



THE NEW
SOCIAL
CONTRACT

*America's
Journey from
Welfare State
to Police State*



Joseph Dillon Davey

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THE NEW SOCIAL CONTRACT

To my children,
Erin, Tara, Kerianne and Joseph, Jr.,
and to their mother,
my partner and best friend, Linda DuBois.
You are all the most important part of my social contract.

Preface

The election of 1994 brought control of the House of Representatives to the Republican Party for the first time in forty years. This has led to the selection of Georgia Congressman Newt Gingrich as Speaker of the House. It is widely believed that Gingrich will be the most conservative and the most powerful Speaker in the twentieth century.

Political analysts everywhere are anticipating a vigorous battle for the White House in 1996 as President Clinton reacts to the conservative sweep of 1994. Numerous commentators have predicted that Clinton will move to the center on many of the issues that hurt the Democrats in the 1994 election, such as the issue of gays in the military, national health care, and the future of affirmative action. To distinguish his platform from the Republican candidate, Clinton—as of this writing—is expected to challenge the far right on two issues: crime and welfare reform.

The 104th Congress appears on the brink of pouring billions of dollars into even more prisons while simultaneously slashing spending on programs designed to alleviate poverty. The proposals made by the political right concerning “three strikes and you’re out” laws and the termination of welfare for millions of current recipients would have been considered too draconian to even contemplate just a few years ago. If passed into law, these proposals will wind up with millions of additional American adults behind bars and millions of American children living in the streets—or perhaps in the “orphanages” that Gingrich has called for.

The political right has billed this new program as a break with the past and a dramatically new “Contract with America.” However, the truth is that the process of cutting down on public spending for the poor and increasing the public funds available for prisons is not new.

Since 1975 public policy in the United States has moved precisely in that direction. What Gingrich and the Republicans have proposed is not a break with the past but a giant step forward in the same direction. Public policy concerning welfare and crime have been moving steadily in this same direction since Richard Nixon was in office.

This book analyzes the extent to which policies dating from the 1970s concerning poverty, crime, drugs, and individual rights have led us to where we are today. If in fact the political right is successful in further slashing support for those who are dependent on social provision and, at the same time, successful in pouring countless billions of dollars into even more prisons, can we reasonably expect any better results than what we have seen in the past quarter century? Is it possible that the transfer of welfare dollars to prisons will increase the chances that children living in poverty will become productive members of society?

Between 1975 and 1995 the average AFDC check lost almost half its purchasing power. Coupled with dramatic cutbacks in low-income housing appropriations, this has resulted in an unprecedented growth in the homeless population. At the same time, the number of Americans being held in jail or prison—the majority of them convicted of nonviolent offenses—has almost quadrupled at the cost of hundreds of billions of tax dollars. Have these policies been effective at reaching their goals? Have they been a wise investment of taxpayers' money?

This book suggests that increasing the number of Americans who already live below the poverty line almost certainly will increase the rate of crime in the United States. It also suggests that increasing the number of Americans living behind bars (1.3 million) will do virtually nothing to reduce crime.

We already have wasted a tragic amount of public funds on the needless imprisonment of nonviolent offenders, and the "three strikes" laws now going into effect in more and more states threaten to increase that waste exponentially. We already have denied too many children admission to Head Start programs and told too many homeless families that we cannot afford to subsidize low-income housing. The Gingrich program is not simply "more of the same," it is a lot more of the same. The real cost of this program will become apparent only decades from now when the children of the new social contract become the adult inmates of tomorrow's America.

Joseph Dillon Davey
March 1995
Carmel, California

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I also would like to thank the Board of Trustees at Hartnell College for giving me the sabbatical that I needed to complete my studies. I know that the opportunity they gave me has accrued to the benefit of the students in my classes at Hartnell.

Of all those to whom I feel a debt of gratitude, however, there is one who stands out. Professor Frances Fox Piven is, in a very real sense, responsible for this book. It was her lectures, her writings, and her personal guidance that directed my thinking, my research, and my interest in the issues I have discussed here. Like so many of her students, I owe her more than I can ever repay.

Introduction

The spectacular increases in inequality of income between 1975 and 1995 in the United States should be disquieting to anyone concerned about future social order. In fact, this inequality has reached a point where we now have “the widest rich-poor gap since the Census Bureau began keeping track in 1947.”¹ Economist Paul Krugman argued that the growth of inequality between 1979 and 1989 was “startling” and concluded that “it is probably safe to say that income distribution within our metropolitan areas is more unequal today than at any time since the 1930s.”²

When a nation experiences a growth in the middle class, there is ordinarily a comparable growth in political stability which translates into social order. Likewise, when there is a shrinking of the middle class through macroeconomic changes that increase the inequality of income, there is always the danger of rapid political destabilization. Growing class consciousness breeds the kind of resentment and distrust that can culminate in tragic insurrection.

In 1762 Jean-Jacques Rousseau published *The Social Contract*, which argued that “laws are always useful to those with possessions and harmful to those who have nothing” and concluded that “the social state is advantageous to men only when all possess something and none has too much.”³ As the United States witnesses a growing number of investment bankers who can earn tens of millions of dollars a year walking to work past an ever increasing army of homeless urban beggars, we might do well to consider Rousseau’s words.

In the post-World War II prosperity of the United States, the “protected rights” of the social contract included a promise to the working poor that a job with a livable wage would be available to those who

obeyed the law and that adequate social provision would be made available to those unable to work. All law-abiding individuals who kept their part of the social contract could reasonably expect to put a roof over their heads and food on the table for their families. Sometime in the early 1970s the nature of that "social contract" began to change.

WAR ON LABOR

In 1971, the United States, competing with the revived European and Japanese manufacturing, ran its first trade deficit since 1893.⁴ Shortly after the trade deficits began, the oil cartel rapidly raised the price of oil and U.S. corporations experienced the most dramatic fall in profits since the end of World War II. Something had to be done to change the bottom line.

The problem might have been addressed by investment in such things as fuel-efficient manufacturing methods, tax incentives to encourage the upgrading of workers' skills, and high-tech factories that would increase the productivity of U.S. workers. Instead, U.S. industry saw its opportunity to avoid U.S. labor costs altogether.

The method of regulating international currencies (known as the Bretton Woods system) was dismantled by the Nixon administration. With currencies deregulated, the amount of unregulated capital in the world increased rapidly and the "globalization of the economy" meant capital was free to seek out the cheapest labor it could find around the world. American companies exported millions of jobs to the Third World where cheap labor helped restore profits.

As a result of this "capital flight," millions of full-time, permanent union jobs in the United States were either lost altogether or gradually replaced by part-time, temporary jobs or low-wage service-industry jobs that traditionally were difficult to unionize. Unions in the United States came increasingly under siege as this "War on Labor" went into high gear. As jobs that once supported American working-class families found their way toward the Third World, the inevitable results were falling wages and increasing poverty for American workers.

GROWING POVERTY

The results are clear. Capital flight away from expensive labor markets and into Third World, newly industrialized countries has made a significant contribution to the lowering of the median wage in the United States. The average wage of workers in this country has steadily fallen. By 1988, inflation-adjusted weekly earnings in the United States were lower

than at any time since 1960.⁵ That figure includes individuals at the top of the salary ladder whose incomes had increased dramatically. For those at the bottom, things were getting a lot worse than the figures suggest. Moreover, between 1973 and 1992 nonsupervisory personnel (81 percent of the workforce) suffered a real hourly wage decline of 15 percent.⁶

Companies have also replaced workers with technology. From 1979 to 1992, thanks to automation, manufacturing output rose 13.1 percent, while the workforce declined by 15 percent.⁷ In the 1970s alone, the United States lost 38 million jobs through private disinvestment.⁸ In addition, the newly created jobs of the service-based economy did not pay at the same level as manufacturing jobs. From 1963 to 1979 less than 20 percent of new jobs in the United States paid under \$7400 (in 1984 dollars); from 1979 to 1984 the figure was 58 percent.⁹

A large proportion of service-industry jobs frequently do not even support housing for the worker, let alone support a family. Nonetheless, political leaders today call for a return to “family values” without ever mentioning the massive loss of unionized manufacturing jobs that once provided the resources necessary to support a family.

Those who are out of the labor force altogether have fared even worse. During this same period, inflation ate away at social provision. As we shall see, the purchasing power of the average check for Aid to Families with Dependent Children (AFDC) fell by 40 percent between 1973 and 1991. The percentage of Americans living under the poverty level who received AFDC fell 24 percent between 1975 and 1990 as eligibility requirements tightened. In 1991 alone, forty states either froze or cut AFDC benefits.¹⁰

The problem of homelessness in the United States is a direct outgrowth of these processes. As both the minimum wage and welfare benefits were eaten up by inflation, somewhere between a half million and a million people lost their homes and became the most glaring example of the worsening situation of the poor.

THE THREAT OF THE DISRUPTIVE POOR

Rousseau argued that the force of the community should be used to provide protection for its citizens' rights so long as those citizens observed the laws of society. At the same time, when society failed to protect the fundamental rights of an individual, that individual had the right to rebel against the social order.

In the decade before the sudden drop in U.S. corporate profits, Americans were horrified by the spectacle of urban riots. The anger at the inequality of American life erupted in violent disruption in one city after

another. By the early 1970s, American political and economic elites had been challenged by both the problem of falling corporate profits and the threat of social turmoil.

The history of social turmoil and how ruling regimes have mollified the disruptive poor over the centuries was extensively analyzed by Piven and Cloward in their classic *Regulating the Poor*. They found that the poor could be mollified by a temporary increase in social provision but that those concessions were always withdrawn after social order was restored. By the early 1970s social provision in U.S. cities had been substantially increased and social order had been restored. But what would happen when this assistance was reduced and the working poor found themselves competing with Third World workers?

There were alternative paths that could have been followed by political leaders in the United States of the 1970s. Investment could have been made in education and the upgrading of job skills. Head Start programs could have been fully funded; ghetto schools could have been upgraded to produce graduates who could successfully compete on the labor market with graduates of suburban schools or their counterparts in Japan and Germany; day care centers could have given welfare mothers the opportunity to improve their futures.

Little of this sort of thing was done. The response, mainly, was in the opposite direction. The firm hand of the criminal justice system was dramatically strengthened in order to create a correctional infrastructure extensive enough to deal with massive social disruption in the future.

ROCKEFELLER'S SPEECH

In 1971 David Rockefeller predicted that globalization of the economy would create a need for changes in the social contract. *The Wall Street Journal* quoted Rockefeller commenting on the future of the American economy: "With the social contract again up for revision, new social problems are generating increasing pressure for further modification and regulation of business. By acting promptly, business can assure itself a voice in deciding the form and content of the new social contract."¹¹

But what Rockefeller sanguinely referred to as "the new social contract," others have more ominously termed "the corporate restructuring and polarizing of America."¹² How would the rights of citizens that were protected by the community change under Rockefeller's forthcoming new social contract?

What would happen to the "working poor" in the United States when the "capital flight" involved in globalizing the economy took millions of unionized manufacturing jobs to the Third World and left them with

minimum-wage jobs that could not support their families? How far could American wages fall as the “deindustrialization” process progressed before American cities were filled with beggars living on the streets? And where would we put them if they became disruptive?

The smoke of the urban riots was still in the air when Rockefeller spoke in 1971. An estimated half million protestors had participated in 500 riots with 240 deaths. Even if American jails and prisons at the time had been completely empty rather than near their capacity, the most they could hold was little more than half the individuals who took part in the urban riots. There really was no infrastructure in place to treat these protestors punitively.

It is likely that by 1971 Rockefeller and the political and economic elites of the United States understood that a War on Labor was about to be launched and that this war would result in a rapid increase in the rate of poverty in the United States. There were others who had a clear image of what was to come. Harvard’s Daniel Bell was one. In 1973 Bell wrote in *The Coming of Post-Industrial Society*: “The reduction in the cost of transportation and the differential in wages has made it increasingly possible for American multi-national corporations to manufacture significant proportions of components abroad and bring them back for assembly. . . . All of this poses a very serious problem for American labor. The area where it is best organized, manufacture, faces a serious erosion of jobs.”¹³ To what extent was it possible to foresee that the danger of massive civil turmoil brought on by this increase in poverty would require a punitive infrastructure unparalleled in the industrialized world? Surely these questions must have been bandied about corporate boardrooms at some time in the early 1970s.

CREATING A LEVIATHAN

Was it possible to build enough cells to create a plausible threat to future rioters? Could the agencies of social control be expanded enough to protect the social order in an economy where income inequality grew with unprecedented speed?

If a coercive defense of an increasingly unequal economic system was to become possible, it would be necessary to generate a public hysteria over the danger of crime that would justify a massive investment in prisons. One major problem was that the Justice Department had begun to count crime more accurately and, as we shall see in Chapter 5, the crime figures for the past twenty years cannot justify the exaggerated fears of the public.

Specifically, the National Crime Victimization Survey of the U.S. Justice Department (see Table 1, page 70) shows that in 1973 there were more than 35 million crimes committed in the United States. By 1992, that figure was down to 33 million.¹⁴ Since the population grew substantially during this period, these figures imply a significant drop in the national crime rate during this period.

But this, of course, is not the impression one gets from the media coverage of crime news or from the FBI's Uniform Crime Reports. It would appear that there has been considerable distortion in the reality of the crime threat, which undergirded the massive increase in spending for criminal justice in the two decades between 1975 and 1995.

These spending increases have been truly extraordinary. Tax dollars that had been spent on alleviating the misery of poverty were shifted to the coercive defense of the status quo. Between 1975 and 1995, with very little public debate, there was a historically unprecedented expansion of U.S. prisons.

The expansion of public spending on crime was largely ignored on editorial pages and hardly noticed by taxpayers' groups. For instance, between 1980 and 1990 the total cost of health care in the United States increased 165 percent and became a major national concern. Yet with very little public debate, the total cost of the criminal justice system in the United States during this same period of time increased by an astounding 229 percent.

Specifically, tax dollars spent on police, criminal courts, jails, and prisons went from \$22 billion in 1980 to \$74 billion in 1990.¹⁵ At the same time, the cost of prisons alone grew from \$1.3 billion to more than \$25 billion (in unadjusted dollars). The number of people behind bars nationwide went from 300 thousand in 1973 to 1.3 million two decades later. With the recent introduction of "three strikes laws," this explosive growth in prisons will increase at an even greater rate to accommodate new inmates.

All of this has been justified in the public's mind by an imaginary crime wave orchestrated by powerful interests who fear that future social disruption will require a massive punitive infrastructure. How did this happen?

THE WAR ON THE POOR

David Rockefeller's words did not go unheeded by American elites. The new social contract that Rockefeller urged business interests to pursue has proved to be a new approach in the United States to the problems of the poor.

In the 1970s the United States saw an explosion of well-funded, right-wing political action committees (PACs) that pressed for “get-tough” policies regarding crime and poverty. The intellectual justification for this new approach to the poor was provided by the sudden appearance of equally well-funded, right-wing think tanks.

Numerous “free-market institutes” received enormous funding from corporations and foundations and were asked to provide the “directed research” that would undergird the political positions of the conservative PACs. These think tanks aggressively marketed their ideas to politicians and the public through briefing papers, newspaper columns, and conferences.¹⁶

The message they sent was consistent. The time had come to “get tough” on the poor and the criminal—two categories that were frequently blurred into one by the political right. The poor were lazy and crime was out of control. Tax dollars that had been spent on poverty programs would be better invested in building more prisons. The FBI did its part by annually informing the public that “reported” crime had once again increased. The fact that reporting patterns were changing and that the actual level of crime was dropping—facts of which the FBI could not be unaware—was never mentioned in the Uniform Crime Reports.

The criminal justice establishment and the mass media operate in a curious, symbiotic relationship. Criminal justice officials want more public funding and the media want the high ratings that crime hysteria assures. Throughout the imaginary crime wave of recent decades, the media have eagerly brought the bad news from the FBI to an increasingly terrified public. The public, in turn, then has urged political leaders to “do something” about crime.

State legislatures responded to the get-tough rallying cry by amending their penal codes to vastly expand the power of law enforcement to control both criminal and noncriminal behavior. In state after state, vast amounts of tax dollars were earmarked for prison and jail construction programs, quadrupling the number of inmates nationwide in just twenty years.

At this same time, the Nixon/Reagan/Bush appointees to the U.S. Supreme Court were facilitating the process by handing down decisions that “took the handcuffs off the police.” Decision after decision eviscerated many of the constitutional rights of individuals in their encounters with police in order to respond to what the Court called “an epidemic of crime.” The Burger and Rehnquist Courts systematically dismantled constitutional restrictions on police and prosecutors and increased the right of government to control behavior that is perceived as dangerous to social order.

CONCLUSION

The cost of incarcerating an unparalleled proportion of the population should be put in perspective in terms of spending on the poor. The United States incarcerates roughly four times the number of inmates today as it did in 1973 at a cost of around \$25 billion. We are spending about \$18 billion more on prisons than we would if we retained the same sentencing practices that were in place in 1973. What could that money do if it were used to relieve poverty?

The Earned Income Tax Credit is given to roughly 12 million poor families with a member who is working. Even with this credit many families still subsist under the poverty line. It is reliably estimated that to lift every family above the poverty line by using the Earned Income Tax Credit, the cost to the federal government would be around \$15 billion.¹⁷

In other words, for less than the increase in the annual cost of incarceration since 1973, we could lift the family of every worker in the United States out of poverty. But, it is argued, using this money for incarceration is a wiser investment in our safety than the elimination of poverty. With the recent introduction of "three strikes laws," the pace of prison expansion is about to quicken significantly in order to accommodate the rapid growth in the prison population that these laws will make inevitable.

Conservatives have successfully persuaded policy makers that "prisons work" and that "poverty does not cause crime." But it is clear that the eighteen months that the current average prison inmate serves does little more than make him or her an even greater threat to our safety when he or she is released. It is also clear that even if it is technically correct to say "poverty does not cause crime," the reality is an extraordinary correlation between high poverty rates and high crime rates.

Clearly, the elimination of poverty for millions of American families would do far more to reduce crime levels than the continued expansion of penal institutions. The time has come to face this simple truth.

The new social contract has turned out to mean that the strong become stronger than ever and the weak live, in unprecedented numbers, behind bars or in the streets. The contemporary American poor now live in a world like that described by the Greek philosopher Thucydides when he spoke of life outside the city-state "where the strong did what they could and the weak endured what they must."¹⁸ The time has come to face the fact that if the get-tough approach to crime and poverty for the past twenty years has been the "emperor of public policy," then the "emperor" truly has no clothes.

OVERVIEW

This book examines the massive expansion of funding and legal authority of agencies of social control. These agencies were expanded in order to restrain the growing number of disgruntled poor who have watched their jobs relocate to the Third World and their government reduce its commitment to abolishing poverty. It will examine changes in public policy concerning poverty, inequality, welfare, and homelessness and then compare those policies and expenditures with the policies concerning criminal justice over the past two decades.

The first three chapters deal with the issue of poverty from different perspectives. The response of government to the urban riots is analyzed in Chapter 1. The research on Piven and Clowards' thesis is examined. They argued that a disruptive poor is more likely to receive increased social provision but that once order is restored that provision is withdrawn.

The reduction in aid to the poor is then used as a means of controlling the poor and forcing them into the most unpleasant jobs even when wages are barely livable. Their alternative to accepting these jobs—namely, massive social disruption—can be foreclosed only by the availability of a massive punitive infrastructure. Chapter 4 examines how such an infrastructure has been put in place over the past twenty years with the addition of close to a million jail and prison cells nationwide.

The question of how the relatively nondisruptive poor have fared during the past two decades is examined in Chapter 2. The steady deterioration of the poor today is examined in detail and “the new homelessness” is examined in Chapter 3.

Chapter 5 examines the distortion of the extent of the crime problem by law enforcement. It suggests that law enforcement leaders have systematically misled the public into believing that the United States has a steadily increasing rate of crime in order to justify the expansion of the criminal justice empire. As we shall see, despite a sudden increase in homicide among central-city youth, the national rate of crime in the United States actually fell more than 25 percent during the 1980s. This had virtually nothing to do with the deterrent effect of prisons. It was a demographic phenomenon that had been predicted long in advance. As the baby boomers “aged out” of the crime-prone age group, it was inevitable that the crime rate would drop.

Chapter 6 shows how the media has a symbiotic relationship with law enforcement and how the media plays an important role in the public misinformation about crime. The public fear generated by law enforcement and the media has led to pressure on political leaders to do something about crime. Chapter 6 deals with the results of this pressure—the