice pipeline—will not be so easily disentangled from current modes of detaining, adjudicating, and punishing. Rather, the result of recent state budgetary crises may instead be “leaner and meaner prisons,” with little in the way of true reform.

Nor will heightened discussion of racial disparities, reflected in the widespread attention to the work of Michelle Alexander and bolstered by the recent killings of black men by police, inexorably lead to substantive change (Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, 2012). Here, we can learn from Murakawa’s history, which makes clear that sensitivity to the racial dimensions of crime and crime control can come in many forms, and even well-meaning advocates for minority communities can be misguided in their approach. Early civil rights strategies that criminalized racial discrimination foreclosed later strategies. A focus solely on incarceration’s racial dimensions evades discussion of the many other underlying structural and institutional mechanisms that advance incarceration and its attendant disparities. But it is not only that problem definitions preclude some alternatives. In addition, deeply rooted norms can constrain future policy possibilities even when the logics that originally undergirded the favored policy option are no longer consistent with modern understandings and context. For instance, Murakawa’s emphasis on the building up of procedural legitimacy shows how this liberal move ultimately rendered invisible how awesome state violence was (“the carceral state was permitted limitless violence so long as it conformed to clearly defined laws, administrative protocol, and due process.” *First Civil Right*, p. 43).

Moreover, as Gottschalk so ably points out, reducing racial disproportionality and diminishing correctional

budgets not only may do little to advance the cause of smaller prison populations overall, but also may have unintended effects. If we continue to pursue racial disproportionality and fiscal imperatives as our primary guiding logics, we run the risk of welcoming in an era of less humane prisons, as correctional institutions pursue a “race to the bottom.” What is needed, according to these accounts, is a wholesale reframing of incarceration to focus not on racial disproportionality but, rather, on the grounds of fundamental decency and in terms of human rights.

Factors Helping Us Understand Key Aspects of the Political Enterprise

In each of these ways, these two books expand our understanding of the politics of crime and punishment, but also make evident that crime and punishment are both reflective of and central to the American political process. Both Gottschalk and Murakawa help answer questions that are specific to crime and punishment, but also make clear that understanding the specific politics of criminal justice can help cast into stark relief a variety of important aspects of American politics and governance. We hope that these books, as well as this special issue of *Perspectives on Politics* and the nascent proliferation of work from scholars whose general concern is with the contours of the political process, will entice others to engage with these important lines of inquiry.

They will have their work cut out for them, as there are many questions that remain unanswered by these works, which political scientists are uniquely situated to pursue. Scholars might fruitfully pick up on the host of questions that these works leave open: What has been the role of black organizations and political agency among communities of color? How is race both made salient and also obscured by racial liberalism? What “windows of opportunity” are provided by high-profile events, such as the recent killings in Ferguson, New York, and elsewhere? What types of political organization and political capital will be required to bring about change in current policy? We look forward to the continued resurgence of interest in criminal justice among political scientists that will advance understanding on these and other critical questions of crime, punishment, and democracy in America.

Caught: The Prison State and the Lockdown of American Politics. By Marie Gottschalk. Princeton: Princeton University Press, 2014. 496p. \$35.00.

Arresting Citizenship: The Democratic Consequences of American Crime Control. By Amy E. Lerman and Vesla M. Weaver. Chicago: University of Chicago Press, 2014. 312p. \$85.00 cloth, \$27.50 paper.
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— Naomi Murakawa

We enter this symposium after a year of unprecedented public attention to “episodes” of police and prison violence. Tens of thousands marched in San Francisco, Chicago, Boston, New York City, and Washington, D.C., to protest state failure to admonish the police officers who killed Eric Garner and Michael Brown. Based on its four-month investigation, the *New York Times* reported chronic guard brutality at Rikers Island, the nation’s second largest jail, where in 2014 alone correctional officers beat one inmate until they broke his jaw, another until they broke his eye socket, and another until they perforated his bowel. But bold protests have produced meek proposals for change, modest reforms tailored to contain “extreme incidents.” Perhaps we need police body cameras and independent prosecutors (to review officer Darren Wilson’s shooting of Michael Brown and to check deceptive practices from the likes of Robert McCulloch in Ferguson). Maybe we need rigorous criminal prosecutions of abusive prison guards and more federal oversight (for case-by-case evaluation of questionable incidents). Grander proposals demand an end to stop-and-frisk and the drug war (to check the “worst” sites of racial profiling).

The two books with which I engage in this “dialogue” force a singularly powerful intervention in the national conversation: The problem is not just brutal police, abusive guards, broken windows policing, the drug war, or even mass incarceration; the problem is *the carceral state*—sprawling and adaptive, woven into the fabric of American political life. Combining large-n surveys with more than a hundred face-to-face interviews in Charlottesville, New Orleans, and Trenton, Amy Lerman and Vesla Weaver’s *Arresting Citizenship* persuasively demonstrates that the ever-growing carceral state is producing a new form of citizenship. While conversations on citizenship and punishment tend to highlight felon disenfranchisement, Lerman and Weaver take us from the voting booth to “the everyday machinery of our modern democracy,” where a class of what they call “custodial citizens” might retain voting rights but nonetheless “move through their daily lives with the expectation and experience of police contact” and “experience firsthand being a suspect, convict, inmate, or offender” (p. 56).

Mostly black and Latino, custodial citizens tend to live in neighborhoods of concentrated poverty and concentrated carceral surveillance. By listening to “custodial citizens,” the authors document in painful detail the ways in which the carceral state constrains freedom, humiliates and threatens, and mutes political efficacy, trust, and participation. Of their interviewees, one black man avoided carrying a backpack, and one black woman discouraged friends and family from visiting her home too often—these acts raised suspicions of drug dealing. These are not anomalous cases. In attempts to protect themselves from unwanted police attention, interviewees avoided “wearing certain clothes, donning a certain hairstyle, driving a nice car, playing loud music, standing on

the sidewalk texting, being in a group of young people, being with whites in a black neighborhood, being black in a white neighborhood, being with too many other blacks, being homeless, being in poor areas/being in rich areas” (pp. 113–14).

Lerman and Weaver demonstrate nothing less than how the carceral state “teaches” race and citizenship co-constitutively. In this sense, their portrait of the black or Latino “custodial citizen” struck me as a grotesque fun-house mirror reflection of the black “soldier-citizen” in Christopher Parker’s *Fighting for Democracy: Black Veterans and the Struggle Against White Supremacy in the Postwar South* (2009). According to Parker, military service during World War II empowered black veterans to fight white supremacy and raised their normative expectations for full citizenship. Donning the uniform announced their equal standing in the political community. More than 70 years after black veterans and the larger civil rights movement fought for “Double V”—victory against fascism abroad and racism at home—the carceral state teaches the opposite lesson. Everyday carceral surveillance deflates normative expectations for full citizenship, teaches civic lessons of “shame, separate status, and unequal worth,” and alienates custodial citizens from political engagement (*Arresting Citizenship*, p. 128). With admirable care, Lerman and Weaver explain that the carceral state teaches race in ways more “subtle and complex” than previous regimes of racial caste. Not “categorical marginalization” of the entire racial group, the carceral state operates through the intersectional marginalization of “race combined with other minority statuses—being poor, being a convicted felon, having dark skin color, living in a ‘bad’ neighborhood” (pp. 24, 157; see also Cathy Cohen, *The Boundaries of Blackness: AIDS and the Breakdown of Black Politics*, 1999; Dara Strolovitch, *Affirmative Advocacy: Race, Class, and Gender in Interest Group Politics*, 2007).

In their concluding chapter, “Where Do We Go from Here,” the authors recommend three broad reform goals. First, reforms should increase democratic voice for custodial citizens, for example, restore voting rights, encourage civil engagement through prisoner-run newspapers and inmate unions, and invest in programs to incorporate “ex-offenders back into civic life” by having them, for example, head AmeriCorps—style volunteer teams to work in food pantries and clean up vacant lots (pp. 238–41). Second, reforms should increase the democratic accountability of carceral institutions, for example, create independent oversight bodies of state corrections departments, establish fair complaint procedures for prison abuse, and give adequate funding and substantial powers to police civilian oversight agencies (pp. 241–46). And third, reforms should increase racial equality throughout the entirety of the U.S. political and economic system (p. 236). Lerman and Weaver illuminate this third recommendation by echoing David Simon, writer and producer of HBO’s

The Wire, after someone pressed him for details on how to counteract the drug war’s decimating consequences in already decimated deindustrialized poor black neighborhoods. Simon answered, “The solution is to undo the last thirty-five years, brick by brick” (Interview in *Reason Magazine*, 2004). Lerman and Weaver (and Simon) are no doubt correct that the most crucial interventions are the least amenable to bullet points.

By virtue of being young, black, and poor, one interviewee in *Arresting Citizenship* explained that he and his friends “got that bull’s eye on our back as soon as we’re born” (p. 2). Would felon re-enfranchisement, fair complaint procedures for prison abuse, full transparency of arrest data, or civilian review boards remove the target from his back? The book advocates democratic process in decisively anticonsequentialist terms (i.e., “our zeal to praise states for reducing their correctional populations” should not mask the unacceptable fact that “anti-democratic practices have become standard operating procedure” in carceral institutions; and “designing policies that reduce prison populations” is easier than designing policies to “make criminal justice institutions serve the cause of democracy” (pp. 237–38)). I wonder, then, if democratic values would reduce the actuality of high arrest rates for black youth. If not, is it possible that democratic institutions like civil review boards might give high black arrest rates the imprint of legitimacy, that “bull’s eye target” seemingly placed on the black teenager’s back by the ostensible assent of the democratic polity?

In its recommendations to improve democratic practices, this book calls to mind the much-cited *The Struggle for Justice* written by the American Friends Service Committee (AFSC) in 1971. With its vision for maximizing “democratic values of self-determination,” the AFSC recommended full restoration of voting rights; fair complaint procedures and independent authorities to adjudicate prison abuse; programs to build civic capacity by encouraging “released convicts [to] work together to improve their own lot”; civilian review boards and court-watching programs; and overall transparency of police, court, and prison operations to “mak[e] the system visible” (pp. 159–73). Throughout the 1970s, radical criminologists like Tony Platt and Paul Takagi critiqued *Struggle for Justice* as premised on a beautiful misconception that democratic ideals, when fully and sincerely operationalized, would neutralize racialized state violence (“Intellectuals for Law and Order: A Critique of the New ‘Realists,’” *Crime and Social Justice*, 1977). In reality, they argued, democratic “rule of law” is perfectly compatible with policing the poor and caging people of color. Democratic rule of law does not reduce racialized state violence; it ritualizes it. We might ask of *Arresting Citizenship* the same questions that Platt and Takagi asked of *The Struggle for Justice* nearly four decades ago. Is democratic practice the means to any particular end?

Marie Gottschalk's admirably bold *Caught* begins by telling us the end: our ultimate goal should be to "dismantle the carceral state" (p. 2). It might be tempting to forecast optimistically about prospects for reaching this goal, as we watch conservatives like Newt Gingrich and Grover Norquist join with liberal standard-bearers like the American Civil Liberties Union and the Center for American Progress to call for decarceration and de-escalation of the drug war. But in her sobering and timely assessment, Gottschalk demonstrates that the goal of dismantling the carceral state is unachievable through our two predominant reform paradigms—one aimed at ending punishment's fiscal burden, the other at ending the drug war as the "new Jim Crow."

In her persuasive critique of fiscal burden frameworks, Gottschalk demonstrates that cost cutting to satisfy our "deficit fetishism" ultimately concedes the moral soundness of carceral machinery. Our "punishment fetishism" goes unexamined as we stare at the bottom line. Moreover, setting cost cutting as the highest value justifies "pay-as-you-go" punishments like charging people for the Tasers used against them (\$26 in St. Joseph, Missouri) and for the legal fees to process their punishment (median \$1,110 per felony conviction in Washington State) (p. 36; see also Alexes Harris, Heather Evans, and Katherine Beckett, "Courtesy Stigma and Monetary Sanctions: Toward a Socio-Cultural Theory of Punishment," *American Sociological Review*, 2011). Gottschalk also disabuses us of the fantasy that ending the drug war will change everything. A black person is four times more likely to be arrested for marijuana possession than a white person despite comparable rates of use, but outrageous racial disparity cannot eclipse what should be equally outrageous facts of carceral scale. Drug offenses comprise roughly 20% of state prison populations. The incarceration rate still would have quadrupled over the past 35 years even if all drug convictions were eliminated (pp. 127–28; see also James Forman, Jr., "Racial Critiques of Mass Incarceration: Beyond the New Jim Crow," *New York University Law Review*, 2012).

Overall, Gottschalk's brilliance is in illuminating the adverse consequences and ideological complicities of reformist paradigms. Indeed, her critique of Grover Norquist-esque calls for cheap decarceration is reminiscent of her critiques of liberal social reformers. As Gottschalk explained in *Prison and the Gallows* (2006), death-penalty opponents entrenched carceral legitimacy by positing life imprisonment without parole as (comparatively) humane punishment, and mainstream antiviolence women's groups facilitated carceral growth through pro-police and prison-oriented "solutions" to rape and domestic violence. Taken together, *Prison and the Gallows* and *Caught* challenge actors across the political spectrum to relinquish carceral investments, whether corporate investments in private prisons or mainstream feminist investments in mandatory imprisonment for domestic violence.

In this sense, Gottschalk's analysis contributes to the most trenchant critiques of Right on Crime conservatives and liberal "carceral feminists" and "carceral humanists." They share reformist fantasies that carceral America can be redeemed by cutting costs (Deborah Small, "Cause for Trepidation: Libertarians' Newfound Concern for Prison Reform," *Salon*, 2014), by imprisoning "real evil doers" like those who attack women and lesbian, gay, bisexual, and transgender people (Chandan Reddy, *Freedom with Violence: Race, Sexuality, and the US State*, 2011; Beth Richie, *Arrested Justice: Black Women, Violence, and America's Prison Nation*, 2012; Joey Mogul, Andrea Ritchie, and Kay Whitlock, *Queer (In)Justice: The Criminalization of LGBT People in the United States*, 2011; Dean Spade, *Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law*, 2011), and by "softening" prison with more counseling and education programs (James Kilgore, "Repackaging Mass Incarceration," *Counterpunch*, 2014; Judah Schept, "'A Lockdown Facility... with the Feel of a Small, Private College': Liberal Politics, Jail Expansion, and the Carceral Habitus," *Theoretical Criminology*, 2013).

When reformers tinker with carceral machinery, adding a reentry program here and tweaking a drug law there, they miss the fact that "the pathologies" of the carceral state are endemic to American politics writ large, especially, as Gottschalk tells us, "the uncritical acceptance of neoliberalism in all aspects of public policy, the stranglehold that economic and financial interests exert on politics and policy-making, [and] the growing political and economic disenfranchisement of wide swaths of the population" (*Caught*, p. 20). While she centralizes economic and political inequality, Gottschalk simultaneously critiques what she sees as a narrow perspective on racial inequality. In her critique of the new Jim Crow framework, she states unequivocally: "A penal reform agenda defined primarily by attacking racial bias and racial disparities in the criminal justice system, especially the war on drugs, racial profiling, and stop-and-frisk, will also not bring about the demise of the carceral state" (p. 261). It is undeniable that our carceral leviathan would live strong without the drug war, profiling, and pat downs, but I wonder about the outer limits and implications of Gottschalk's critique of the new Jim Crow framework. Is the argument that we cannot explain carceral development and carceral intransigence with dominant epistemologies of racism, grounded as they are in the black—white binary and fixation on ever-sophisticated models for measuring disparity (pp. 20, 261)? Or is the argument that we overemphasize racism, full stop?

It is crucial to note that *Caught* rejects "the new Jim Crow" framework on grounds of inclusion: Carceral cruelties for immigration offenses and sex offenses, levied heavily against Latinos and whites, respectively, become mere sidebars because they do "not fit neatly into a black—white racial disparities framework" (p. 120). It is almost an

academic meme to say we must move beyond the black—white binary, a call that provokes knowing nods and exasperated eye rolls. But within this collective frustration are rhetorically slippery but politically distinct logics. Some logics expand the black—white binary, recognizing that eschewing it altogether would make it all but impossible to understand the myth of Asian American model minorities (Claire Kim, “The Racial Triangulation of Asian Americans,” *Politics & Society*, 1999), the reason that Republican campaigns use Latinos but not African Americans to signal the party’s postracial inclusivity (Luis Fraga and David Leal, “Playing the ‘Latino Card’: Race, Ethnicity, and National Party Politics,” *Du Bois Review*, 2004), and the mutually reinforcing binaries of the indigenous—settler binary (Andrea Smith, “Indigeneity, Settler Colonialism, White Supremacy,” in *Racial Formation in the Twenty-First Century*, 2012). Some rejections of the black—white binary, however, slip into a land of racial pluralism, where the repeated emphasis on race’s complexity ultimately forecloses opportunities to discuss racial hierarchy (Eduardo Bonilla-Silva, *Racism Without Racists: Color-Blind Racism and the Persistence of Racial Inequality in the United States*, 2006; Sharon Patricia Holland, *The Erotic Life of Racism*, 2012).

In bringing together these argumentative threads, I was left with this question: Does *Caught* urge us to decenter analysis of racism from agendas to dismantle the carceral state? The urgency of this question became clear in the final pages, where Gottschalk unfavorably compares President Barack Obama’s meager, myopic post—Great Recession agenda to President Franklin D. Roosevelt’s transformative politics after the Great Depression. “Squander[ing] an exceptional political moment,” President Obama and Democratic leadership maintained their uncritical neoliberal disdain for “big government” and their pandering, profitable deference toward the financial sector. They therefore missed the opportunity to confront endemic threats to safety and security—excessive financialization and deregulation, the upward redistribution of wealth, and the deepening of gendered, racialized poverty. President Obama indeed deserves full-throated censure for perpetuating what Gottschalk calls “the preeminent problem facing the United States today”—“vast and growing economic inequality rooted in vast and growing political inequalities” (p. 280).

By way of contrast, Gottschalk celebrates the post—Great Depression maneuverings of President Roosevelt, unions, and mobilized Americans who shamed “banksters” as gangsters and forced “a clean break with the past” (pp. 280–81). If we decenter racism from this moment, we might forget that the quasi-populist, cross-regional coalition that denounced white banksters also condoned white lynchers. Gottschalk rightly applauds the 1933–34 Senate Banking Committee for exposing the deceptive practices and lavish executive salaries of National City Bank

(known today as Citibank), but in those same years the Senate Judiciary Committee heard the NAACP’s testimony of 3,513 black people lynched since 1882. The former “compelled Roosevelt to support stricter regulation of the financial sector,” Gottschalk tells us, but the latter led to nothing (p. 281; see also Robert Zangrando, “The NAACP and a Federal Antilynching Bill, 1934–1940,” *Journal of Negro History*, 1965).

If we decenter racism from our analysis of “vast and growing economic inequality,” then we open ground for color-blind reforms that entrench racial disadvantage and widen racial gaps. On this ground we find, for example, the Social Security Act of 1935, which southern members of Congress supported on the condition of excluding farm and domestic workers. Fully 65% of African Americans fell outside of the safety net, as did many Latino and Asian American workers, as well as female workers of all races. Many white workers were excluded, too. But scholars do not characterize the New Deal welfare state as reflective of an antifarmer or antiegalitarian ethos that just so happened to have racially disparate impact. Instead, scholars rightly call the Social Security Act “discrimination by design,” crafted within the limits of antiblack capitalist interests and administered in predictably nativist and antiblack fashion (Robert Lieberman, *Shifting the Color Line: Race and the American Welfare State*, 2001; Cybelle Fox, *Three Worlds of Relief: Race, Immigration, and the American Welfare State from the Progressive Era to the New Deal*, 2012; Gwendolyn Mink, *The Wages of Motherhood: Inequality in the Welfare State, 1917–1942*, 1995; Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America*, 2005).

Likewise, the present-day carceral state injures many white people, but we should not characterize it as reflective of a general pro-prison and pro-punishment ethos that just so happens to have racially disparate impact. Subsuming racial inequality under economic and political inequality does not broaden the conversation, and the New Deal’s deepening of racial inequality is brutal case in point. We could draw a similar lesson from the present, observing how quickly “Black Lives Matter” becomes “All Lives Matter,” gutting the twenty-first century’s renewed black freedom struggle while it is still inchoate, all in the name of inclusion.

Response to Naomi Murakawa’s and Amy E. Lerman and Vesla M. Weaver’s reviews of *Caught: The Prison State and the Lockdown of American Politics*

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— Marie Gottschalk

I appreciate the thoughtful and generous reviews of my book by Naomi Murakawa, Amy Lerman, and Vesla Weaver, whose work has done so much to further our

understanding of the carceral state. They raise some important issues regarding the role of race in my analysis that I seek to clarify here.

Caught sets out to explain why the carceral state is so intractable and why some of the leading penal reform strategies are not up to the task of dismantling it. Race is integral to my account, not incidental as Lerman and Weaver suggest.

The opening pages assert that “race matters and it matters profoundly in any discussion of how to dismantle the carceral state” (p. 4). Throughout the book, I take to heart the observation that “the racial character of the contemporary system is more than just a legacy of our troubled racial past” (Soss, Fording, and Schram 2011, 3).

Racial and other disquieting disparities in the penal system do not automatically flow from that troubled past. As *Caught* demonstrates, they are a specific product of politics—how key politicians, other public figures, interest groups, the media, and social movements choose to draw from that past, reinvent that past, and discard pieces of that past as they adjust their political strategies to the political, social, and economic realities of the present. In the process, they create new institutional and political arrangements and new frameworks that inscribe the past in new ways onto the present. The emergence of color-blind racism in the post-civil rights era is one such adaptation that poses a major obstacle to dismantling the carceral state (Alexander 2010). So is “racial liberalism” (Murakawa 2014). But there are others, including the ascendancy of neoliberalism in American politics and policymaking.

Much of the literature on race is not attentive enough to the sinews of the political economy and how they shape policy and politics. Likewise, much of the work on neoliberalism is not attentive enough to the role of race, gender, and ethnicity in shaping economic policies (Spence 2012). *Caught* builds on Michael Dawson’s (2010, p. 17) insight that the U.S. version of neoliberalism is heavily race inflected.

Only by considering the role of racial factors *and* neoliberalism can we fully appreciate, for example, why the 3 Rs—reentry, justice reinvestment, and reducing recidivism—have come to dominate the penal reform agenda today in elite circles and why this approach is woefully not up to the task of dismantling the carceral state. The enthusiasm for the 3 Rs is blithely detached from a deeper understanding of important shifts in the U.S. political economy since World War II that have disproportionately harmed African Americans and that have helped to build the carceral state. As I elaborate in my book, these shifts include the incomplete economic incorporation of African Americans, especially black men, after the Great Migration; the deindustrialization and hollowing out of wide swaths of urban America; the push to build up human capital rather than address the disappearance of good jobs; and the evisceration of the public sector, which had been an

important avenue of upward mobility for African Americans. Another critical factor is the growing political clout of economic actors who have vested interests in maintaining and expanding the carceral state.

Reform agendas based on the 3 Rs and framed around the purported economic burden of the carceral state generally do not acknowledge, let alone address, these deeper structural issues. They also are not up to the political task of challenging the fundamental legitimacy of the carceral state and the hyper-incarceration of African Americans and other disadvantaged groups in the United States. The 3 Rs is a self-consciously color-blind strategy for criminal justice reform that keeps at arm’s length the racial and other injustices on which the carceral state rests. It is thus incapable of tapping into the growing political ferment and anger at the local level—especially in many African American urban neighborhoods—to address these injustices.

Why the carceral state has not faced more organized opposition until recently—especially from the people most directly harmed by it—is another major theme of *Caught* in which racial factors are deeply implicated. I contend that the Republican Party’s southern strategy, the racialization of public opinion on crime and punishment, and the entrenched history of racial intransigence in the United States cannot on their own explain why the carceral state has been so tenacious.

The book identifies some of the deeper historical and institutional factors that have stood in the way of forging a broad social and political movement with the wherewithal to mount a serious challenge to the carceral state. They include the varied ways black elites have responded to the growing public and political association between blackness and criminality since the late nineteenth century, and major shifts within leading identity-based civil rights organizations with the atrophy of more radical civil rights groups and the demise of the Black Power movement. *Caught* also examines the political impact that escalating rates of violence and substance abuse have had on poor urban communities; important shifts in public opinion among African Americans on issues related to race, crime, and punishment; and significant electoral and party developments at the local and state levels with the demise of Jim Crow that were influenced by the Republican Party’s southern strategy but not wholly determined by it.

Another key development is the emergence of new patterns of racial inequality in the wake of the civil rights movement. The predominant pattern of racial exclusion yielded to selective incorporation in the context of widening education and income gaps among blacks and greater residential mobility for more affluent blacks (Katz, Stern, and Fader 2005). This has fostered the fragmentation of black politics and widening political disparities among African Americans.

Taken together, these factors help explain why mainstream identity-based civil rights organizations have been slow to challenge the growing tentacles of the carceral state. They also help explain why some leading “post-racial” politicians and public figures have supported the punitive turn rhetorically and substantively at key moments in the debate over U.S. penal policies. Black communities have long engaged in a “politics of respectability, attempting to win acceptance into the mainstream white society by demonstrating their worth and adherence to dominant norms” (Cohen 2010, 4). The antilegitist rhetoric of the Black Power movement helped to mute the “politics of respectability” somewhat (Harris 2012, 115). But it came roaring back due to a number of factors discussed in my book.

The emergence of postracial black politicians is part of the grand narrative of race and the carceral state. But that narrative has played out in varied ways depending on the specific institutional and political context. As I demonstrate, the downfall of the Jim Crow regime transformed electoral incentives and institutional arrangements in ways that have been consequential for the carceral state. These transformations help explain considerable local- and state-level differences in the punitive turn.

I do not, as Murakawa suggests, reject Michelle Alexander’s (2010) new Jim Crow framework for understanding some of the key causes and consequences of the carceral state. Rather, I see my book as a friendly amendment that situates the new Jim Crow in a more complex economic, political, and institutional framework. I recognize the new Jim Crow as a leading pillar of the carceral state, but not the only pillar.

Caught acknowledges that the historical evidence is overwhelming that racial animus and the quest to preserve white supremacy have been central factors in the development of the U.S. penal system. But it also draws attention to the neglected reality that as the racial order continues to invent new ways to target blacks, it has generated punitive policies and practices that diffuse to other groups in the United States, including immigrants, impoverished whites, and people charged with sex offenses. I devote a whole chapter to the ways that the law enforcement and immigration enforcement systems are converging and how mass incarceration has facilitated mass deportations in which Latinos are the leading targets. Excavating the ways in which the cruel, dehumanizing, and unjust policies and institutions of the carceral state have diffused to other groups does not negate the stark fact that blacks have been and remain key targets of the carceral state.

In her review, Murakawa asks whether *Caught* is a call to “decenter analysis of racism from agendas to dismantle the carceral state.” My answer is an emphatic no. As I note at several points, racial disparities and racial factors more broadly must remain a central part of analyses of the carceral state and mobilizations against it. But as I discuss

at length in Chapter 6, establishing the fact and extent of racial disparities in punishment often comes at the cost of understanding the underlying causes of those disparities and why they can persist or deepen in the face of dramatic changes in the political, economic, social, and institutional context.

Sociologist Barrington Moore once railed against political culture explanations that assumed a cultural inertia and that neglected how political conflicts, institutional developments, and shifting elite interests transmit certain values from one generation to the next. He said: “To maintain and transmit a value system, human beings are punched, bullied, sent to jail, thrown into concentration camps, cajoled, bribed, made into heroes, encouraged to read newspapers, stood up against a wall and shot, and sometimes even taught sociology” (Moore 1967, 486). Ditto for the maintenance and transmission of racial disparities and racial hierarchies.

Racism tells us everything about American political development and yet tells us very little. The racially disparate mistreatment of blacks is a primordial stain on the United States that long predates the country’s founding. But proclaiming that fact on its own will do little to change that reality or end the prison boom.

Dismantling the carceral state depends on having a nuanced understanding of what created it in the first place and what sustains it today. As I show in *Caught*, racial factors have trumped economic or institutional factors at certain moments. At other times, it has been vice versa. But in many instances, it is misleading to consider any one of these factors to the neglect of the other two.

As for solutions, *Caught* ends on a call for convulsive politics from below, not presidential salvation from above, to roll back the carceral state. Murakawa makes too much of my brief reference to Franklin D. Roosevelt in the concluding pages. FDR was but one thread in a tapestry dominated by a discussion of the vital role that social and political movements must play if we are to dismantle the carceral state. In this and other works (Gottschalk 2000; 2006), I have repeatedly emphasized the critical role that radical, nonparty organizations have played in pushing mainstream political leaders and organizations to take bolder steps toward addressing racial, economic, and other injustices.

Massive numbers of Americans mobilized in unions, women’s organizations, veterans’ groups, senior citizen associations, and civil rights organizations to ensure that the country switched course during the 1930s. These movements were essential in forcing FDR to embrace confrontational “bring it on” politics, rather than pursue Obama-esque split-the-difference-without-making-much-of-a-difference politics. Yes, Social Security was flawed at its inception, and yes, FDR’s silence on antilynching legislation was reprehensible. But the New Deal political

moment opened up important institutional and political space over the long term to establish a wider social safety net and to expand the role of the federal government in the enforcement of civil rights (for example, with the creation of the Civil Liberties Section in the Department of Justice under Frank Murphy, FDR's second attorney general). These developments greatly benefited many African Americans. Without pressure from more radical movements, the New Deal would have been even more truncated and its consequences even more racially disparate.

The three most successful periods of black political mobilization—Reconstruction, the Progressive era, and the combined civil rights and Black Power era—“were all marked by innovative initiatives in black civil society, a growing and robust black public sphere,” and an active radical flank (Dawson 2011, 166). These movements did not single-mindedly focus on the problem of racial disparities and inequities but sought to forge a broader political agenda centered on racial, social, and economic justice.

Since publishing *The New Jim Crow*, Alexander has become an outspoken advocate of forging a political movement to challenge the carceral state that is more encompassing than the race-centered approach she appeared to be endorsing in her book (Alexander 2013; 2015). In an article she wrote in honor of the fiftieth anniversary of the March on Washington and Martin Luther King's “I Have a Dream” speech, she called for a more ambitious movement to end mass incarceration (2013). She said that the movement needs to “connect the dots” between racial injustice and economic and social injustice. Otherwise, even if we do end mass incarceration, a “new system of racial and social control will simply be erected in its place.”

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Response to Marie Gottschalk's and Naomi Murakawa's reviews of *Arresting Citizenship: The Democratic Consequences of American Crime Control*

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— Amy E. Lerman and Vesla M. Weaver

As we write, about 3% of all American adults are under the supervision of correctional authorities, a quarter of youth have been arrested by the time they reach young adulthood, and 1.5 million black men have “disappeared” from public space owing in no small part to either incarceration or early death. Around the country, communities have risen in protest against police violence, and revelations have emerged that governments like Ferguson, Missouri, a small suburb of just over 20,000 people, managed to collect 2.6 million dollars in fines and fees for mostly minor transgressions. Yet while scholars in sociology and economics have produced major works on the criminal justice system's many consequences for social and economic life (e.g., Bruce Western; Todd Clear; Loic Wacquant), political science has been remarkably silent.

A handful of scholars in our discipline have endeavored to examine the carceral state's effects on democratic life. However, their focus has been primarily on formal exclusion from the vote and the social safety net; the political implications of felon disenfranchisement in particular are clear, easily measured, and provide an especially stark contrast to democratic ideals (Marc Meredith and Michael Morse; Khalilah Brown-Dean; Jeff Manza and Christopher Uggen; Alec Ewald; Michael Leo Owens; Becky Pettit). Policing and

incarceration also deepened the political isolation of neighborhoods, affecting the capacity of communities to build social capital, maintain social bonds, and mobilize for the common good (Traci Burch, *Trading Democracy for Justice: Criminal Convictions and the Decline of Neighborhood Political Participation*, 2013; Todd Clear, *Imprisoning Communities: How Mass Incarceration Makes Disadvantaged Neighborhoods Worse*, 2009; Amy E. Lerman, *The Modern Prison Paradox: Politics, Punishment and American Community*, 2013; Amy E. Lerman and Vesla M. Weaver, “Staying Out of Sight? Concentrated Policing and Local Political Action,” 2014). To the extent that criminal justice was important, the implicit argument went, it was because of the “vanishing” voter or absent joiner.

By homing in on how policies have transformed the bedrock of political life—voting—scholars (unwittingly) ceded the bigger picture of criminal justice, giving the distinct impression that it mattered only insofar as it bore down on the instrumental outcomes political scientists care most about: how much particular social groups engage in the democratic community through voting, joining, and equality in representation, and how much their exclusion matters for policy outputs and electoral outcomes.

Our primary argument in *Arresting Citizenship* is that the rise of the carceral state not only excludes citizens, it also produces them; encounters with criminal justice institutions deeply affect how people conceive of their citizenship, what they come to believe about government, and most importantly, how willing they are to make political claims. This broader socialization, difficult to capture from surveys and voter behavior alone, results in a qualitatively different set of political ideas; criminal justice for some is a defining political experience.

For custodial citizens, their government was not one that overtaxed them (as in middle class complaints about intrusive government), or that exceeded its authority (as in Tea Party objections about big government), or that did not adequately come to their aid (as in accounts of the state from those at the bottom of the class distribution). And disengagement did not, we learned, stem only from perceptions of futility or the belief that officials would not respond to their concerns. It also arose out of an active recoiling from agents of the state who wielded an invasive, retributive, and seemingly pervasive power over citizens’ lives. Government was the “kingpin,” the “top dog that calls all the shots,” where you had to “shut up and listen” and “stay under the radar.”

We hope *Arresting Citizenship*, *Caught*, and *The First Civil Right* provide a new framework to those in our subfield, and we are heartened that others have begun to engage with the pressing problems of inequality, state development, and political power that are manifested in the domain of criminal justice. We hope that in so doing,

political science can continue to bring important features of political life into clearer view.

In particular, the “diminished democracy” that citizens experience is not in the main (or not only) a *passive process* whereby government responds to some and not others, where policies and politicians are allowed to drift away from the median voter, and where well-heeled groups exert outsized voice in electoral and policy outcomes. Again bringing to mind the case of Ferguson, we see that crime control is also an *active project* of state discipline and surveillance. State institutions are constitutive spaces where people navigate government, see how the state relates to their communities, learn whether they are valued by government, derive a sense of identity and group position, and “experience” democracy at work.

We concluded *Arresting Citizenship* by briefly discussing potentially promising avenues for reform. That both Marie Gottschalk and Naomi Murakawa reference this aspect of our work reflects (we believe) the sense of frustration that many scholars share when contrasting the now weighty evidence documenting systemic failures of American crime control against the seeming impotence of the reform movement to achieve any real change; as Gottschalk notes, the bipartisan efforts now underway have so far been more rhetoric than action. She suggests that we are overly optimistic in implying that a window of opportunity has arrived, and she is right to remind readers that the last effort for sweeping reform only swelled the prison system. In contrast, Murakawa thinks that we are not nearly ambitious enough in our proposed reform agenda.

We emphatically agree (and, indeed, make clear in our book) that the most obvious priority for reforming criminal justice is a drastic reduction in the numbers who have contact with these institutions, and a tightening of the link between those who commit grave crimes and those who are surveilled, arrested, and confined. We and others have called for sentencing reform, decarceration, and the reigning in of vertical patrols and stop-and-frisk programs that sweep wide swaths of the public into the net of surveillance and punishment. But the reforms we imagine in our book necessarily go further than retrenchment. They would force us to acknowledge that criminal justice is no longer tangential to governance in America, nor are its institutions just separate silos of American government that are inconsequential for other aspects of the political project. Rather, they are an integral part of the way that political power in this country is both deployed and experienced.

One central implication of our book is this: Our nation’s political institutions must represent the aspirational values of our representative democracy. This has symbolic value, in that the culture of political institutions is the primary way in which a society’s core political principles are made real. Through its actions, not just

its words, a nation projects to its citizens and the world what it values.

Ensuring that our political institutions reflect our political norms also has instrumental value, however. The character of political institutions is central to the functioning of the system itself, as the values and logics enshrined in the system help that particular system to flourish. For a democracy to thrive, it requires democratic citizens who actively engage in the enterprise of civic life. In contrast, for an authoritarian state to sustain itself, it must only assure complacency and compliance from the people under its control. Our book traces the many ways in which criminal justice institutions are implicated in the type of citizen our nation produces.

Murakawa asks whether “democratic values would reduce the actuality of high arrest rates of black youth.” We reply that they must. Any other reading of “democratic values” mistakenly equates it with bureaucratic processes. Nor can the discussion begin and end with felon disenfranchisement and other policies of formal exclusion. (Imagine if comparativists who studied authoritarian or democratizing regimes concerned themselves only with access to the ballot as solely defining citizens’ relationship to the state!)

At its core, politics is about power and the state’s monopoly on the legitimate use of force. Political science is therefore about trying to understand and explain the ways that communities and societies structure, institutionalize, and enforce power relationships toward the task of shared governance. These are issues in which American systems of crime control are deeply and perhaps inextricably implicated.

Response to Maria Gottschalk’s and Amy E. Lerman and Vesla M. Weaver’s reviews of *The First Civil Right: How Liberals Built Prison America*

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— Naomi Murakawa

Let me begin by thanking Marie Gottschalk, Amy Lerman, and Vesla Weaver for their generous comments and insightful critiques. Running through their remarks is a tenor of urgency and what Gottschalk calls a “bring it on” attitude that is necessary to dismantle the carceral state. This is no small thing when disciplinary standards equate empirical rigor with anormativity, or when “civility” codes discourage angry tones as if there is nothing to be angry about. On this front, I am also grateful to Jeffrey Isaac for organizing this “critical dialogue” on the racialized carceral state.

The core question my interlocutors raise is one I have struggled with over the course of writing *The First Civil Right*: In challenging the master narrative of conservative ascendancy, does the book overstate the role that liberals played in building the carceral state? In particular, why

“blame liberals” when there is a broad question that should be levied at many: “Why [do] American political elites, intellectuals, and reformers so frequently respond to violence and other social ills” through “punitive state building” rather than “expanded safety nets that would deal with vulnerability in all its forms”?

En route to addressing these questions, I should clarify that the book explores “how liberals built prison America” through two interrelated but distinct biographies. One is a biography of the national Democratic Party’s law-and-order agenda. The other is a biography of post–World War II racial liberalism, a particular ideology that understands “racism” as individual irrationality or psychological misfire. As it became the reigning ideology, racial liberalism set a particular logic for carceral state building: With police racial profiling and racially disparate sentencing interpreted as arbitrary errors of individual judgment, the solution was to replace the whims of administrative officials with rules, rights-based protocols, and standardized professionalization. This ideology holds a force all its own, imparting commonsense power to the fantasy of “solving” police killings of black women, men, and trans people with more training, more sensitivity to implicit bias, and more focus on sound police—community relations.

Here I emphasize racial liberalism to underscore that ideological entrenchment complicates notions of “blame,” with all that the word implies about methodological individualism, clear choices, and causality. When my interlocutors ask why so many opt for “punitive state building” rather than “expanded safety nets,” they invoke familiar binaries of policy choice. Why choose prisons over schools, retribution over rehabilitation, criminal justice over racial justice? But what is so remarkable about racial liberalism is precisely its proceduralist elision of these binaries; that is, racial justice actually *requires* strong, regimented criminal justice—no forced choice, no trade-off. For instance, when President Lyndon B. Johnson opened the floodgates of federal money for police in 1965 and again in 1968, he operated within a logic that saw “punitive state building” as integral to the “expanded safety net,” not opposed to it. To achieve a Great Society, the vulnerable deserved more and higher-quality schools, housing, and job training—and, yes, better equipped, better trained, and more racially diverse law enforcement. Federal subsidies were necessary because, in the words of Johnson’s attorney general, “People in the suburbs just won’t pay taxes for central city law enforcement any more than they’ll pay for central city education” (*The First Civil Right*, p. 233).

There is no denying that my work lays “much blame at the doorsteps of racial liberals” and, more centrally, at the shrine of racial liberalism. I adopted two research strategies to militate against “overstating” the case against liberal Democratic elites. First, to avoid piling on endless

confirmatory evidence of liberal Democratic punitiveness, I selected “hard case” policy domains. In the policy domains of corporate and organized crimes, gun crimes, violence against women, and hate crimes, the impact of liberal law and order is well established. Shying away from these cases, I focused on federal funding for law enforcement, sentencing guidelines, mandatory minimums with particular emphasis on drug-related penalties, and the death penalty. Even in these hard cases, there is strong evidence that liberal Democrats propelled carceral development.

Second, given that policymakers work within historical constraints and without crystal balls, I followed long time horizons with an eye toward finding evidence of liberal dissatisfaction with policy consequences. If liberal elites were shocked and dismayed that some of their policies produced racialized punishment expansion, then they might have attempted to repeal or revise unexpectedly damaging crime policy. This does happen—rarely and slowly. For example, Charles Rangel and other members of the Congressional Black Caucus supported the Anti-Drug Abuse Acts of 1986 and 1988, but the CBC campaigned to end the draconian drug penalties through the mid-1990s,

and Rangel followed suit in the early 2000s. It took the rest of Congress until 2010.

There is little evidence for the so-called unintended consequences interpretation of liberal law and order. Holding faith that “they intended better” reflects a desire to square the circle between racial liberalism and racialized carceral expansion. Consider, for example, that Ted Kennedy—widely considered the standard-bearer of American liberalism—was a key architect of the Sentencing Reform Act of 1984, which effectively replaced judicial discretion with the rigid U.S. Sentencing Guidelines. By 1992, the evidence was in: Use of the U.S. Sentencing Guidelines had *doubled* time served in federal prisons and exacerbated racial disparities. If Senator Kennedy found these consequences unacceptable or antithetical to his original vision, he did nothing to revise or repudiate the sentencing guidelines in his many remaining years in the Senate. Perhaps he harbored regret privately. But policies should not be evaluated by the imagined good intentions residing in policymakers’ hearts. Racialized state violence is not less brutal if delivered with professed good intentions.