

Rorty's non-foundationalism or Rawls's overlapping consensus.

The secret to breadth is to sacrifice depth, or to forego, as Rorty recommends, real thought about who we are—not to mention who or what God is. This able and erudite book serves best as a reminder that the amalgam of liberal secularism and Protestant or Augustinian Christianity that has always animated the American reformist tradition remains and may always be somewhat incoherent and unstable. So, it is fitting that Gregory offers an eloquent, authentically Augustinian conclusion: While “earthly politics cannot fulfill the deepest longings of a human person or community . . . [r]ights, respect, and democracy are good things, even if they are not the fulfillment of love” (p. 384).

Probably my greatest moral objection to this book is that it says so little to challenge its primary audience—American liberal academics. I agree with Gregory that the undeniable progress in the direction of justice over the past sixty years for African Americans, women, and others can't be understood without some attention to Christian love. And he does well, of course, to employ Martin Luther King Jr. to illustrate the edifying and effective rhetorical mixing of Christian love and liberal justice. But it's not at all clear that, on balance, that period of time has been good for personal love in our country.

A genuine analysis of feminism, for example, would include a candid cost-benefit analysis of its effects on the family and of the fact that politicized caregiving is hardly likely to be an adequate replacement for the personal, voluntary caregiving that has atrophied in recent years. The same sort of analysis would consider why the same feminists who speak eloquently in terms of concern for the weak and the vulnerable are so insistently pro-choice when it comes to abortion and other “life” issues. It's not so easy, after all, to reconcile personal love with the modern view of autonomy, which is too anti-natural and individualistic to be authentically Christian. A genuine Augustinian would, I think, exhibit a lot more “tough love” when it comes to the complacency of contemporary liberals regarding their own virtue and the contempt they show for the genuinely Augustinian (or evangelical and orthodox) personal faith in a personal God exhibited by so many ordinary Americans.

To say the least, it's not clear to me that a greatly expanded redistributive national government would either genuinely be motivated by love or increase the real amount of personal love in our country, but Gregory clearly writes in support of the “Yes, we can” spirit of sophisticated America today. Theoretical gentleness and practical vagueness may be indispensable features of a coalition-building book, but one downside is that that method of writing doesn't give the author much room to display his moral or intellectual courage.

The Prisoners' Dilemma: Political Economy and Punishment in Contemporary Democracies. By Nicola Lacey. New York: Cambridge University Press, 2008. 254p. \$61.00 cloth, \$25.99 paper.
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— Jeffrey Reiman, *American University*

In her 2007 Hamlyn Lectures, presented here, Nicola Lacey addresses “one of the most troubling empirical paradoxes of contemporary democratic criminal justice,” namely that while “we might expect liberal-democratic criminal justice to aspire to be reintegrative and inclusionary . . . in many countries, criminal justice policy has been driven in an exclusionary direction with—perhaps even because of—popular, and hence literally democratic, support” (p. 8). She has in mind the enormous increases in imprisonment in the United States since the 1970s, and (in lesser degrees) in other Anglophone nations such as England, Wales, Australia, South Africa, and New Zealand—increases driven by “penal populism,” popular demand for harsh treatment of offenders.

Lacey rejects the thesis, suggested by writers such as David Garland, that harsh punishment policies are an inevitable feature of late capitalism as states lose control of their national economies in the face of economic globalization (p. 27–29). Since the dramatic increases in imprisonment have occurred in countries that have adopted neo-liberal economic policies since the 1970s, and generally not in those that have maintained “coordinated market economies”—Netherlands, Italy, Germany, France, Sweden, Denmark, Finland, Norway, and Japan (p. 44, 60, 137–38)—Lacey aims to determine how the differing economic and political structures of contemporary democracies lead to differing criminal justice policies.

Until the 1970s, contemporary democracies tended toward “penal welfarism.” Criminal justice was treated as an extension of the welfare state, with moderate punishment regimes aimed at rehabilitating and reintegrating offenders. With “the global economic changes which began in the 1970s—recession, the contraction or even collapse of manufacturing industries, the growth of unemployment and the creation of a large sector of people either long-term unemployed or employed in insecure forms of work—the consensus which had sustained penal welfarism began to erode” (p. 21–22). Crime rates went up, fear of victimization became widespread, “and the era of ‘penal populism’ was born” (p. 22)—at least in the neo-liberal countries.

The broad correlation between neo-liberal economies and harsh punishment, and between coordinated market economies and moderate punishment, leads to Lacey's central contention: Coordinated market economies build “long-term relationships and stable structures of investment, not least in education and training oriented to company- or sector-specific skills,”—and, she contends,

this generates “incentives for the relevant decision-makers to opt for a relatively inclusionary criminal justice system.” Having invested in their workforce, they have a “need to reintegrate offenders into the society and economy” (p. 58). By contrast, the neo-liberal economies “depend far less strongly on the sorts of coordinating institutions which are needed to sustain long-term economic and social relations.” For them, “flexibility and innovation, rather than stability and investment, form the backbone of comparative institutional advantage,” so that “the costs of a harsh, exclusionary criminal justice system are less than they would be in a coordinated market economy” (p. 59).

Furthermore, whereas the coordinated market countries have political systems that incorporate “a wide range of groups and institutions into a highly coordinated governmental structure” (p. 58), the neo-liberal countries have majoritarian “winner-take-all” political systems with less need to accommodate different interest groups and greater sensitivity to single-issue political movements (p. 63–66). The neo-liberal countries also have less politically insulated bureaucracies.

The result of these differences is that whereas the coordinated market countries have economic incentives and political means to deal with surplus labor via welfare and reintegration programs, the neo-liberal countries have little economic incentive to do so and lack political ability to resist penal populism. Consequently, the neo-liberal countries deal with surplus labor by criminalization and imprisonment.

While this explanation of differences in criminal justice policy is quite compelling, anomalies (e.g., that Canada and the Australian state of Victoria have resisted the trend toward increased punitiveness in spite of their neo-liberal economies) and divergences (e.g., significant differences in imprisonment rates between the Netherlands and other coordinated market countries, and between the U.S. and other neo-liberal countries) require Lacey to clutter her appealingly straightforward thesis with references to local cultural peculiarities and idiosyncratic political traditions (e.g., p. 160–65, 181–83). It’s not Lacey’s fault that reality is messy, but those who are looking for a theory of the political economy of punishment are likely to be disappointed by the ad hoc nature of some of her explanations.

Moreover, as compelling as her solution to the problem is, her conception of the problem itself is less so. This is signaled by the fact that the difference in penal severity between the neo-liberal and coordinated market countries is coupled with another difference: whereas the neo-liberal countries, with flexible open labor markets, tend to be inclusionary toward immigrants, the coordinated market countries are inclusionary toward native offenders in whom they have invested, but treat immigrants much as neo-liberal systems treat native surplus labor (p. 148–49).

If the orientation toward inclusionary criminal justice policy were a matter of realizing democratic values, then it should apply to immigrants as well as natives. That it does not suggests that there’s a difference between the neo-liberal and coordinated market countries that Lacey is overlooking.

Arguably, the economically neo-liberal countries are *politically liberal* democracies, emphasizing individual rights and responsibilities, whereas the coordinated market countries are *communitarian* democracies, emphasizing group rights and shared responsibilities. Communitarianism would account for both their inclusionary treatment of natives and their exclusionary treatment of immigrants. Lacey’s expectation that democracies would have inclusionary criminal justice systems, then, is an attribution of communitarian values to democracy. But there is no necessary connection between the two. Fascism (to which the coordinated market countries were considerably more vulnerable than the Anglophone countries) was also a kind of communitarianism.

The harsh punishment regimes in the Anglophone countries may be neither just nor wise, but, sad to say, they have as much right to the title “democratic” as the milder regimes of the coordinated market countries. Perhaps more, given that the mechanisms (e.g., insulation of criminal justice policy from electoral politics [p. 181, 194]) that protect those countries from “penal populism” are anti-majoritarian. In response, Lacey points to constitutional protection of human rights from “short term majoritarianism” (p. 196 n 39), which is presumably compatible with democracy. But unless penal populism violates human rights, which Lacey has not established, this won’t help her case. “Populism” is, I suspect, what proponents of democracy call the people’s will, when they don’t like it.

The Colonial American Origins of Modern Democratic Thought. By J.S. Maloy. New York: Cambridge University Press, 2008. 224p. \$75.00.
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This short but ambitious work, according to its author, is “a hybrid book” that explores democratic thought in the mid-seventeenth century while offering its readers an opportunity to learn “something important about democracy itself” (p. vii). With these goals, Maloy joins intellectual history with contemporary democratic political theory. The author hopes to show that in exploring seventeenth-century thought, much can be learned about a rich and largely lost understanding of populist democratic accountability. What Maloy means by “accountability” includes procedures that extend beyond voting to replace elected officials (deselection); he has in mind various means that lead to scrutiny and sanction that he