

unites his generation of writers is that they are all children of the Pinochet dictatorship; yet the dictatorship figures little in the settings of his books. That period, when handled at all, is always treated obliquely. If anything, his two novels can be read as accounts of well-off people who lived through the dictatorship and were hardly bothered by it at all. Of course, there were many, many such people in Chile, and it would be a pleasure to see Zambra tackle this material with the dry, nuanced eye he showed in *Bonsai*.

Instead he turns to feeble analogy. At its crux, *The Private Life of Trees* turns on a

parallel between the vanishing of Julián's wife, Verónica, who goes to art class one evening during the democratic era and never returns, and the murder of political dissidents who were disappeared while the country was under military rule. "I'm the son of a family that has no dead," Julián says to himself during the minutely detailed night he spends waiting for Verónica's return. Other friends, he remembers, had families "where death appeared with pressing insistence"; what he has is Verónica's unexplained absence. Yet between these two kinds of loss lies a world of difference that Zambra never musters the courage to explore. ■

time and topic, from the hanging of witches in the seventeenth century to Taser shocks in the twenty-first, from torments inflicted by prison guards to coercive tactics employed by teachers, pastors and military officers. Among the Puritans, Cusac discovers, parents tried to beat "the will" out of their infants, because, as Jonathan Edwards put it, "all are by nature the children of wrath, and heirs of hell." In the 1920s leased prisoners in Alabama "frequently put dynamite caps in their boots and blasted off toes or feet" to escape even greater suffering in the mines. With sections about chain gangs, mental hospitals and lynch mobs, Cusac strings together a disquieting counterhistory of repressive violence, which, she suggests, has been inaccurately omitted from sunnier accounts of evolving disciplinary norms.

Cusac does acknowledge that over the course of the nineteenth and twentieth centuries, "American punishment slowly left most intentional physical pain behind." The gallows gave way to lethal injection, schoolmasters retired their switches and parents eventually embraced Dr. Spock. According to Cusac, however, this drift from public sanctions of the flesh to the private disciplining of the mind abruptly reversed course in the 1970s. In what historian Philip Jenkins labels the "decade of nightmares," the ghosts of Puritans past suddenly rematerialized. Americans fretted about Satan. *Newsweek* railed against irredeemably "wicked" juvenile delinquents. And anxious, angry voters finally elected Ronald Reagan, whose omnibus crime bills signaled a preference for hard power over soft power at home, just as the MX missile did abroad.

This pugilistic strain in US policy-making coincided with a deep transformation in American culture, Cusac argues. As many Americans recoiled from the upheaval and social experimentation of the '60s, as they fulminated against crime and lost faith in the benefits of social welfare programs, they grew alienated and vengeful. Some flocked to shock thrillers like *The Exorcist* and *Death Wish*, which reveled in pure evil or righteous, blood-soaked vigilantism. Others turned to televangelists like Jerry Falwell, who thundered against drug use, deviant sex and moral degeneration. On the fringes of the ascendant religious right, so-called reconstructionists went so far as to propose the imposition of biblical law, complete with public stoning for idolatry and filial disobedience. Out of this cultural foment, Cusac maintains, the prison state was born.

The transformation of LBJ's Great Society into Reagan's Mean Society has been well

The Prison Dilemma

by ROBERT PERKINSON

In his inaugural address, Barack Obama pledged to renew the nation's founding creed, to carry forward "that precious gift, that noble idea...that all are equal, all are free." Some 1.8 million people gathered on the National Mall to hear the new president on that icy January morning. Yet a considerably larger mass—equivalent to adding the population of Boston to the celebration—spent the same day behind bars. For America is not only the land of the free, as the Navy chorus chanted from the presidential dais. It is also, to an extraordinary extent, the land of the unfree, the most incarcerated society on earth.

The United States was not always so locked down. For most of the twentieth century its incarceration rate hovered near one-tenth of one percent, roughly the same as in other industrial free societies. Then, from the early 1970s forward, the federal and state governments began extending sentences, curtailing judicial discretion and restricting early releases. The prison population soared. By the end of George W. Bush's presidency, approximately one out of every 100 adults was in jail or prison, a proportion unmatched in the history of democracy.

During this same period, racial disparities in the criminal justice system have widened. At mid-century, during segregation, the black imprisonment rate was about four times higher than that of whites; by 2005 it was seven times higher. If current trends

Cruel and Unusual

The Culture of Punishment in America.

By Anne-Marie Cusac.

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continue, according to the Bureau of Justice Statistics, one in three black men born today can expect to go to prison in his lifetime. For the grandchildren of *Brown v. Board of Education* on the bottom rung of the socioeconomic ladder, American justice has become more separate and unequal, not less.

Analysts have put forward competing explanations for this severity revolution in criminal justice. Law-and-order conservatives point to elevated postwar crime rates, while critics blame private prison profiteering; unintended policy consequences, like supervised parole, that send tens of thousands to prison for failing a urinalysis; and even the excesses of popular democracy, as exemplified by merciless ballot initiatives like three-strikes laws.

Anne-Marie Cusac aims to synthesize this debate in an ambitious but jumbled new book, *Cruel and Unusual*. Emphasizing the physical pain of punishment and drawing on an eclectic mix of sources, from TV shows to trial transcripts, her study brings a host of fresh ideas to the discussion. Although Cusac has an eye for startling anecdote, her overarching contention that America's "culture of punishment" has sprung from Christian roots ultimately confuses as much as it clarifies. Unwittingly, her book makes a stronger case for alternate explanations for the country's punitive turn than for those she develops herself.

Cruel and Unusual roams widely across

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chronicled, notably by Rick Perlstein in *Nixonland*. But Cusac's version of the story is too neat. She presents *Dirty Harry* as emblematic of '70s sensibilities but ignores anti-establishment countercurrents in films from the era, like *Papillon* and *One Flew Over the Cuckoo's Nest*. She draws a line of continuity between Cotton Mather and Pat Robertson, whose gospels of fear, predicated on original sin, encouraged punitive policy-making. But she swerves around the century and a half between the Second Great Awakening and the civil rights movement, when prominent Christians who spoke out on criminal justice tended to stress mercy and redemption over chastisement and damnation.

Old-time religion lies at the heart of this book, but Cusac marshals only scattered and sometimes conflicting evidence for its influence on social and state violence. In a long section on the revival of spanking by modern-day evangelicals, for instance, she reveals that in opinion polls overall public support for child-swatting has plummeted, thus undermining her central premise. Suddenly, homeschoolers wielding their polyurethane "chastening instruments" ("The Means Prescribed by God," according to one brochure) look more like dead-enders than trailblazers.

If Cusac isn't entirely persuasive in arguing that religious zealots are to blame for America's cult of the prison, her wide-ranging survey highlights a number of alternative explanations. She notes that postwar globalization, deunionization and white flight concentrated poverty in central cities, at once incubating crime and eroding suburban sympathies for criminals. From Nixon forward, she points out, conservative politicians have used the figure of the parasitic, child-corrupting "drug fiend" to build support for redirecting resources, from social services to law enforcement, from the "war on poverty" to the "war on drugs"—and with staggering consequences. By 2005 a half-million people were in prison on drug convictions, most of them African-Americans or Latinos—even though, according to government survey data, an estimated 69 percent of regular drug users are white.

However one explains the causes of the prison boom, its costs and consequences aren't difficult to gauge. Corrections expenditures in the United States now exceed \$68 billion annually, but scarcely anyone thinks the money is well spent. Even hardliners like political scientist John DiIulio Jr. acknowledge that locking up ever greater numbers of nonviolent offenders, especially drug-only offenders, is doing more

social harm than good. Because what sociologists have come to call "mass imprisonment" not only punishes criminals but fractures families and hardens unemployment, many policy-makers are starting to agree with Supreme Court Justice Anthony Kennedy that our criminal justice system is riddled with inadequacies and injustices. "Our resources are misspent," he told the American Bar Association in 2003, "our punishments too severe, our sentences too long."

By spotlighting the injuries inflicted by punishment, *Cruel and Unusual* encourages us to prioritize remedies that could curtail law enforcement abuses and improve conditions of confinement. The ACLU and the Vera Institute of Justice, among others, have proposed a host of sensible policy fixes in these areas, including independent oversight boards, mandatory videotaping of interrogations and use-of-force incidents, and the repeal of the 1996 Prison Litigation Reform Act, which effectively barred inmate complaints from federal court and thus hid prison operations from public view. These recommendations should be implemented, especially because the Bush administration tacitly condoned detainee mistreatment by making extralegal imprisonment and coercive interrogation key weapons in its "war on terror."

Protecting individual arrestees and inmates from acute harm will solve only part of the problem, however. For what makes America's criminal justice system exceptional is not its savagery but its scale. On any given day, 7.5 million people are under criminal justice supervision in the United States. One in fifteen black children goes to bed each night with a parent behind bars. Over the past few decades, hundreds of prisons have been built in the United States but only a handful of new public colleges. To address this larger crisis, more ambitious, politically risky steps will be required. It will mean not just treating inmates more humanely and assisting their re-entry into society but sending fewer people to prison in the first place and letting more of them out. To dispense justice, America's criminal justice system needs to be safer and more softhearted, to be sure, but mainly it needs to be smaller.

On his journey to the presidency, Obama suggested he understood this. In the Senate he co-sponsored the Second Chance Act, which aims to reduce recidivism by providing assistance to former prisoners and their families, as well as legislation to eliminate the racially discriminatory sentencing disparities between crack and powder cocaine. On the campaign trail, he pledged to review and eliminate most mandatory minimum sen-

tences and said he favored treatment over incarceration for drug crimes. "We can be smarter on crime and reduce the ineffective warehousing of non-violent drug offenders," he wrote in an NAACP questionnaire. In *The Audacity of Hope*, he articulated a social democratic view of crime that has been out of favor for forty years. "We need to tackle the nexus of unemployment and crime in the inner city," he wrote. "With lawful work available for young men now in the drug trade, crime in many communities would drop."

Obama has been given the chance to reassert those principles by the freshman Democratic senator from Virginia, Jim Webb, who in March introduced what could be the most important piece of progressive crime legislation in a generation, the National Criminal Justice Commission Act. Although Webb represents a purple state known for harsh penalties (Virginia abolished parole in 1995 and ranks second to Texas in executions), he has spoken out forcefully on criminal justice, which, he argues, "has deteriorated to the point that it is a national disgrace." "We have 5 percent of the world's population [and] 25 percent of the world's known prison population," he noted in a recent floor speech, which means "either we have the most evil people on earth living in the United States; or we are doing something dramatically wrong."

The Webb bill, which has attracted widespread Democratic and scattered Republican support, does not propose specific policy changes. Rather, for the first time since the Johnson administration, it aims to establish a blue-ribbon bipartisan commission to develop a "top-to-bottom" overhaul plan for the criminal justice system. Significantly, the legislation instructs commissioners to investigate minority overrepresentation in the penal system, reconsider the criminalization of drug possession and generally devise reforms that will "reduce the overall incarceration rate while preserving public safety, cost-effectiveness, and societal fairness."

Returning the United States to historical and international norms on drug and prison policy after almost forty years of draconian exceptionalism will be difficult, but Webb's national commission is a good place to start. Congress and the Obama administration are already contending with an ambitious, unwieldy agenda, but if their new regime is to overturn the old, criminal justice cannot be ignored. Americans will not be able to carry forth that "great gift of freedom" and deliver it safely to future generations, as the president says we can, with so many of our people living behind bars. ■

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