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# WALK WITH ME

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Liberation Theology and Critical Theory within Prison Ministry



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## ***Introduction***

Liberation theology seeks to emphasize the situated reality of the subjugated and minimize oppression when present, popularly thought of as having “a preferential option for the poor.” Critical theory reflects on structures of oppression that creates or exacerbates subjugation of the other and seeks to either expose or ideally deconstruct such systems so that oppression may be alleviated. This submission is heavily reliant on such theology and theory as well as the weekend structure outlined within the Kairos Prison Ministry Program Manual. Essentially these decades old prison ministry efforts rely on ecumenical Christian volunteers (although dominated by Roman Catholics and Pentecostals/nondenominational) to enter correctional institutions and create fellowship with the detained, building self-esteem. Although modification to the program is somewhat tolerated, the weekend ministry effort traditionally consists of six or more meditations and ten or more “talks” or discussions of how scripture applies to the subjugated, and more importantly how the subjugated can find their own redemption narrative in scripture.

This submission is written from a critical liberative perspective, unapologetically reliant on the “Convict Christ,” and urging those incarcerated to likewise reflect on the passion, death, resurrection and ascension of the incarnate God.<sup>1</sup> After all, the convict has as much in common with Christ (who was convicted) as does any minister of the word. It is hoped that this submission will evolve into a compendium to accompany and augment the more traditional (as well as conservative) perspective and material utilized by current Kairos volunteer leaders.

Although the content herein was organized throughout the fall of 2017 semester, the genesis of the work is passionately experiential and has taken over a decade to compile as well as a lifetime

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<sup>1</sup> Although Christian-centric other faith traditions can utilize the theology and theory in their own ministerial efforts.

of nurturing in the hyper-industrialized, excessively segregated and extremely diverse City of Newark, New Jersey. Further it is informed by an author adjudicated a juvenile delinquent who has varied experience in adulthood as a defense attorney, prosecutor and judge. Parts of the following were delivered in prison ministry efforts this past fall at the Edna Mahan State Prison for Women, Garden State Youth Correctional Facility, Trenton State Prison and Bayside State Prison in Leesburg, New Jersey (over 130 miles from Newark, New Jersey).<sup>2</sup>

Having ministered through Kairos Prison Ministry for almost a decade as well as its New Jersey counterpart Kenosis (and Credo, which seeks ministry with recovering substance abusers) there is no shortage of “condemnation talk.” That those incarcerated have been led astray by the “evil one” and have “fallen short” of the glory of God -- that they are primarily responsible for their plight. Such discussion and the testimonies that they inspire, “that I once was lost but now I’m found” is assuredly a comfort to the outside volunteer and concededly inspires an occasionally genuine testimony of “salvation through the blood of Christ.” What is underdeveloped are discussions that praise the lives of the detained that often inspires ecstatic testimonies that “Christ lives in me.” The difference is not nuanced. All too often traditional venues of prison ministry are geared toward “breaking down” the deviant so that they can accept and internalize their depravity and then fill their resulting void with the saving grace found through the risen Christ. This submission seeks to celebrate the situated reality of the God’s greatest creation, their ability to survive under unimaginably difficult situations, both in

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<sup>2</sup> The Bayside Kenosis group was given permission to engage in prison ministry by the New Jersey Department of Corrections in 2015. Housing about 10% of the adult inmate population (See Appendix A: 1,909 of 19,619). Bayside is the most restrictive in terms of allowing material within its facility and there is concern that this material may be inconsistent with the more conservative ministerial desires of decision makers. The Pew Forum Religion on Religion and Public Life’s “Religion in prisons – A 50-state survey of prison chaplains,” published in 2012, attest to the conservative perspective of prison chaplains throughout the nation.

community and confinement, and *through* their despair find meaning-making and redemption through the exemplar of Christ that can remain with them for evermore. Consequently, this submission seeks to deconstruct systems of oppression, from both the conservative as well as the seldom critiqued progressive perspective instead of the individualized approach. Further, these brothers and sisters enduring confinement can reach others (and can minister to one another) who are similarly situated in communities that are hyper-segregated and extremely marginalized and be the exemplar to others, literally following the footsteps of Christ, one's "Lord and Savior."

A few weeks ago, I was warmly greeted as follows. "I remember you! You're the Convict Christ guy. Man, that was powerful. I've been thinking about that ever since you left." This was the greeting that welcomed me upon my return to the Garden State Correctional Facility by a member of a recent Kenosis<sup>3</sup> weekend program. The greeting brought instantaneous joy, comradery and solemnity to our next project, organizing an Alternatives to Violence Project (AVP) weekend, a secular effort (although inspired by the Quakers) to facilitate the reintegration as well as enhance the conflict avoidance attributes of the confined. What has been called a heresy, somewhat kiddingly by my fellow volunteers, that the incarcerated have something very important in common with Christ – they were/are both convicts, can be reappropriated as the essence of Christianity. Sure, Christians say it, "the last shall be first" but do Christians believe it? If God is God, capable of all things, couldn't the currently confined be the next Christ or at least Christ-like? And if so, aren't volunteers in this ministry truly gifted and blessed to be in their company.

It has been my experience nurtured in Newark, New Jersey, ministering in the *favelas* (shantytowns) of Brazil as well as in every prison in New Jersey that when we "flip the script" in

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<sup>3</sup> New Jersey's version of Kairos.

community with “the other,” an instruction clearly found in the Beatitudes, we are most blessed merely by being in that community. Moreover, the situated reality of the confined powerfully resonates with and exemplifies the poor, those who mourn, the meek, the hungry, the merciful, the kind hearted, the peacemakers, and the persecuted, all enduring within our current carceral state. Lastly, “name the prophet and I’ll name the crime” is a particularly useful exercise. From the murder attributed to Moses and King David, to the insurrection of Paul and the apostles, from genocide and slavery, political upheaval and domestic instability, the trials and tribulations of the incarcerated are not necessarily unique to those that cherish scripture. Clearly there is more emphasis on the prison and prisoners, on deconstructing powers and principalities, than on cathedrals and Bishops or protecting the status quo and the ensuing injustices within scripture.

It is from this perspective, the situated reality of our confined sisters and brothers as evidenced in a liberative interpretation of scripture, that the following seven chapters are written. The first chapter discusses meaning making and the resulting redemptive script that is present in the lived experiences of the confined and in their unique ability to influence the lives of others. Reliance is placed on the work of Holocaust survivor Viktor Frankl (1905-1997) as well as criminologist Shadd Maruna. Frankl emphasized that individuals should not forget (or minimize) the acts nor process that brought them into confinement but use the condition to make the best of the experience -- essentially, using one’s conviction as a foothold to climb higher. Maruna specializes in desistance (avoiding recidivism) and his research found that inmates that cultivated a redemptive script, which had a survival narrative of their experiences as well as their aspirations, enhanced their integration into society as compared to those that had a condemnation script, blaming a dysfunctional system or themselves for their plight.<sup>4</sup> There are at least two

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<sup>4</sup> A venue of study that has developed into its own field commonly called “victimology”.

threshold questions for those engaging in prison ministry, whether the detained are victims or survivors, or perhaps both – or neither and whether the convicted are sent to prison for punishment or *as punishment*.<sup>5</sup> Usually the more regressive or spiteful of individuals would favor the former.

The second chapter discusses prison ministry programs such as Kairos, Kenosis, Credo, and even the Alternatives to Violence Project, all collective efforts to inspire and cultivate skill sets within the confined that will sustain them during their confinement as well as facilitate their reintegration into society.<sup>6</sup> Much of this second chapter integrates my decade long work with these groups within the dozen prisons throughout New Jersey as well as Pennsylvania and New York. The third chapter is an application of Liberation Theology, as interpreted and largely influenced by Brazilian theologian and former Roman Catholic priest Leonardo Boff, on carceral populations as well as Critical Theory as developed by Michel Foucault (1926-1984) and expanded by sociologist Loïc Wacquant, a noted protégé of acclaimed sociologist Pierre Bourdieu (1930-2002). Wacquant is at the forefront in urging that the criminal justice system is not broken but operates as intended. Generally, the system operates to subjugate vulnerable individuals and marginalize communities while engendering complacency and producing apathy

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<sup>5</sup> A further discussion of the theories of punishment are beyond the scope of this work but there are generally four legitimate systems of punishment recognized in civil societies. There is retribution wherein *lex talionis* acts to lessen the punitive response to proportionality (“punishment resembling the offense committed in kind and degree”). Then incapacitation (liberty deprivation/incarceration), deterrence (both general – influencing others and specific – individualized) and rehabilitative, which could include restorative or reparative.

<sup>6</sup> More effort should be had in incorporating the arts and theatre into carceral facilities especially “theatre of the oppressed” troupes. Indeed, in New York community members are invited to form theatre troupes with dedicated actors and these troupes perform plays confronting social injustices <http://www.tonyc.nyc/>, accessed December 17, 2017. The work of Brazilian educator Paulo Freire (1921-1997), *Pedagogy of the Oppressed* (1968), has influence such efforts. <http://www.practicingfreedom.org/pedagogy-of-the-oppressed-what-is-it-and-why-its-still-relevant/>, accessed December 17, 2017.

by comrades of the confined. The result, marginalized people are increasingly disenfranchised from our lauded democratic system of governance, young people too frenzied to engage in civic duty, and those of modest means too worried about loss or striving to differentiate themselves that society becomes polarized and increasingly fragmented.

The fourth chapter relies on a Bordieuan analysis as well as the work of criminologist Todd Clear to explore the need for social networks as well as the coercive mobility of incarceration and the resulting exacerbation of marginalization in disadvantaged communities. The fifth chapter is influenced by sociologists Thomas Scheff and Suzanne Ratzinger's work on shame adjustment and its application to the attunement of the soul as well as the psyche. The sixth chapter is inspired by various theologies of liberation, especially feminist theology<sup>7</sup>, as well as the work of convict criminologists and the International Conference on Prison Abolition (ICOPA) culminating in the emergence of Convict Theology, the preferential option for the incarcerated. Giving agency and "lifting up" the least in twenty-first century America. As Russian novelist Fyodor Dostoyevsky (1821-1881) said, "The degree of civilization in a society is revealed by entering its prisons." This sentiment should be applied to the degree of spirituality in any church, mosque, synagogue or temple.

The seventh and final chapter calls for the secularly inspired efforts of most of the sociologists and organizations discussed herein (e.g., AVP, ICOPA) to collaborate and even integrate their work with the sacramentally and spiritually oriented theologians mentioned throughout this work and engaged in prison ministry on a regular basis. Perhaps the most

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<sup>7</sup> If convicts are the most marginalized of people, then female convicts are even more so. Similarly, if African Americans are among the most discriminated against population, then black females are even more so. And as the ministry outlined herein is dedicated to the most marginalized of subjugated populations, an appreciation (to the extent possible) of the plight of being female and black in twenty-first century America is indispensable.

disappointed aspect of prison ministry is the animosity between critical theorists and the *intelligentsia* as set against liberative theologians and spiritually inspired efforts at social justice, as well as the underdeveloped appreciation of socio-political realities by the spiritually inclined. Indeed, at a recent national criminal justice conference Jeremy Travis, the former president of John Jay College of Criminal Justice emphasized the need to build bridges between the secularly and spiritually based communities. Further, among the most annoying aspects of prison ministry is the dominance of belief by conservative and dogmatic clerics and volunteers who albeit genuinely pious and well-intended often seek to condemn the individual (or “compete for souls”) while neglecting the structural realities that contributed to the underlying criminalized act (or appreciate different paths [denominations/faiths] to find the essence of life). Clearly there is much to unpack as science and faith as well as politics and theology have been entangled for centuries, and in modernity being most estranged from one another. Nevertheless, the commodification, pervasiveness and increasingly perpetual stigmatization of the incarcerated call for science and faith as well as politics and theology to collaborate to address the social wickedness of mass incarceration for the glory of God and/or nation.

### ***Chapter 1: Meaning making and a redemptive script***

Simple yet effective slogans to guide meaning making and formation of one’s redemptive script can be derived from the Episcopal Church of New Jersey, “Know Your Story, Live it Boldly” and the other from Kenosis, “Listen - listen. Love – love.” While “knowing one’s story” has various meanings, the Kenosis adage is very straightforward. No matter what the inside resident (the detained) says, strive to listen to the thoughts behind the words. Even if the words hurt, embrace the intent and in the rare incidence that even that is not possible, love the potential and/or the soul. While it is common for Christians to be inspired by scripture, precious biblical



stories, and through such stories find understanding, interpretation and application of God's word, it may be less common for Christians to believe that God's word did not end with scripture but continues to unfold every day, everywhere and through everyone. And it speaks to some very clearly in carceral facilities wherein the trappings of modernity (i.e., "the cell phone"), multitasking and busyness is seemingly strictly prohibited.

While God's unfolding story of redemption, of forgiveness of sin (or fault) and reconciliation with God (or the greater community) are amongst the greatest needs of everyone past, present, and future, the opportunity for redemptive stories are most plentiful in detention centers and parallels what Malcolm X called the second-best place to learn. Malcolm is quoted as saying, "I imagine that one of the biggest troubles with colleges is there are too many distractions, too much panty-raiding, fraternities, and boola-boola and all of that. Where else but in a prison, could I have attacked my ignorance by being able to study intensely sometimes as much as fifteen hours a day?" However, with growing student debt crises, skewed admission criteria, and discriminatory systems of student assessment higher education has become more selective and sadly, prison education programs rarer. Of note, is the seven-year transition period that Malcolm X had from Boston street thug to iconic social justice activist. And to those that worry of the radicalization of the prison population, especially the Muslim prison population who perhaps make up the greatest disparity of all comprising 1% of the public yet 10% of the prison population,<sup>8</sup> Mark Hamm's work notes that prisoner radicalization and the evolving terrorist threat occurs in "spectacularly few" instances.

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<sup>8</sup> Another disproportionately represented population in carceral facilities are native Americans. The Tayba Foundation estimates that depending on the facility 6-12.5% of inmates are Muslim. <https://www.taybafoundation.org/2016/islam-and-muslims-in-the-u-s-prison-system-by-rami-nsour/> retrieved February 2, 2018.

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## Inmate Religious Affiliation

*Approximately what percentage of inmates identify with the following religious groups?*

	Mean %	Median %
Christian		
Protestant	50.6	50
Catholic	14.5	10
Mormon	0.8	0
Orthodox Christian	0.4	0
Other religions		
Muslim*	9.4	5
Native American spirituality	2.7	1
Pagan/earth-based practitioner	1.7	1
Jewish	1.7	1
Other non-Christian religions**	1.5	0
Buddhist	0.9	1
Hindu	0.2	0
No religious preference	10.6	5
Proportion of inmates whose religious preference not known	5.0	0

Q22a-m. Responses could range from 0 to 100 for the set of 12 groups. Mean response based on all answering. Those who gave no response to the question are excluded.

\* Includes followers of the Nation of Islam and the Moorish Science Temple of America.

\*\* The question listed the following examples: "Baha'is, Rastafarians, practitioners of Santeria, Sikhs and others."

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Thematic ministry such as prison ministry is more effective and authentic when it is subversive – to touch people in their situated reality and “speak truth to power.” Further, the “whole church” begins with the most marginalized and in twenty-first century America the most marginalized is the inmate and/or those in detention as well as their families and communities. Lastly, *hutzpah* or “thick skin” or even “an elevated opinion of oneself” (of being “called and set apart”) is a gift when striving to deconstruct layers of oppression especially the elitism, privilege, selfishness and the sacralization of law and order at the expense of mercy and compassion corrupting criminal justice institutions (as well as religious institutions). Such meaning making, defiantly standing against subjugation masquerading as formation or conformity to the status

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<sup>9</sup> <file:///C:/Users/Administrator/Downloads/Religion-in-Prisons.pdf>, retrieved on February 2, 2018.

quo, enabled me to cultivate my own redemptive story that has reignited engagement with the faith of my ancestry – a Roman Catholicism that nurtured and encircled a family as it migrated from the fields of Brazil to the bowels of the Ironbound section of Newark, New Jersey. It is also a Catholicism that boldly places the bloodied broken bodied Christ on its crucifix instead of the “glorified Christ” common to the “Protestant cross,” emblematic of the risen and ascended Christ. So, a star or perhaps a royally clothed Christ is the symbolic meaning of such a cross, while the passion and crucifixion is the meaning of the other cross. While both symbols are to be welcomed in Christianity, one symbol resonates powerfully with Catholics many of whom abide by or at least tolerate the tenets of Liberation Theology. It is worth noting, before the glorious resurrection and ascension there was a trial and crucifixion.

As an example, my Uncle Isaac Melo (1934-1974) was a kind, gentle and generous person who suffered from alcoholism. Nevertheless, as a five-year-old I remember him fondly. As he celebrated his 40<sup>th</sup> birthday he desired to visit his children but in his drunken stupor he went to the wrong house, only a block away from where his children resided. Unable to communicate in English and obviously intoxicated and probably belligerent, law enforcement was called. Surely, the officers who arrived in this Newark neighborhood had a long night of calls and aggravations and perhaps Uncle Isaac, named after the prophet almost sacrificed on an altar for God, was too much to professionally deal with. Hours later he lay dead in a basement cell at 31 Green Street, “cellblock” for those awaiting a court hearing, a jail condemned by various federal court orders. Twenty-five years later I would be a judge in that very building and often requested to process bail requests in “cellblock” where I could more fully appreciate the lives (as well as the smells, stares and sounds) of those like my Uncle Isaac, some of whom “resided” in the very cell that took his life. The official cause of death was head trauma and

hemorrhaging, but the more important question remained unanswered -- was the head trauma self-inflicted, an accident, brought about by the police or more likely by other residents who may have been encouraged by the police or full of rage for their own plight. It is a mystery that the family has turned over to God and is not spoken of.

Uncle Isaac did not need to formulate a redemptive story, nor did he need to make meaning out of his story. He as so many others in urban America lived out their story as boldly as possible and perhaps it is up to us to live it out even more boldly. Consequently, that burden (or gift) of meaning making for Isaac is for those left behind, if they have the courage and opportunity to try. The context as well as the beginning to Uncle Isaac's story is as important as the ending, that fateful night of June 16, 1974. Being a peasant migrant Isaac was not able to attend school in his homeland. His illiteracy and that of all my aunts and uncles made engagement in education a rarity throughout the family. After migration to Newark<sup>10</sup> the labor opportunities for Isaac were extremely limited but plentiful were the alcohol outlet dispensaries (i.e., taverns, bars, liquor stores) in our Newark neighborhood. Indeed, alcoholism is the most common disease in my family (and throughout the nation) and illiteracy a very common educational status.<sup>11</sup> Additionally, as medical care was not afforded to my family, Isaac's wife

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<sup>10</sup> Although migrant ministry is beyond the scope of this paper the remittances that migrants send to their home communities help to maintain those communities and the contributions of immigrants to America are incalculable. Instead of engagement on "open borders" or "building walls" more attention needs to be placed on the presumably unintended influence of militarization and corporatization of the world economy that results in despair, environmental havoc, political illegitimacy and culminates in mass migration.

<sup>11</sup> Making higher education more difficult for working class students due to financial necessities, debt concerns and elevating the credibility of discriminatory standardized tests is another layer of structural oppression that compounds the pursuit of education, already devalued by many illiterate and "under-educated" families. Further in my case with respect to Drew University, the institutional desires of supposed mentors and pseudo-progressive administrators placed structure over substance and reliance on an arbitrary (or totally lacking) due process system with respect to student rights to remove me from a doctoral program. While a pretext for their act would be

Carmelia (also a Hebrew name meaning “garden or orchard”) did not seek medical attention for her pains and discomforts. Consequently, when her cervical cancer had metastasized she had weeks to live unlike the over 90% survival rate for women who have such cancer diagnosed at an early stage.<sup>12</sup> Her premature death exacerbated Isaac’s disease and ultimately left three children, my step-brother and sisters, orphaned. Further, the rage felt by two of these children manifested itself throughout their teen-aged years and into adulthood through harm both inflicted on themselves and others. To cope with the dysfunctionality the third child “rejected” the family avoiding the fate of the other two siblings, who were among my first defense clients when I opened my legal practice in Newark. Indeed, my clientele was comprised mostly of my family and childhood friends and my legal skills honed since childhood engaging landlords, governmental officials, doctors and bill collectors when called upon.

While there are “bad people” in detention I have found that most of them have more in common with my family and friends, who I truly love, than those in the elevated positions I encounter throughout society, including the Episcopal Church and Drew University. Nevertheless, the purpose of sharing this redemptive narrative is not to emphasize the discontentment on institutions that I believe have wronged me (and so many others) but to get a fuller picture of a family story and with such meaning enabling myself to live life boldly, to be

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“standardization” I have yet to receive a listing of the length it took others to get through their respective Comprehensive Exams and have not received a response to the lack of diligence that tenured instructors had in returning my work in a timely fashion or otherwise ushering me through the doctoral process. Much like the criminal justice system, the higher education system places the onus on the individual to insulate the institution whenever convenient. To rely on scripture, systems of laws and education are made for the individual, not the individual for those systems.

<sup>12</sup> An underdeveloped area in criminal justice is our mismanaged health care system that exacerbates despair, shortens lifespans (and guardianship) and wastes precious fiscal resources. Most criminologists accept that at least half (I believe 80%) of the prison population has been negatively impacted by addiction and/or co-occurring mental conditions as well as cognitive difficulties.

empowered by the resilience of my family and to cultivate a redemptive story that may influence others and consistently question institutions and their apparent righteousness. Being born into a poor family, which lacked formal education and failed to appreciate the benefits of education, suffered with addiction and domestic violence, exclusively spoke a foreign language, endured citizenship instability, and represented a spectrum of racialized colors -- a trait shared by many Brazilians, has been my principal blessing.<sup>13</sup> Not to mention being nurtured in the extremely urbanized, hyper-industrialized, excessively segregated, and tremendously diverse Ironbound community of Newark, New Jersey.

When criminologists discuss prison population variables some have the gift to reflect on the narratives of their families and friends as well as the conditions of their neighborhoods. Statistically speaking, over 90% of inmates are poor, over 70% do not have a high school diploma, over 50% have substance abuse issues, and in New Jersey over 78% are comprised of marginalized populations<sup>14</sup>, the greatest racial/ethnic disparity in the nation. Further, the statistical absurdities begin with juvenile delinquency wherein New Jersey leads the nation in racialized disparity of those detained at an over 30% rate<sup>15</sup>, twice as excessive as any other state. Lastly, it should not surprise anyone that four of the top six states for excessive racial disparity in juvenile detention centers are in the presumably progressive Northeast region.<sup>16</sup> These presumably progressive states (including New York) have the most segregated public-school

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<sup>13</sup> And acclaimed institutions such as the Episcopal Church and Drew University my nemesis.

<sup>14</sup> Marginalized populations include ‘People of Color’, specifically those identifying as Black (62%) or Hispanic (16%). See NJ Department of Corrections, January 2, 2018 statistics. [http://www.state.nj.us/corrections/pdf/offender\\_statistics/2018/By%20Race%20Ethnicity%202018.pdf](http://www.state.nj.us/corrections/pdf/offender_statistics/2018/By%20Race%20Ethnicity%202018.pdf), retrieved February 2, 2018.

<sup>15</sup> <file:///C:/Users/linha/Downloads/Black-Disparities-in-Youth-Incarceration.pdf>, accessed December 17, 2017. The next closest state to New Jersey’s 30.64 is Wisconsin at 15.11. Further only four other states are in double digits: Connecticut, Delaware, Massachusetts, and Montana.

<sup>16</sup> New Jersey, Massachusetts, Delaware and Connecticut.

system and communities in the nation.<sup>17</sup> Therefore, to know one's story and live it boldly, to listen-listen, love-love, we need to fully understand and appreciate the structural aspects of family and community and largely influence one's academic, professional and especially "law abiding" existences and achievements. To recall what a fellow jurist once told me, "For Lady Justice to be truly blind, she must remove the blindfold to see who is actually before her." This submission seeks to remove the blindfold of those who have sacralized the criminal justice system, higher educational venues, pseudo meritocracy analyses as well as convenient "scientific fact" through reliance on the mystical, transcendental and aspirational reflection on Lady Justice and other enchanted gods and goddesses (primarily Christ) associated with religiosity – a most powerful elixir against the concentrated and persuasive powers and principalities of injustice.

The snippet of a personal testimony shared above resembles the personal testimonies of many volunteers engaged in Kairos and Kenosis ministries. Ironically, they also are analogous to the narratives shared by inside members that may be discounted as confirmation bias for the qualitatively methodologically oriented but for the religiously spiritually oriented, "there but for the grace of God go I." Such empathy and compassion are an intensification of sympathy and mercy that those who are non-oriented to prison ministry may rely on.<sup>18</sup> Volunteer narratives include a gun failing to discharge during an employment dispute in one's youthful military service which would have ruined the life of what became a very successful businessman. The need to call the police to capture a fugitive son who had endured years of addiction and sought

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<sup>17</sup> [https://www.washingtonpost.com/blogs/govbeat/wp/2014/05/15/the-most-segregated-schools-may-not-be-in-the-states-you-d-expect-2/?utm\\_term=.9b362e10cd2b](https://www.washingtonpost.com/blogs/govbeat/wp/2014/05/15/the-most-segregated-schools-may-not-be-in-the-states-you-d-expect-2/?utm_term=.9b362e10cd2b), accessed December 17, 2017.

<sup>18</sup> A recent metaphor shared by a colleague in prison ministry is that mercy and compassion is indispensable to law and order. Mercy exists when prosecutors and judges are lenient on deviants. But compassion is present when someone else (or something else, i.e., structural oppression) is held accountable for another's deviancy. Very analogous to Christ being the "sacrificial lamb."

temporary refuge in the house of the father against that son's desires. The need to minister to others as one's own son serves life imprisonment for killing the person who sexually assaulted his sister (the volunteer's daughter). Testimonies that involve the pain of poverty, acts performed while under mind-numbing addictions and usually the need to make "fast money" in our image based culture. A culture of hyper-masculinity that emphasizes wealth accumulation as well as leading to the objectification of others and sexual assaults as well as a culture of rape. In short, these are various forms of addiction that nullifies free will and compromises conscientiousness.

The work of Maruna explores the efficacy of redemptive scripts molded by religious service providers to the incarcerated. The study of the transformation power of narratives and story-telling (proverbs/parables) is a neglected area of study for social scientists "but the power of these meta-narratives is well known to rehabilitation practitioners – and, most importantly, to desisting ex-offenders."<sup>19</sup> Ideally, my removal from the doctorate program at Drew University's Religion and Society program (about two months prior to my Holy Order rejection) intended to explore the work of religious service providers, specifically the volunteers of Kairos and Kenosis Prison Ministry, as they seek to sustain the morale, influence the development of positive self-imagining, and encourage religiosity in the incarcerated, ultimately facilitating the reintegration of the incarcerated into the "beloved community."

Maruna's classic work<sup>20</sup> concludes that to desist from crime (to lessen recidivism), "ex-offenders need to develop a coherent, prosocial identity for themselves."<sup>21</sup> Such research supports the hypothesis that religiously oriented narratives can significantly contribute to that

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<sup>19</sup> Maruna, p. 167.

<sup>20</sup> *Making Good: How Ex-Convicts Reform and Rebuild Their Lives*, American Psychological Association, 2001.

<sup>21</sup> *Id.* p. 7.



development. Further, communicators of those narratives, especially “wounded healers” are among the most credible facilitators of such narratives. To advance the proposition that narratives are essential to develop a prosocial identity Maruna relies on the work of sociologist and criminologist John Keith Irwin (1929-2010), particularly Irwin’s Keynote address, “The Return of the Bogeyman,” at the American Society of Criminology in 1985. Irwin suggested that the creation of bogeymen, manufacturing of common enemies, emerge during uncertain times to form a classification of people that are to be segregated (“them”) and another that are “productive” (“us”).<sup>22</sup> Further that segregated population, irredeemable offenders in the instant case, ought to be stigmatized from reintegration, what Michelle Alexander has referred to as “The New Jim Crow.”

Irwin’s thesis is analogous to Wacquant’s proposition that incarceration is meant to legitimize neoliberal society by producing (and reproducing) an underclass, prison being a conveyor belt from the “ghetto.” Such a system justifies the “productively” or upward mobility of the privileged (even the lack thereof) or at least culminates in the contentment of the non-incarcerated yet exploited marginalized populations (i.e., “Life could be worse” or “We better mind our business”). The persistent and perpetual uncertainty and instability of such an existence is a major focus of the work of social philosopher Foucault. Maruna relies on Foucault’s analysis on how power and knowledge are utilized as a form of social control through societal institutions such as prisons and churches.<sup>23</sup> Moreover, Sociologist and Professor Emeritus of the University of California, Berkeley Dr. David Matza, was relied on for the proposition that “individuals sporadically “drift”” into deviancy throughout a lifetime.

Consequently, criminal conduct extrapolation is vastly over predicted as people age out or

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<sup>22</sup> Id. p. 5.

<sup>23</sup> Maruna citing Foucault, 1988; p. 8.

“zigzag” through periods of deviancy.<sup>24</sup> One should not be judged by what they did during moments of insecurity and hatred, but an entire lifetime and systemic factors need to be considered and even then, religious and spiritual dimensions explored as there should be no dispensable people in civilized society. As eminent systematic theologian Paul Tillich stated, “one should only be imprisoned out of love” that despite being made in the image of God that person cannot help but hurt themselves or others. Under such an analysis most prisoners who suffer from co-occurring ailments, addiction, and made mistakes would reside in less toxic communities exhausting fewer governmental resources.<sup>25</sup>

Maruna suggests that “redemptive scripts” (inspirational albeit embellished narratives) correlate with desistance more than “condemnation scripts” (victim oriented and defeatist). Reference was made to the work of Holocaust survivor Viktor Emil Frankl (1905-1997), the famed Austrian neurologist and psychiatrist to support the proposition that “meaning making” (finding a purpose in life and visualization a positive outcome) resembles “rehabilitative storytelling”.<sup>26</sup> Further, Maruna relies on Roman Catholic Priest Henri Nouwen (1932-1996), long credited with espouser of a “wounded healer” persona, an amalgamation of progressive social justice as well as psychological, pastoral, and spiritual aspects embodied in one that has overcome challenges and espouses resilience.<sup>27</sup>

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<sup>24</sup> Maruna citing Matz, p. 21.

<sup>25</sup> Fiscal stewardship, an analysis of the cost of education versus incarceration or perhaps medicalization instead of incarceration is also to be considered a spiritual imperative. Further such analysis builds bridges with citizens concerned with exhausting public entitlements (i.e., their own social security benefits) and otherwise more conservative Libertarian “less government” adherents. I submit there is as much diversity of opinion for those engaged in prison ministry as in any other discipline, work or ministry.

<sup>26</sup> Maruna citing Frankl, 1984; p. 10.

<sup>27</sup> Maruna citing Nouwen, 1972; p. 11.

Having the ability to lead a group of Kean University students to a travel abroad (Germany, Czech Republic and Austria) opportunity during the 2017 spring break exposed me to a longtime inspirational figure, Franz Kafka (1883-1924), a major twentieth century literary figure who wrote “The Trial” (1925), but the highlight of the trip was exposure to Victor Frankl’s logotherapy and his famed San Quentin State Prison lecture in 1966. In the 1980s Frankl (1905-1997) received acclamation from the American Psychiatric Association for his work in religion and psychiatry. Juxtaposing Frankl’s work with his contemporaries Sigmund Freud (1856-1939) and Alfred Adler (1870-1937), Frankl wrote, “life is not primarily a quest for pleasure, as Freud believed, or a quest for power, as Alfred Adler taught, but a quest for meaning. The greatest task for any person is to find meaning in his or her own life.”

Unfortunately, Freud’s psychoanalysis perspective that people are influenced by their own desire for pleasure and Adler’s power perspective that people need to be in control have influenced the development of criminology more so than Frankl’s perspective that people need to have a story. Consequently, when Classical Criminologists rely on one’s free will and a cost-benefit calculation with the utilitarian prerogative to increase deterrence by intensifying the cost of crime, logotherapy invites us to explore the forces (or story/problem) behind the act not focus on the act itself. Likewise, when Positive Criminologists rely on one’s genetic predilections toward criminality, logotherapy emphasizes the cultural forces and influences that culminated in poor decision making and invites us to explore communal factors related to criminality in addition to individualized acts. While Frankl’s analysis would resonate with the more popular psycho-social as well as political-economical (Marxian) perspectives in criminality his therapeutic response necessitates compassion and dialogue and storytelling, attributes underdeveloped in our carceral states. However, attributes that are central to religious communities and the spiritually inclined.

The work of Lewis R. Rambo's (Professor of Psychology and Religion at the San Francisco Theological Seminary) who explored the phenomenon of religious conversion is compatible with Frankl's perspective and applicable toward Maruna's dismissal of the popular metaphor of a "white-light conversion." Specifically, Maruna states "a lasting personality change can take between 7 and 10 years. Hence, the gestation period for being "born again" may take longer than the 9 months it took the first time around."<sup>28</sup> Maruna goes onto reference the work of noted sociology of religion academics Mary Jo Neitz and James T. Richardson for the proposition that instantaneous conversions are "being replaced by a framework that sees individuals more as the agents of their own conversion."<sup>29</sup> Therefore, Rambo's comprehensive seven step models of the conversion process can easily be incorporated in an analysis of the efficacious redemptive outcome set forth herein.<sup>30</sup> Maruna continues with a reference to sociologist John Lofland, widely known for his studies of the process of religious conversion and new religious movements. Specifically, Maruna warns against conflating "turning point" (a triggering) events and "disorienting episodes" (structured changes) as applied to ex-offenders

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<sup>28</sup> Maruna, p. 24.

<sup>29</sup> Id.

<sup>30</sup> The 1st phase involves **Context** – focus on one's core or situated reality (context) with mentors more effective if they understand converter's direction and present location; followed by (2) **Crisis** – shock, illness, grief can induce religious crises and manifest as a psychosis or psycho-spiritual event, as can persistent dissatisfaction and disillusionment, and either event can lead to an exploration for a growth opportunity; then a (3) **Quest** – a search ensues for alternative healing approaches both within original faith communities and competing traditions. The Quest phase is an external and anxious phase of Rambo's seven step process culminating in internalization and hope that one's dissatisfaction can be alleviated through step 4, an **Encounter**. At this juncture there will be a meeting with a "grounded person" (perhaps members of Kairos/Kenosis) and they may choose to explore the same path. The 5th phase is the **"Interaction"** wherein the converter finds a religious community (a courtship). The 6th phase is a **commitment** process that can be manifested in a ceremony or ritual. Finally, the 7th phase involves **Outcomes** wherein the converter participates and adopts (or adapts) to the new faith community. Cycling through these seven phases multiple times with different traditions can also occur.

since turning points are not a cause of desistance.<sup>31</sup> Instead Maruna relies on the work of criminologists Eleanor Glueck (1898–1972) and her husband Sheldon Glueck (1896-1980), regarding predictive models of childhood delinquent behaviors and the usefulness of psychotherapy (offender rehabilitation). The Gluck’s posit that sociogenic desisting aspects include “aging out”, “a steady job” (inherently predicated on cognitive development in a service oriented economy), and a loving partner as well as psychotherapy.<sup>32</sup> Not surprisingly (for psycho-social and economic reasons, not to mention racism) in our hyper-carceral society is reliance on the specific deterrence theory, that extended prison terms dissuade future deviancy.

While these sociogenic and criminogenic perspectives resonate within academia, a more conversational approach to the development of the punitive nature of our criminal justice system, and that of virtually every other society, needs to be set forth for the benefit of both religious service providers and the detained. Further, it is important to remember that in every society marginalized populaces, linguistic, ethnic and racial minorities, are disproportionately represented in prisons and that privileged populations (either through ancestry or wealth) are vastly underrepresented in carceral systems. However, America has been at the forefront for progressive efforts at equitably expanding opportunities for upward mobility as well as humanizing systems of corrections since its inception. Indeed, native American societies (as well as worldwide indigenous populations) have long relied on restorative justice modalities to integrate deviant members of such society. Concededly the ease of migration/mobility as well as the fragmented nature of ethnicities in modernity (lack of clans/tribes’ identification) and hyper-individualism conspires against the communal efforts at reintegration shaming. Instead,

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<sup>31</sup> Maruna citing Lofland, p. 25, fn 4.

<sup>32</sup> Maruna citing Glueck & Glueck, p. 27. Byron Johnson’s work involves increasing religiosity to reduce crime (*More God, Less Crime*, 2011) with psychology professor Azim F. Shariff opining that it is a belief in hell (as opposed to universal salvation) that deters criminality.

increasingly perpetual criminalization and stigmatization even without actual confinement will plague those adjudicated delinquents. One's criminal record will be as important as one's credit score and academic achievement in the Information Age, factors culminating in further – perhaps perpetual disenfranchisement and subjugation of marginalized populations.

There is almost universal agreement that America did not have a functional system of corrections until at least the early nineteenth century when the Quakers attempted to improve incarceration specifically through the development of Eastern State Penitentiary through the Philadelphia System in the 1820s. The more humane confinement imagined for Eastern State Penitentiary, as compared to the dungeons and mutilation/corporal punishment of colonial America and Europe was progressive but proved cost prohibitive especially when compared to the labor oriented system of the Auburn penitentiary in upstate New York. However, extrajudicial punishment as well as vigilante and frontier justice dominated the American landscape until after the Reconstructive Era. Unfortunately, Black Codes and northern inspired harsh segregation influenced regressive states to pass Jim Crow laws directly targeting African American communities, regressive prohibition laws emerged in the 1920s and drug laws, specifically against marijuana use and Mexican migrants emerged by the 1930s.<sup>33</sup> It should be noted that the Progressive Era (1890s-1920s) corresponds to the religiously oriented Temperance Movement that influenced the passage of regressive criminal statutes for alcohol prohibition (1920-1933) and narcotics regulation that have been subsequently discriminatorily enforced.<sup>34</sup>

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<sup>33</sup> Although criminalization of opium occurred in San Francisco as a vehicle to criminalize the growing Chinese population in the 1870s and Utah's Mormon community banned marijuana due to its usage by returning missionaries from Mexico in 1915.

<sup>34</sup> The emergence of Alcohol Anonymous and the plethora of other Anonymous groups commenced in the 1930s, after the repeal of prohibition laws.

The systematic misuse of law and the ubiquitous segregation of society as well as rampant police perversions by local political leaders dominated society until civil service exams (1920s-present) incrementally replaced the system of nepotism/cronyism with merit based testing. Moreover, opportunities emerged for migratory African Americans<sup>35</sup> as well as women during the 1920s and 1940s as America responded to the Great Depression and engaged in World War II. Nevertheless, suburban sprawl, redlining, restrictive GI Bill benefits that disproportionately benefited white soldiers and the pervasiveness of racism and sexism maintained an apartheid system throughout America, a system supported by criminal justice institutions. The 1954 *Brown v. Board of Education* case as well as the progressive Warren Court from the mid-1950s through the early 1970s<sup>36</sup>, gave criminal defendants more of an equal opportunity to resist the arbitrary and capricious use of state power and criminal justice institutions on marginalized populaces but increasingly hard infrastructure projects such as roadways and large housing projects decimated marginalized communities. Further the expansive set of case law that enabled criminal defendants to resist pretextual efforts (i.e., racist/classist practices) by law enforcement throughout the 1950s and 1960s were increasingly dependent on retaining expensive legal representatives to utilize such due process rights, exacerbating wealth disparities to the detriment of women and other marginalized populations. Lastly the punitive sentencing laws ushered in during the early 1970s<sup>37</sup> made challenging criminal charges increasingly unlikely and sociologist Robert Martinson's (1927-1979) seminal

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<sup>35</sup> The Great Migration refers to the relocation of over 6 million African Americans from the Southeast to Northern cities (as well as Midwestern) from 1916 (WWI 1914-18) to 1970 (post passage Civil Rights Act of 1964 and Voting Rights Act 1965).

<sup>36</sup> 1953-1969, although many observers extend the influence of this progressive court to the 1973 *Roe v. Wade* reproductive rights decision.

<sup>37</sup> Specifically, the Rockefeller Drug Laws of 1973.

publication in 1974 entitled “Nothing works” cemented punitiveness over rehabilitation in carceral states, ushering in the current era of mass incarceration.<sup>38</sup>

This brief historical perspective of the criminal justice system demonstrates that it was either drastically underdeveloped and/or racist since its inception until the 1970s (if not until present). Further, while the professionalization of law enforcement as well as expansion of legal representatives were inspired by the progressive jurisprudential developments of the 1950s and 1960s, the coercive impact (harshness) of sentencing mechanisms as well as growing wealth disparities continued to delegitimize the criminal justice system throughout the 1970s (if not until present). Moreover, President Reagan’s dedicated “War on Drugs” (a corollary to Richard Nixon’s “War on Crime”) and expansion of prison development as well as increasingly regressive sentencing mechanisms significantly increased the carceral population and drastically increased racial disparities of the confined. Thereafter, President Clinton’s desire to not let the Republicans out-manuever Democratic efforts at expansive law enforcement filled prisons based on perverse policing incentives for arrests and regressive welfare reform efforts that exacerbated the growing wealth disparities particularly in marginalized neighborhoods.<sup>39</sup> It is unknown how many generations it will take to address the long-standing history of discrimination and subjugation brought forth by the criminal justice system but a first step would be to end our reliance on such institutions.

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<sup>38</sup> At a recent conference I heard from a student of Martinson that said Martinson’s life-long regret is that he gave in to pressure to sensationalize his work and did not use his more objective title, “What Works,” contributed to his suicide in 1979.

<sup>39</sup> Not to mention Hilary Clinton’s infamous recitation of John DiLulio’s discredited “superpredator” analysis. Ironically, political scientist John J DiLulio Jr, went onto become the director of newly formed (2001) White House Office of Faith-Based and Community Initiatives, and a decade later said he believes his superpredator theory, which was extensively racialized was in error. <http://www.nytimes.com/2001/02/09/us/as-ex-theorist-on-young-superpredators-bush-aide-has-regrets.html>, accessed December 17, 2017.



Libertarian and evangelical conservative legal scholar William Stuntz (1958-2011) from Harvard states, “No democratic society can incarcerate such a large fraction of its poor population and retain the goodwill of that population.”<sup>40</sup> Stuntz calls for legitimizing the criminal justice system, which is on the verge of collapse, by using it as least as possible. He calls for more trials to negate the almost exclusive reliance on plea bargains (which disposes of over 95% of cases), rational sentencing reform to pre-1974 standards (which are used to coerce guilty pleas) and more localized juries comprised of members of the victimized communities instead of those “upwardly mobile” residents who seek to segregate their own communities by exacerbating the persecution of others, especially “urban dwellers.” The resulting hyper-incarceration from neglecting such policy initiatives have led to the innovative yet often regressive emergence of specialty courts in the 1980s-90s as well as problem solving courts over the past decade that may keep people out of carceral facilities but still stigmatize the deviant with convictions as well as seemingly continuous financial sanctions, resulting in incessant impoverishment and instability further exacerbating the coping tactic of many substance abusers. Moreover, such subjugation is engaged in under the pretext of a benevolent or holistic/less punitive response to deviancy proposed by those “on the left” of the political spectrum but often replaces comprehensive due process rights with the stigma of a conviction under the pretext of compassion and efficiency.

Furthermore, private corporations are increasingly seeking to monetize the plight of the convicted through cost prohibitive telecommunications (i.e., phone/technology use) and expansion of electronic monitoring devices under the pretext of a more humane and efficient community corrections structure. Moreover, private service providers for security detention centers as well as providing food, clothing and programming, entice legislatures with discount

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<sup>40</sup> Stuntz, p. 13.

services usually at the expense of worsening the rehabilitative element of detention. And while some critics contend that the system is inherently broken or perversely evolving into a Prison industrial complex, others content that the system is working exactly as it is intended, to further marginalize “the other” – the discreet and insular minorities that are warehoused to provide expendable labor as well as instill complacency in the struggling “law abiding” populace that things could get worse. Finally, courts have historically taken a “hands off” approach to the administration of corrections enabling wardens to assume autocratic powers and unilaterally determining which programs will be allowed in prisons. Thankfully, the Free Exercise Clause of the First Amendment continues to be recognized which may facilitate ministry within the prison system. However, the type of ministry, including this call to be a more engaged ministry may be deemed too political and the failure of “main-line” denominations to embrace the innovative use of scripture and theology as set forth herein may make the resulting “sanitized ministry” complicit in the repressiveness of incarceration.

While more work on the efficaciousness of redemptive scripts and how they evolve in the incarcerated as well as who may be best situated to serve as mentors is needed, this submission offers tools that may contribute to the formation of emotional and psychological maturation of deviants resulting in desistance. Maruna relies on the work of sociologist Neal Shover to provide the theoretical rigor for emotional and psychological maturation based on the following elements: (1) altered perspective of youthful self (i.e., “wounded healer” or “convict Christ”), (2) growing awareness of time (and urgency to change), and (3) “revision of aspiration” (striving for contentment/mindfulness)<sup>41</sup> Shover worked as a prison sociologist at Illinois State Penitentiary at Joliet and this experience undoubtedly informs his work. According to Maruna there is a

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<sup>41</sup> Maruna citing Shover, p. 34.

growing body of research that internal self-narratives are useful for guiding and organizing human behavior and that reliance on self-narratives are intriguing for they tend to be dynamic and contextual. Maruna relies on the work of M.B. Scott and Lyman, to support his conjecture and emphasize that reflection on one's account of the deviant phenomenon, both what contributed to the act and what can ameliorate such responses in the future, provides clarification of that act and direction for prosocial behavior.<sup>42</sup> Essentially, those involved with reintegration of offenders need to be active listeners (“listen-listen”) and evocative problem solvers (“love-love”), instead of prescriptive, legalistic and/or blame oriented, a critique on the status of existing prison ministry programs (and perhaps all prison therapies and programming). However, they should at least have a basic understanding of a critical perspective with respect to the criminal justice system as set forth above. Hopefully, prison ministry programs, such as Kenosis, Kairos and Credo, can be vehicles to facilitate connection with the wounded healers currently confined.

### ***Chapter 2: Prison ministry programs***

There are a variety of prison ministry programs from international efforts through Prison Fellowship<sup>43</sup> to an individual ministering through a local church or even independently from churches. The decade long experience in prison ministry that are discussed herein is limited to Kairos Prison Ministry<sup>44</sup> as well as Kenosis Prison Ministry (an offshoot of Kairos) specifically present in New Jersey that tolerates modifications to their proposed ministry schedule as

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<sup>42</sup> Maruna, p. 39.

<sup>43</sup> Founded in 1976, <https://www.prisonfellowship.org/>, accessed December 17, 2017.

<sup>44</sup> Founded in 1976, <http://www.kairosprisonministry.org/>, accessed December 17, 2017.

compared to Kairos. Both organizations are influenced by the Cursillo<sup>45</sup> movement, initially a Roman Catholic weekend retreat technique implemented to train religious pilgrimage leaders started in Spain (1944). This three to four-day movement, largely following Catholic rituals from Holy Thursday to Easter Sunday, has been used by several mainline Christian denominations, many of which have retained the trademarked “Cursillo”<sup>46</sup> name.

By the 1960s the Cursillo movement had a presence in virtually all American Catholic dioceses (perhaps inspired by the ideals of Vatican II, 1962-65) and emphasized discussions with Christian lay people on how to become effective Christian leaders over the course of a weekend. The growth in prison programs following the uprising in Attica (1971) as well as the onset of mass incarceration led certain religious leaders to share the experience with the detained, consistent with an interpretation of Matthew 25.<sup>47</sup> Generally this religiously oriented weekend includes several talks as well as a few meditations, some given by clergy and others by volunteers. There is also a lot of music (accompanying hymns), a forgiveness ceremony, and poster production for those who find sharing in conversation difficult. As the weekend

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<sup>45</sup> <http://www.trentoncursillo.org/p/kenosis-prison-ministry-kenosis-is.html>, accessed December 17, 2017.

<sup>46</sup> Meaning short course in Spanish. Kenosis is Greek for “self-emptying” and Kairos is Ancient Greek for “God’s time.” While the pilgrimage experience is common within many faith traditions, mainline Protestant belief emphasizes an individual encounter with Christ which is available anywhere at any time by anyone while Catholic belief emphasizes certain holy sites such as Bethlehem, the Via Dolorosa (Way of Grief) in the Old City of Jerusalem (commonly referred to as “Stations of the Cross”, Vatican City, Fatima, Portugal and the Minor Basilica of Our Lady of Guadalupe in Mexico City, among countless others.

<sup>47</sup> “Then the king will say to those at his right hand, “Come, you that are blessed by my Father, inherit the kingdom prepared for you from the foundation of the world; for I was hungry and you gave me food, I was thirsty and you gave me something to drink, I was a stranger and you welcomed me, I was naked and you gave me clothing, I was sick and you took care of me, I was in prison and you visited me.” Matthew 25:34-35. The Alpha for Prison program emerged from the general Alpha program that started in the late 1970s (<https://alpha.org/prisons/>, accessed December 17, 2017). Similarly, it relies on food, fellowship, and discussion to unpack essential thoughts related to Christianity. Instead of a weekend retreat format wherein over a dozen presentations are discussed, the program takes place over the course of a dozen weeks.

progresses agency is transferred from the volunteers to the residents (i.e., the confined) and residents are encouraged to continue their journey, called the “Fourth Day,” through regular return visits by volunteers wherein bible study and further discussions are had. The weekly group reunion continues throughout the detention period if the resident voluntarily desires to continue and there are other structures for support upon release and reintegration (called Kairos Outside).

While “*De Colores*,” (of colors) a Spanish folk song and “anthem” for Cursillo implying that all personalities (all colors) are welcome, a more particularized ministry emerged in Credo Recovery Ministry.<sup>48</sup> Credo<sup>49</sup> is also derived from Cursillo, and first started in New Jersey in 1995 and now has a regional presence ministering to all adults who are in recovery from “brokenness.” This more evangelical engagement is designed to further one’s personal relationship with Christ.<sup>50</sup> Further, unlike Kairos, Kenosis, and Alpha for Prison, the Credo initiative has been held in campgrounds and incorporates festivities and engagement with nature, such as trail walking or meditative walking through labyrinths.

Finally, the Alternatives to Violence project<sup>51</sup> is a program that was started in prison at the Greenhaven Prison in New York in the early 1970s and expanded to the general populace.

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<sup>48</sup> <http://www.credorecoveryministry.org/>, accessed December 17, 2017.

<sup>49</sup> Latin for “I believe” or “they came to believe.”

<sup>50</sup> Warriors Journey Home is an organization that syncretizes Native American rituals such as “circling” and “sweat lodges” to further one’s personal relationship with Mother Earth (<http://warriorsjourneyhome.org/>, accessed December 17, 2017) and the New York Zen Center encourages one’s personal relationship with oneself (<http://zencare.org/>, accessed December 17, 2017). Further, Dhamma Brothers was a very effective Zen meditative practice which lesson tensions and increased cooperation and even though thoroughly documented due to pressures and concerns from conservative Christian chaplains, the program met with institutional resistance (<http://www.dhammabrothers.com/>, accessed December 17, 2017). Those interested in interfaith prison ministry could explore such modalities and cultivate redemptive scripts based on a biocentric or cosmos-centric perspective as opposed to the anthropocentric perspective reliant on the Convict Christ set forth herein.

<sup>51</sup> <https://avpusa.org/>, accessed December 17, 2017.

Specifically influenced by The Society of Friends (Quakers) and their historic interest in non-violence training and intervention the intent was to influence alternatives to escalating violence that was present in so many resident narratives. That there needs to be a better way to resolve disputes as well as cope with structural oppression than manifesting violence against another or coping through alcohol and narcotic use. These non-violence workshops, first held in 1975, are now available internationally when notorious inmate O.J. Simpson claimed that the AVP workshop was the most effective of prison program during his nine-year incarceration.<sup>52</sup> Interestingly, the workshops not only benefited residents but prison staff as the incentivization to engage in such programs mollified the resident population.<sup>53</sup>

As proponents of life history narratives are expanding their scope from a retrospective analysis to urging cultivation of one's identity the prison ministry programs can be utilized to formulate a prospective life history analysis based on religious narratives and/or nonviolent approaches to conflicts and challenges. Central to Kairos Prison Ministry is constructing self-esteem and gradually transitioning from a "ministry of presence," wherein volunteers lead discussion to a "ministry of absence," wherein residents empower and enable themselves to address challenges and conflicts. Encouragement is given to establish communal support mechanism as individual resistance to oppression can be overwhelming. Further, shame adjustment, the attunement of the psyche (which Kairos accepts as attunement of the soul), is extremely important as individuals who cannot address largely culturally imposed shame may

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<sup>52</sup> <https://avpusa.org/oj-simpson-and-avp/>, accessed December 17, 2017.

<sup>53</sup> Having become a lead AVP facilitator earlier this year the skill set developed through the workshop is consistent with the dignity of human life expressed through religiously oriented efforts and AVP continues to spread across America having a presence in 35 states and 40 nations especially with youthful communities that need to implement nonviolent responses to systemic oppression and subjugation. AVP works well as a secular program to the intentional liberative (i.e. Convict) theology program set forth herein and with the secularization of America it is useful to expand one's Christian-centered focus to be as inclusive as possible.

seek harmful and violent ways to address such dysfunctionality. Residents need to encounter a model of their most positive potential and conceivably that model can be a Christ-like figure. Therefore, over the course of four days (Thursday through Sunday), the resident inmates will “encounter Kairos,” and commence building a community on the first day. The next day (Friday) there will be an “encounter with oneself,” a reflection on God. The next day (Saturday) the resident inmate will “encounter Christ,” emphasizing relationships with others and specifically, the role of forgiveness. The fourth day (Sunday) is the final “encountering others,” a process of growing in faith and community with others.

As a member of a Kairos Prison Ministry group in Chester, Pennsylvania as well as a “spin-off” Kenosis Prison Ministry group in several New Jersey prisons, the highlight of the “weekend retreat” is the forgiveness ceremony. During these ceremonies resident inmates are instructed to write down those they need to forgive as well as those they seek forgiveness from on dissolvable “rice paper” and ceremonially proceed to place such lists in bowls of water situated at the front of a worship area. A prayer of forgiveness and absolution follows this procession wherein the inside resident is ministered to (i.e., “hands laid upon”) by an ordained clergy member. It is common for a few of the resident inmates to have demonstrable emotional moments during the procession and ritual. Unfortunately, future formal forgiveness events (of follow up sessions) are limited as the support group of volunteers can only manage to return every other week for a few hours, attempting to maintain a constant presence with the inside resident. While the inside resident always has the institutional chaplain to rely on, some chaplains make it known that their primary fiduciary duty is to the institution and not the resident inmate. Furthermore, a resident inmate that routinely seeks psychological or psychiatric care can be further stigmatized within their already toxic environment. Consequently, as professional

therapists may be cost prohibitive and shunned, there is a need for more volunteers structuring attunement of the resident inmate's psyche with the utmost confidence and care.

During a Kairos weekend the individual transition from the tension filled Thursday night gathering through the communally oriented Sunday afternoon celebration is obvious. Veteran members of Kairos recount emotionally charged conversion experiences by both resident inmates as well as outside Kairos team members. For believers, the Holy Spirit is credited with such transformations. The secularist can reflect on the following, the rare ability to socialize or foster collegiality, the opportunity to express oneself artistically, receive more letters of support (provided by Kairos team member home congregations) than some resident inmates ever receive during their incarceration, listen to somewhat passionate "lessons," share conversation with others within a less structured and "safer-space" as well as the bountiful snacks that in the harshness of confinement constitutes a most pleasurable enjoyable experience.

Expectedly, every faith-based program claims it is effective in improving morale while incarcerated as well as reducing recidivism upon release, but such evidence is dubious and deciding what constitutes success is a subjective endeavor. Every dedicated outside Kairos member dedicates a few Saturdays proceeding the "weekend retreat" to prepare adequately (solidify team formation) and claim that they receive more satisfaction (and/or blessings) than the considerable effort and expense they and their worship communities expend. Among the critiques of such prison ministry efforts is the group dynamics that dictate the participant's schedule and the suspect voluntariness of engagement. Surely, the resident inmates are not forced to engage, but with the lack of alternatives while incarcerated, such communal opportunities are truly exceptional. The harshest of critics consider the secrecy and exclusivity



as “re-education,” manipulative, and/or “indoctrination” camps. At minimal, such ministry is part of a “tool box”, useful for some but not for others.

Generally, about half of the incarcerated population were imprisoned for drug-related offenses with two-thirds of the incarcerated engaging in antisocial behaviors during their drug (or alcohol) addiction, or were routine users of such pharmacological substances and analogs when arrested. These individuals have substance dependency issues for a variety of issues, from anesthetizing oneself from social oppression such as poverty and squalor (i.e., poor shame attunement) to seeking an immediate hedonistic sensation, or struggling with addiction as a biochemical response to generational usage. Some may have the “free will” to start their “unregulated pharmacological journey” but few will be able to cease without assistance. Initial drug and alcohol dependency may manifest as a distraction from the liberating aspects of educational and vocational venues as well as frustrate gainful employment or the development of relationships with an upwardly mobile populace. Over time, such dependency aggravates personal and professional relationships, undermines opportunities, and routinely ends in criminal conviction and ubiquitous stigmatization as a collateral consequence, convictions that are disproportionately borne by racial and ethnic minorities and/or the poor.

For those not privileged or fortunate enough to circumvent the life-long stigmatization of a conviction there will be an intensification of the factors that initially led to drug and alcohol dependency prior to the conviction and may lead to the desire to re-engage in “riotous living.” Quite possibly, religious belief and spiritual disciplines that foster cultivation of a redemptive script can interrupt this cycle of antisocial behavior as well as one of several other forms of therapy. But as one volunteer minister states, “They (the system) teach us how to manage our addiction (so they can profit from us). We (the religious) lead us to a cure for the addiction so

we can better serve our maker.” Such a declaration may alarm addiction specialists who may reply by dismissing spirituality as a cure but perhaps collaboration instead of competition is vital for sobriety.<sup>54</sup>

For many, the shame and/or guilt associated with drug/alcohol abuse, whether generating a hedonistic lifestyle or manifesting in antisocial behavior necessitates attunement (of either the psyche or soul [or both]) will be a lifelong challenge. Kairos hopes (through faith more so than empirical evidence – although it does not discard such evidence) that intervention through sharing its version of Christianity with the inmate resident will encourage cultivation of prosocial behaviors and urge inmate residents to be wary of “obstacles to grace (reformation)” that include structural issues as well as personal attributes such as addiction. Central to its efforts is a shame adjustment or forgiveness practice.

Forgiveness is the essence of the supposed “third sacrament” (Penance and Reconciliation, after Baptism and the Eucharistic Celebration). Forgiveness is also present in the social sciences. Social psychologists (i.e., Scheff and Retzinger) believe that shame and remorse associated with the forgiveness process subverts alienation and violence. Psychotherapists (i.e., Gershen Kaufman) believe that violence can result from a “powerlessness-affect-stress cycle.” Criminologists (i.e., John Braithwaite) believe that re-integrative shaming will build stronger communities and minimize deviancy. Ethicists (i.e., Howard Zehr) believe that forgiveness and

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<sup>54</sup> Indeed, the Nation of Islam, a group that many regard as a “hate group” based on racial and/or religious superiority has one of the most effective integration programs in the nation. Albeit difficult to study such a claim, any criminal justice professional will concede that sobriety is key for desistance so when a faith that has as its chief pillar that intoxicants and other toxic substances are to be avoided, it is good anti-criminogenic theory as well as solid theology to keep God’s creation sober. As stated in the Quran, “intoxicants and gambling are abominations from Satan and are to be avoided” (Quran 5: 90). Malcolm X adds, that the NOI “pulled me out and cleaned me up, and stood me on my feet and made me the man I am.” Is it a heresy to rely on Christ or raise up Malcolm X if the result is sobriety and reintegration within society?

restorative justice empowers victims as they reclaim rights lost in their victimization. Urban sociologists (i.e., Wacquant) believe that punitive public institutions and structures are counter-productive, and alternatives are necessary. These powerful contemporary notions are based on the ancient principles of forgiveness, compassion, mercy, set forth in the norms and practices of most religions. They are also central to the Christian rite of confession.

According to Scheff and Retzinger, shame is a primary emotion that directly relates to alienation, and alienation's destructive manifestations of anger and violence. A curative social bond process occurs when there is open communication with a qualified person related to the underlying shame aspect. Essentially, alienation and its destructive progeny (perhaps rightful indignation or rage) are avoided when the shamed is returned to social solidarity through a social bonding process. Ideally, instead of alienation there is integration, instead of anger there is pride, and instead of violence there is tranquility. Although Scheff and Retzinger do not reflect on the sacramentalized process of penance, these scholars reflected on how unacknowledged shame and rage contributes to personal violence and other negative psychological and physiological consequences. In addition to anger and aggression, long-term inattentiveness to shame leads to chronic low self-esteem and even violence (i.e., suicide, anorexia-eating disorders).

As shame is an ever-present primary emotion, internalized coping mechanisms are to be cultivated (i.e., the development of spiritual disciplines) and readily available to control uniquely human emotions. While crying, laughing, sweating, trembling are physical manifestations of dysfunctional emotions and may temporarily alleviate physical and emotional pain, modernity in individualistic society urges the suppression of emotions or to think of emotions as a sign of weakness. Such cultural normative suppression practices, especially of the

master emotion of shame, result in even more alienation that produces individual anxieties inclusive of anger and the propensity for social violence. Consequently, facilitating communication (i.e., the confessional for some, prayer/meditation for others) and strengthening social bonds contribute to solidarity formation and generates pride and meaning making. This shame-adjusted individual can step-out of his/her own dysfunctionality and contribute to address the social needs of others, culminating in intergroup solidarity. Ideally, this is the outcome of Kairos, based on cultivating individual redemption, using exemplars to conceptualize the process.

As verbal and nonverbal messages to address shame are multifaceted, one needs to be vigilant throughout the communicative process and attentive to the locale of where shame adjustment occurs (i.e., the vulnerability of the resident inmate). The use of a confessional or the belief in organized religion should have a beneficial effect on shame adjustment (a catharsis), if the shamed is a believer of said religion. Although clerics would respond that through the sacrament of confession, reliance on God for shame adjustment and reintegration, contemporary societies are more comfortable in attributing secular rationales (the cleric as pastoral care person) for shame adjustment, forgiveness, and reconciliation. Consequently, in the temporal world, well-trained therapists or even trusted friends may be instrumental for attunement of the soul/psyche. Therefore, secular and spiritual shame adjustment processes are not irreconcilable or mutually exclusive. Indeed, the cleric-penitent privilege synthesizes and normalizes the process, and most importantly in most jurisdictions a cleric-penitent privilege insulates the “confessor” from reprisal for their shame adjustment (i.e., confession<sup>55</sup>).

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<sup>55</sup> The following vignette depicts the expansive nature of confessional secrecy on the confessor. Two purported priests were abandoned on a deserted island. Fearing their demise, they decided

Ideally, the shame-adjusted inmate will be empowered by their redemptive narrative to reintegrate into society following the Kairos experience and encouraged to seek religious assistance to reintegrate upon release from confinement. Criminologist Braithwaite explores such reintegration in *Crime, Shame and Reintegration* (1989). Braithwaite's contemporary contribution to criminology is both more ambitious as well as focused on society's response to deviancy, and secondarily as to why people violate those norms (instead of why certain norms are established at all). His comprehensive theory of crime reinterprets much of sociological based criminology. Braithwaite theorizes that the greater interdependence in society, the greater the "communitarianism," but the more urbanization and mobility within society, the less able society would be to address deviancy (i.e., Durkheim's anomie). With enhanced interdependency (attachment through parents, neighbors, marriage, employment, education, maturity), society will be able to effectively engage in reintegrative shaming instead of stigmatized shaming. For Braithwaite, reintegrative shaming results in lower crime rates as opposed to stigmatization that dominates current corrections practice that (1) forms outcasts and deviant subcultures, (2) enhances illegitimate opportunities and deviancy, and (3) frustrates upward mobility. Essentially, reintegration particularly reliant on a redemptive narrative diminishes the desire to offend and encourages "the beloved community." Arguably, although Braithwaite's emphasis is on control theory and labeling theory, he engages every major criminological theory.

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to confess their sins to each other. Father A confessed that he was never ordained and is a complete fraud among other sins. Father B gave absolution then prepared to give his confession. Father A protested and referred to his recent confession. Father B replied, that the statements made within the confessional are between Father A and God, "I forget them upon granting you absolution."

Braithwaite does not believe that a high deviance rate is a natural product of a liberal western society. According to Braithwaite, non-punitive (i.e., without a conviction) restorative justice can be effectively engaged in liberal societies. Indeed, reliance on reintegration through positive shaming and a redemptive narrative (as opposed to stigmatizing shaming or condemnation scripts) is much more efficacious than the plethora of theories that seek to hold offenders either individually accountable for their actions or rely on punitive mechanisms to influence compliance with social norms. Essentially stigmatizing offenders makes crime worse through an internalization of rage or ostracizing an offender, which further frustrates reintegration. Instead, through mediation and problem-solving techniques such as those advanced by AVP (instead of finding fault) offender reintegration is facilitated, social cohesion enhanced, and victim harm addressed. This communal interdependency facilitates a healthy reintegrative shaming instead of producing outcasts that have no stake in conformity. Further, utilitarian crime control theories that rely on professionals to determine fault and the amount of punishment either to deter and rehabilitate displaces communitarianism, while neoclassic “just desserts” theories that rely on incapacitation or retribution unnecessarily stigmatize offenders (and may only provide temporary satisfaction for victims).

Braithwaite encourages use of ceremonial mediations, which would include the confessional practice or forgiveness rituals, if they are aimed at forgiveness, repentance, or restoration as opposed to degradation. Reintegrative shaming enables the offender to reverse a deviant status, whether such a status is due to illegal drug use or corporate criminality. This humane attitude does not tolerate the deviancy but encourages a proactive methodology to address the deviancy through repentance and forgiving instead of punishment, exclusion, and stigma. While the assessment of crime rates and empirical evidence is complicated as cultures

and eras define, report, and record deviancy differently, generally the theory is that the more humane the system, the less crime will occur. Consequently, emerging alternative judicial processes such as mental health courts, veteran's courts, drug courts, victim-offender mediation courts, and juvenile courts are effective shaming processes if the emphasis is on reintegration instead of segregation and perpetual stigmatization.

In Braithwaite's general theory of crime, a cultured "crime control" (tough on crime) or liberal "due process" attitude (rights are essential) are replaced by individuals (both offenders and victims) seeking to resolve their problems through mutual understanding. Essentially, the deviant act resulted in a power differential wherein the offender needs to "give back" what was "taken" from the victim, making the victim whole. Through such acts, remorse, and repentance, society should facilitate reintegration of the offender as promptly as possible to avoid subculture formation, alienation, and economic deprivation through stigmatization. Consequently, a "tough on crime" approach is counter-productive, an expensive proposition for society, harmful to offenders, and ineffective for victim restoration. In this sense, Kairos Prison Ministry is a form of reintegration programming, emphasizing and facilitating informal problem-solving techniques enabled by reliance on one's own importance and sense of security within their redemptive script.

In one (of the two) references to Christianity, Braithwaite states, "the sacrament of penance, confession, baptism as a rite during which a sinner is reborn and washed clean of past sins, and other cultural apparatus which routinize the repentant role have withered or disappeared in the West."<sup>56</sup> Such a statement is contrary to the belief of 1.2 billion Roman Catholics, 250 million Eastern Orthodox Catholics, as well as the nearly 200 million that identify as Anglican

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<sup>56</sup> Braithwaite, p. 162.

and Lutheran, or other Protestant traditions that engage in the rite of penance and reconciliation. Additionally, while some main-line Protestant denominations and Pentecostals are averse to the sacramentality of penance (after all the Reformation directly questioned the need for indulgences), forgiveness of a contrite penitent is central in all of Christianity (and of religions in general). It may also facilitate the cultivation of one's redemptive script.

Zehr's *Changing Lenses* (1995), provides an application for Braithwaite's reintegration process. Zehr argues that the criminal act at its essence represents a unilaterally imposed power transition from the victim to the offender. Therefore, through a restorative justice model, the victim can reclaim power by accepting the shame-adjusted offender's desire to be forgiven and make restitution, a desire nurtured through the penance process and/or Braithwaite's shaming process. Basically, when there is a reasonable victim (that solely desires to be made whole), a repentant offender (that is sincere in his/her reparation effort), and a compassionate process, much deviancy can be addressed through restorative justice processes instead of a punitively imposed process that leaves the victim without an apology or reparation (as the imprisoned cannot afford to make restitution), the offender either imprisoned or stigmatized, and society incurring the significant cost of incarceration or probation (not to mention prosecutorial and defense costs).

Psychopaths or those unwilling to ask for forgiveness or engage in shame-adjustment processes will continue to be processed through a punitive criminal justice system, probably constructing their counterproductive condemnation script. For such individuals, pride is not found in conformity or in solidarity with social norms but in reactive retaliatory violence (even preemptive violence can be rationalized), where there is no tolerance for being "disrespected" (with a perverted sense of what constitutes being disrespected), and where blaming the victim



can serve to justify one's violent conduct (unaffected by shame and social norms). For some, such antisocial acts are not generated due to their shame from feeling inferior or alienated, but in the efficaciousness of arbitrary and capricious violence being goal-driven (and perhaps drug-induced). Further, while antisocial acts due to social or economic frustration may constitute violence derived from repressed shame and alienation, they may also be part of an emerging community norm that inverts the natural order and the shaming mechanism. Such metamorphosis differs from Scheff's and Retzinger's "labeling" discussion.<sup>57</sup> Within the labeling process, anger and antisocial behavior is facilitated instead of minimized. However, with psychopaths, if one were to sympathize or forgive the antisocial act, instead of generating gratitude and solidarity as would be anticipated with victims of labeling, the protagonist would be unaffected. Consequently, careful screening of offenders and victim-initiated restorative justice processes can lead to more concrete justice while alleviating an overwhelmed criminal justice system of many cases.

As nearly fifty percent of all deviancy involves "victimless" crimes wherein society is the complainant (i.e., narcotics, prostitution, vagrancy, gambling), society should consider the offender's penance and/or shame adjustment and allow medicinally motivated processes such as "drug courts" as an appropriate diversionary mechanism. Through counseling and therapeutic sessions, such deviants will be diverted from a punitive and costly criminal justice process, to a cost-effective holistic restorative justice process. Furthermore, as many victims simply want to be made whole, diversionary processes such as "mental health courts" for those needing anger management (or Veteran Courts for those suffering with PTSD) will facilitate restitution of the victim while addressing the dysfunctionality of the shame-adjusted offender. Again, such a

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<sup>57</sup> Scheff and Retzinger, Chapter 7.

process relies on a willing victim and a shame-adjusted offender. As Zehr points out, often it is the professionalization of a punitive criminal justice system and corresponding vested interests of police, prosecutors, lawyers, and judges that direct the proceedings instead of victims who simply want to be made whole and defendants who need therapeutic attention. Moreover, therapeutic attention, such as anger management programs, anti-drug addiction programs, and reparation processes are much more humane and cost effective.

Unfortunately, Scheff, Retzinger, Braithwaite, and Zehr did not focus on the efficaciousness of “institutional confession.” This ritual, however, is consistent with their influential secular theories, and a more efficacious option when compared to invasive and expensive crime fighting techniques. Perhaps the bias against a religious perspective, in favor of an exclusive social-science analysis, is part of modernity or post-secularism. Then again, perhaps the social-science analysis is a natural outgrowth from ancient religious practices. Either way fostering a clean slate wherein a resident inmate can cultivate their own redemptive script after reflection and meaning making of their lives should prove fruitful.

The efficaciousness of faith-based programs in reducing recidivism has yet to receive proper review by scholars, but correctional education programs have received positive reviews. By focusing solely on the biological and psychological causes and effects of antisocial behavior, instead of on the prosocial religiously inspired behaviors, “neurocriminologists” may fail to appreciate the socio-political and economic factors that influences brain destroying dependency and the shame adjustment process that alleviates such guilt. Further, the rage that may be “scientifically discovered” in an offender may resonate with rightful indignation of a lifetime of enduring structural oppression as much as psychopathological violence (antisocial behavior for the sake of rage). It is quite difficult, perhaps impossible, to discern the difference between

narcissistic rage and random acts of violence. As Lambert Zuidervaart states, “Religion, as institutionalized faith and worship, should call other institutions to account.” Unfortunately, too often religion has been co-opted by privileged interests, intimidated by supposedly intellectually driven secularism, influenced by fiscal considerations and dwindling congregations more so than being a main guardian or incubator of eternal truths and the pursuit of justice.

Traditionally there have been a few key criminogenic factors. A low level of educational attainment and/or prosperity does influence antisocial behavior, attributed to either oppressive structural inequality or poor individual choices. Similarly, disadvantaged communities and associating with antisocial agents and/or family members tend to influence antisocial behavior. Lastly, there is obvious racial and ethnic bias throughout the criminal justice system. If neuroscience (a secular explanation for dysfunctionality) can alleviate such antisocial tendencies through prevention and therapeutic venues, then it should be supported. If reliance on neuroscience, however, will exacerbate structural oppression, intensify inequalities, and further segregate communities under the pretext of scientific “best practices,” then the religious community needs to guard against such injustice. Cognitive neuroscience that does not result in “condemnation scripts” may benefit society, and religious belief, in part is to ensure that such society is sustained, and that any condemnation diagnosis is mediated. Religious communities reliant on transcendental interests are uniquely situated to resist socio-political and economical aspects, pursuing a “greater good” that cannot be empirically proven. Perhaps an indicator of the veracity of neuroscience is its appreciation of the prosocial aspect of spirituality, and if so, religious disciplines could have no greater ally in the twenty-first century.

### ***Chapter 3: Liberation Theology and Critical Theory***

Latin-American Liberation Theology emerged in the late 1960s and in Asia, Minjung theology emerged in the 1970s in South Korea, while Dalit theology was developing in India during the 1980s. These theologies largely sought to liberate the poor, “downtrodden” or the “untouchables” albeit through a mostly patriarchal and “nongendered” perspective. James Cone’s 1969 “Black Theology and Black Power” as well as a “Black Theology of Liberation” (1970) are seminal works for African American Liberation Theology. Cone reflects on Malcolm X’s proclamation about a decade earlier that Christianity as taught was “a white man’s religion.” Interestingly, the work of Bhimrao Ramji Ambedkar (1891- 1956), a “founder” of the nation of India, who converted to the Dalit Buddhist Movement and campaigned against social discrimination against Untouchables (Dalits), had a similar postcolonial belief. I suspect that Christians resistant to prison ministry or hostile to Liberation Theology or who are adherents to a “prosperity gospel” theology are included within the Christian identity that both Malcolm X and Ambedkar were imagining.

The commonality of Liberation Theology is empowerment of the oppressed. M. Shawn Copeland’s writings (a black female Roman Catholic) incorporates *conscientização* (critical consciousness), a term of art attributed to Brazilian educational theorist Paulo Freire (1921-1997). Critical consciousness is often present within feminist theology which strives to achieve a thorough understanding of geopolitical features reliant on competing perceptions and exposure to social and political contradictions. As applied to Religious Studies, this critical theory emphasizes orthopraxy, “correct practice” to ameliorate oppression as opposed to orthodoxy, the emphasis on “correct belief” in the pursuit of social justice and “the beloved community.” As applied to criminal justice studies, a focus on family strengthening, cultural integrity, and minimizing the punitive aspects of the carceral system takes precedence over principles related

to either of the dominant and competing crime control theories (accountability of offenders) or due process (complex and cost prohibitive rights oriented processes) modalities of securing criminal justice.<sup>58</sup> Theologian Marcella Althaus-Reid (1952-2009) emphasizes a post-colonial theology and argues that the future of feminist theology of liberation must be “indecent, radical [and] queer.”<sup>59</sup> “What informs this *caminata* (journey) is the desire not to make of God an occasional and compassionate visitor to the margins of the margins [to address economically related class issues] but to rediscover that God is a truly marginal God.”<sup>60</sup> Consequently, for Althaus-Reid the half century since the Second Vatican Council’s (1962–65) more socially oriented stance led to an “indecent theology” that wholly subverts cultural norms, hegemonic domination and liberates those on the periphery to worship the God who is prominently present in the margins of society, the poor, colored, gendered, sex-variant (and criminalized) members of every society. Ideally, Convict Theology would build upon this tradition, especially the theology based on the disabled colloquially named Crip Theology.<sup>61</sup>

Unbeknownst to me theologian Leonardo Boff was a much-celebrated speaker at the 2005 World Social Forum in Porte Alegre, Brazil. I have been an avid admirer of his ever since.

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<sup>58</sup> Philosopher and feminist theologian Mary Daly (1928-2010) opined that God is a “verb”, a becoming process that is energy and energizes all and evident in action such as the pursuit of social justice (in Daly’s case deconstructing patriarchy). Others may reflect on God as a “noun”, a person, place or thing which usually becomes an image of what is dominant or indispensable in society. Hopefully, laws and detention centers are not gods in twenty-first century America.

<sup>59</sup> *Althaus-Reid*, p. 143.

<sup>60</sup> *Id*, p. 146.

<sup>61</sup> Although a founder of Crip Theology Sharon Betcher (a Drew alumni) did not appreciate my comparison with the implicitly “guilty” convict with the “innocent” disabled person during a presentation she had at Drew University in 2013-14.

In Boff's "Sermon from the Mount of Corcovado,"<sup>62</sup> read at the World Social Forum whose slogan was "Another World is Possible," Boff states,

You are the blessed, all you who are poor, hungry, sick and without hope. You are oppressed and victims of a corrupt society, so how can I expect you to live a life of perfect virtue or upbraid you for all your imperfections? My Father who is the lord and giver of life treasures you all in his very heart. You will form the basis of his kingdom of life, justice, love, and freedom. For me, your oaths and blasphemies are neither of these things, but cries for help that pierce and rend the heart. For me your individualism is not egotism but an unyielding desire to survive. Your terrible pain and suffering have lasted longer than my own. You realize and perpetuate throughout the centuries my own saving passion.

This is the basis of Convict Christ theology, Christ is born anew in the oppressed of every generation and realized in their struggle for freedom (liberation) both individually and collectively. Consequently, what secular society has deemed as deviant and criminal Boff would urge us to reflect on the influences and survival mechanisms employed by and on the accused. Is drug abuse an illness or a crime? Is sex work immoral or a survival technique? Are thefts and assaults mimicking neoliberal capitalism or are they consequences of its subjugation? Basically, Liberation Theology as well as critical theory, calls for the adherent to deconstruct the socio-political influences on deviancy and criminality – to continually ask questions and challenge the status quo.

Perhaps reflection on an underappreciated legal case from Israel will be instructive. Specifically, important is the psychological similarities between the Holocaust (as compared to systemic racial/ethnic disparity in America) and private prison construction that inspired this reflection of Liberation Theology and Critical Theory.<sup>63</sup> Further, as set forth by Marc H. Ellis,

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<sup>62</sup> The Christ of Corcovado is a very large statue located in Rio de Janeiro dominating Guanabara Bay.

<sup>63</sup> Musician Omar Spence stated, "Politicians contracting private prison companies and ensuring guarantees for full occupancy by enacting policies that target black & Latino populations is no different from the targeting of Jews by the Third Reich during the Holocaust. Conservatives now

“the use of Liberation Theology to make connections between the Holocaust and contemporary communities from the Third World reminds both Jews and oppressed Christians that they share a common ground in the experiences of abandonment, suffering, and death.” Such reflection underscores the expansiveness of this project that the ministry discussed herein can be interfaith as well as ecumenical.<sup>64</sup>

Nevertheless, a little celebrated socio-political event occurred on November 19, 2009, when the influential Israeli Supreme Court issued a 210-page (8-1) decision in *The Academic Center of Law and Business, the Human Rights Program v. The Minister of Finance*,<sup>65</sup> holding that private prisons deprive the incarcerated of human dignity. Without emphasizing the Holocaust (or mass incarceration), the Israeli Supreme Court became the first nation to declare legally that private prisons are inconsistent with human dignity, despite its common usage in over a dozen nations for the past thirty years. Instead of denigrating political conservatives and comparing millions of innocent Jews (among others) to American prisoners that have been adjudicated guilty, the Israeli Supreme Court has issued a significant salvo on punitive justice mechanisms that disproportionately oppresses marginalized communities (primarily African Americans and Latin@s well as the poor and mentally impaired). The court held that human dignity is violated with private detention, that the pursuit of monetary profit is a severe violation

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bear little difference from the Nazis; the drive toward privatization and control, the suppression of voters that don't vote for them, their hatred and marginalization of women and minorities, all in pursuit of a return to a “glorious time” that never existed.”

<sup>64</sup> However, this is a somewhat controversial endeavor, as comparing the Holocaust (or Native American genocide or African slavery) to any other event, or any comparisons of tragedies does not honor the memories of the victimized or the efforts of the heroic. Further, conflating and simplifying the complexity of each tragedy, whether it is the Holocaust, the genocide of the indigenous peoples throughout the Americas, slavery, and even mass incarceration, is a disservice to the analysis of complex socio-political dynamics and fails to engender progressive socio-political responses that seek to prevent future inhumanities.

<sup>65</sup> <http://lapa.princeton.edu/hosteddocs/HCJ%202605%2005%20Privatization%20of%20Prisons-Judgment-Abstract-ver%2004.pdf>, accessed December 17, 2017.

of prisoners' basic human rights to dignity and freedom. This decision encourages the more fruitful exploration of the psychology that led to the Holocaust as well as the psychology that culminates in punitive modalities of penology, not the results of each atrocity. Future socio-political decisions will emerge extending this persuasive decision, exploring whether human dignity is preserved through public detention. It is hoped that future activists and efforts will rely on this decision to challenge punitive penology and the creation (and recreation) of a stigmatized labor force from marginalized communities for an exploitative economic system, culminating in perpetual "ghettoization" of certain communities as well as a "prison industrial complex."

Why did the Israeli Supreme Court issue the first opinion against the dominant "cult of efficiency" with respect to prison privatization? In a neoliberal economy, as the influence of private entities (such as prison privatization) is enhanced to the detriment of governmental powers, there is an increased concern regarding human rights violations and personal liberty restrictions. Human rights evolved to safeguard people against public abuses, but private abuses of human rights have been found in the pervasive privatization of prisons in many industrialized nations. The moral (and global) implications of Israel's 2009 decision rejecting prison privatization, must be advanced with specific focus given to how the psychology of the Holocaust influenced the psychology of prison privatization as well as the progressive decision by the Israeli Supreme Court. Specifically, by holding that the 2004 government plan to enable private prisons (representing the commodification of social services to secure profits), jeopardized the rights of vulnerable prisoners to human dignity by circumventing the safeguards represented by the Israel Prison Service, the Court modeled prosocial behavior, and ceased being an unintentional perpetrator of violence (or a bystander).



Among the more problematic sections of the Basic Law of Human Dignity and Liberty that is disputed in the case are section one and section eight.<sup>66</sup> Section one states, “The purpose of this Basic Law is to protect human dignity and liberty, to establish in a Basic Law, the values of the State of Israel as a Jewish and democratic state.” Section eight provides the following “limiting paragraph,” “There shall be no violation of rights under this Basic Law except by a law befitting the values of the State of Israel, enacted for a proper purpose, and to an extent by a law no greater than is required, or by regulation enacted by virtue of express authorization in such law.” Critics of the State of Israel claim that this provision nullifies a democratic State of Israel as section one specifically calls for a Jewish state, while supporters of Israel suggest that by nullifying private prisons, the Basic Laws evidence that they are very progressive. Stuntz states that as applied to America, the failure of our founding documents to specifically guarantee

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<sup>66</sup> In 2004, the Knesset (the controlling national Israeli legislative body), enacted the “Prison Ordinance Amendment Law,” which enabled the State of Israel to facilitate the construction of a private prison. Less than a year later, an academic institution as well as a non-governmental organization, arguing that the proposed law violated the human rights of inmates, challenged this amendment. Chief Judge Beinisch wrote the decision wherein seven other judges agreed, with lone Judge Levy dissenting. The Israeli Supreme Court has fifteen members that enjoy life tenure, and adjudges cases in larger panels of uneven numbers on matters that involve fundamental constitutional questions. As is common with Common Legal traditions, decisions of the Israeli Supreme Court have binding precedent (*stare decisis*) on every other court within Israel. As the Israeli Supreme Court has cultivated international acclaim under very challenging circumstances, their decisions are also extraordinarily persuasive in foreign jurisdictions. The proposed Amendment 28 to the Basic Laws of Israel represents a fundamental constitutional question, as the Basic Laws are a central component to Israeli constitutional law. The Knesset from 1958 through 1988 passed nine Basic Laws meant to guide the formation of a comprehensive codified constitution that never materialized. That failure is due to the resulting conflict with territorial neighbors that arose after the 1948 establishment of the State of Israel as well as concerns from orthodox religious interests that feared such a comprehensive law would be preferred over central religious laws. Consequently, the Basic Laws in and of themselves can be used as constitutional material. In 1992, the Knesset passed two central human rights laws, the Basic Law: Human Dignity and Liberty (discussed herein), as well as Basic Law: Freedom from Occupation. These laws led to Israeli Chief Justice Aharon Barak’s 1998 declaration that the Basic Laws, and various pieces of legislation from the Knesset, are the actual constitution. Consequently, less than fifteen years separate a “Constitutional Revolution” from the case discussed herein.

individual rights and instead allow the development of due process rights enabled discrimination (or privilege) by those capable of expressing their due process rights which is usually an expensive proposition.

The Israeli court held that Amendment 28, which enables private prisons, is inconsistent with human rights due to its profit-making propensities, and therefore represents an unconstitutional infringement on the human dignity of a vulnerable population (i.e., inmates). Exploring classic political theorists such as Hobbes, Locke, Montesquieu, and Rousseau, philosophers such as Kant, Adam Smith, and Rawls, and sociologists such as Weber and Foucault, the Israeli Supreme Court issued a comprehensive decision nullifying prison privatization. Declaring that imprisonment represents a justifiable limitation to personal liberty (acknowledging that liberty is not an absolute right), the commodification of inmates, however exceeds a justifiable liberty limitation. Further, the state cannot transfer coercive state powers to a profit-making corporation because the public purposes, namely rehabilitation, that give imprisonment legitimacy are undermined due to the corporation need to make profits. Wacquant extends this rationale as he believes another public purpose of the prison in a neoliberal society is to facilitate classism and social segregation due to the conviction. Nevertheless, most would accept that the main public purpose, which was to punish and/or rehabilitate are modified unacceptably by economic considerations.

Most of the jurists examined the history of private prisons in several countries and although no country has held that the privatization of prisons is unconstitutional, the court noted that no court questioned the constitutionality of the privatization of prisons. Nevertheless, its review concluded based on horrid incidents of inhumanity at some private prisons, that sufficient time has elapsed enabling it to determine that private prisons are inconsistent with human rights.

Then Israel ruled against prison privatization. How did Israel come to this most expansive understanding of human dignity (for inmates)? A review of socio-psychological (Milgram, Zimbardo, Foucault, and Staub) as well as socio-political (the Israel and Palestinian conflict) dynamics provides insight.

Dozens of noted intellectuals and legal cases were relied on by the Israeli Supreme Court's rejection of the privatization of prisons. Most influential were the decisions of jurists, followed by the thoughts of classical political theorists, then there were the persuasive concerns of contemporary intellectuals such as Foucault. Social psychologist Stanley Milgram (1933-1984) was not among those referenced by the Supreme Court's decision but he could have been. Central to the court's decision was whether it had the political ability (as a non-elected body) to overturn the decision of a democratically elected legislative body whose decision amended cherished Israeli principles. Basing their paramount procedural "judicial review" aspect on precedent, a reliance on classic political theory was of primary importance. If the court had desired a complete reasoning for the substantive underlying rationale to as to why the privatization of prisons is inconsistent with human dignity, Milgram is important.

Milgram's famous (or infamous) 1961-1962 "*Obedience to Authority*" experiments contribute to such an analysis. Milgram published *Obedience to Authority* in 1974, over a decade after his initial experiments on how far one's obedience to authority can go without questioning and refusing to comply. These controversial studies are as relevant to law and corrections as they are to business and military fields. Milgram concluded, "[t]he social psychology of this century reveals a major lesson: often it is not so much the kind of person a

man is as the kind of situation in which he finds himself that determines how he will act.”<sup>67</sup> As an urban social psychologist interested in exploring the pathologies of the Holocaust, the conclusion that when the most inhuman treatment of others becomes normative, most ordinary people will follow directions without minimal protest was revealing.

In the harsh environments of prison, especially the austere environment of private prisons, these insights can be applied to how inmates treat each other in barbaric conditions and to how prison guards treat inmates. When one encounters repeated acts of violence or is forced to work in systems that treat other inhumanely, such conduct usually influences predators as well as bystanders. Consequently, professions that follow “the chain of command” and wear military style uniforms (i.e., corrections officials and even inmates that are encouraged to discipline disruptive inmates pursuant to guard instructions) are predisposed to obeying authority figures. Ordinary people can become perpetrators of horrific acts.

A related phenomenon to Milgram’s experiments is the concept of moral exclusion (i.e., privileging authority figures or one’s own group over the needs of “the other”). The psychological process of moral exclusion privileges the needs norms of one’s own group over the concerns of about others, at times dehumanizing such marginalized groups. The target group may be selected by any variable (i.e., race, ethnicity, religious, sex, age) and eventually will be considered unworthy of protection, deprived of commonly denied rights and protections. Other variables can include one’s citizenship status and/or the stigmatization of incarceration, which may contribute to the propensity for racial profiling and unconstitutional “stop and frisk” policies. Psychologists believe that moral exclusion is the most ignored in psychological

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<sup>67</sup> Milgram, p. 205.

analysis of inhumanities. This psychological analysis, the “us/them” dichotomy was specifically important to Philip Zimbardo’s Stanford Prison study.

Milgram’s New York City high school classmate was Stanford social psychologist Philip Zimbardo. Zimbardo is widely known for his Stanford prison study, perhaps the second most controversial social psychological study of human subjects (after Milgram’s). In 1971, funded by the American military due to concerns among Navy personnel that Navy prison guards were unnecessarily repressive to those in detention, Zimbardo studied the effect of a mock prison situation on college-aged men who were assigned roles as prisoners or guards. Among his findings is that the guards engaged in psychological torture and even prompted inmates to abuse each other, and he himself as the “Superintendent” of this mock experiment allowed the abuse to continue. His conclusion was that in a simulated prison experiment most people can be transformed into aggressors and perpetrators. Consequently, routine training of guards and care for inmates must be constantly available, the specific programs that cost-conscious private prisons curtail.

Milgram’s New York City high school (among others), this lax oversight and training will eventually manifest itself into aggressive actions inconsistent with human rights. Prison abolitionists rely on this study to urge the end to corrections as it is presently administered, or minimally to advocate for an alternative to prisons. Zimbardo’s study was planned for fourteen days, but was stopped after six days because of the intense pathological reaction of many of the participants. Nevertheless, the situational attribution, that we become what we play (i.e., the “guard mentality”), was confirmed by Zimbardo. Another concern is that the profession of “correction guard” may attract individuals that are predisposed to sadistic and insensitive propensities. It is telling that when the study was stopped early, the “inmates” celebrated while

the “guards” were deflated. These mock guards engaged in authoritarian mandates when they could have easily engaged in civil discourse to communicate with inmates. Moreover, their use of military style uniforms (compared to the odd clothing of inmates), the wearing of tinted glasses (to avoid eye contact), the possession of a baton and whistle (as symbols of control and power), culminated in a repressive “guard mentality” in less than one week.

While the sanitary conditions of the experiment (modified basement offices) does not approach replicate the “ecological validity” of a real prison, neither does the noise, smells, weaponry, technology, and “concreteness” (metal, steel, and concrete) of a real prison setting are difficult to replicate in an ethically conducted study. Lastly, the study can be criticized as an unrepresentative sample, based on 24 preselected college-aged “vetted” white men. Consequently, it is difficult to generalize the results to other people. Nevertheless, neither does the study represent the marginalized populations that disproportionately populate prisons. These populations are overwhelmingly poor, with over 60% having diagnosed mental impairments, and a tendency toward aggressiveness and impulsivity. Under such conditions training needs to be a constant practice, not something provided if fiscal resources are available.

Among the pathologies identified by Zimbardo is the “prisoner syndrome” which occurs during confinement. The prison syndrome is present when prisoners accept the dehumanization (specifically the de-individualization) of confinement, represented by the lack of privacy, the emasculating dress, the constant surveillance, the emphasis on “head counts” ostensibly for security, as well as the “numbering” of inmates instead of the “naming” of inmates. Among the pathologies applicable to guards is the pathology of power; it is theorized, that the deteriorating guard behavior was due to the surge of control and power experienced by the guards. Foucault’s

emphasis was on how this power is a constant presence in contemporary society and how it reproduces and magnifies itself within the confines of the prison.

In a sense, this chapter on Liberation Theology and Critical Theory discusses the psychology of power, specifically as it is produced through the system of corrections (i.e., prisons), and worsened by privatization. Ervin Staub encourages alternatives to prison by minimizing the need for prison through cultivating prosocial behavior (especially among impressionable youth) or through supplementing the criminal justice system with restorative justice modalities. Stanley Milgram promotes the guarding against reverent power afforded to authority figures, implying the need for and the constant monitoring of power differentials. Philip Zimbardo emphasizes that the vigilance of training and monitoring of prison conditions is central. Lastly, Foucault cautions that power is a constant presence, one that is dynamically repressive within the confines of prison.

Justice Joubbran's contribution to *The Academic Center of Law and Business, the Human Rights Program v. The Minister of Finance* decision, relied on cultural critic Foucault's *Discipline and Punish* (1975). Foucault stated that the prison affords the state "almost total power over the prisoners; it has its internal mechanisms of repression and punishment: a despotic discipline."<sup>68</sup> Foucault had focused on the psychological and sociological dimension of the prison experience in the late 1960s and 1970s. By the time Foucault's *Discipline and Punish* was translated into English in 1977, the socio-political decision that pitted Foucault's imputed liberal argument that prisons negatively affect offender reintegration was embroiled with a conservative argument that prisons need to be more punitive to be effective (inspired by Martinson's "Nothing Works"). The result was a more certain and longer period of incarceration

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<sup>68</sup> Foucault, p. 235-236.

that disproportionately affects the poor and people of color; in addition, the prison population, and has grown from 350,000 inmates in 1970 to 2.3 million in 2011.

Foucault's 1975 work was descriptive and did not discuss why people commit crimes or the enormity of corrections. Instead, Foucault focused on the psychology of social control and what transpires at the point when punitive mechanisms associated with corrections encounter an offender. Correspondingly, evolving symbolic meanings of justice and punishment were discussed throughout *Discipline and Punish* from a social science perspective. In modern society, punishment continues to be influenced by utilitarian concerns related to legitimizing a legal process and maintaining law and order. Foucault's view is that punishment occurs through multi-faceted power dispersion (i.e., pervasive surveillance) to defend laws, not to improve society. Perhaps, more than any other person until Wacquant, Foucault analyzes the psychological principles of penal control expanding the understanding of the internal workings and devastating impact of penal institutions on the confined and their community.

While Wacquant addresses the collateral consequences to communities and societies due to mass incarceration and the dispersal of discipline, Foucault focused on specific institutional instrumentalities as well as the nuances of penal measures. If the modern punitive society relies on constant surveillance of inmates and securing knowledge during their incapacitation, common correctional techniques such as solitary confinement, arbitrary cell searches, limited communication with the non-incarcerated, and even strip searches are processes that maximize institutional knowledge and reinforce systemic power. These arbitrary and capricious institutional routines reinforce institutional dominion and offender subjectification. For Foucault, the "depiction of punishment as a technology of power-knowledge, and his primary



political account of its development, has produced an over-rational, over-calculated conception of punishment in which its primary determinants are the requirements of social control.”<sup>69</sup>

Foucault reflected on Jeremy Bentham’s “panopticons” as metaphor for modern disciplinary efforts and the pervasive inclination to observe and regulate. Through the panopticon, a consciousness of permanent visibility and institutional dominion created without bars, chains, locks or cells. Such dominion may be most evident in the prison but can occur throughout society, particularly hierarchical and information oriented institutions, where “knowledge is power.” Consequently, in the twenty-first century with increased surveillance of public spaces under the pretext of traffic control and security devices as well as marketing research through an ever-expanding social media network “the gaze” of a superior is placed into one’s daily life and the specter of prison exists to deter deviancy. As discussed by Foucault, the subtler and nuanced the surveillance, psychologically the more effective and pervasive the power is of those who control surveillance mechanisms. Prisons offer the most evident example of a dehumanizing system of surveillance that culminates in centralized power and oppression.

Ervin Staub seeks to minimize the concentration of power differentials as well as the ineffectiveness of litigious adversarial proceedings with high conflict populations. By utilizing restorative justice modalities as alternative mechanisms to establish justice, Staub emphasizes reconciliation aspects central to many cultures while addressing the concerns with power and knowledge advanced by Foucault. For Staub, the deviant act constitutes a power differential best remedied when the victim is empowered to decide what type of restitution is possible through extended dialogue instead of reliance on a dispassionate professionalized over-punitive criminal justice system. Such a process represents an application of Foucauldian thought by replacing

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<sup>69</sup> Garland, p. 229.

the negative, imposed, and ultimately destructive psychological power of constant surveillance with the positive, internalized, and sustainable psychological power of consensus building. Those truth and reconciliation participants of conflict situations can resolve their own disputes, building a positive self-concept as well as the desire to abide by agreements.

Unfortunately, most industrialized Western cultures rely on complex legal systems to establish the “law and order” necessary for maximum efficiency and stability to facilitate commercial interests. Such reliance emphasizes a “law and order” approach to deviancy and a disposition to criminal trials and adversarial proceedings that are often incompatible with human rights concerns as too many marginalized people are swept up in crime control euphoria. Counterproductive criminal proceedings are legitimized particularly by empathetic victims of crime (or suburbanites, those migrating from urban areas), whose displaced aggression (or guilt) seeks to hold marginalized urban residents (disproportionately people of color and the poor) accountable for deviant acts. Such actions are well-intentioned but misguided attempts to improve urban living that often contributes to systemic discrimination and retributive notions.

Staub’s prosocial value orientation encourages non-adversarial engagement by emphasizing, (1) a concern about other’s welfare, (2) a positive view of others, and (3) a feeling of personal responsibility for others welfare, from the societal (macro) level, eventually facilitating or influencing the individual (micro) effort. This process is difficult in our increasingly stratified and ever more mobile society. Therefore, Staub encourages lifelong efforts, commencing with the development of being a “constant (or persistent) active bystander” by nurturing children through inclusivity as well as tolerance, recognizing (and dismantling) past (and present) structural oppression. Although Staub concentrates on cultivating prosocial tendencies among impressionable children, that does not negate holding authorities accountable

for oppressive governance or anti-social policies, such as a reliance on incarceration and neglecting alternatives to incarceration. Indeed, such a concentrated and coordinated effort exemplifies prosocial actions that youths need to emulate especially in urban America. Among the regions needing to cultivate such prosocial actions would be the Middle East, particularly Israel and Palestine.<sup>70</sup>

The Israeli Supreme Court represents a central democratic institution, but as most judicial institutions, it is somewhat insulated from popular opinion through the tenure process. The Israel Prison Service (IPS) is a functional administrative entity that operates as well (or as poorly) as any other corrections agency. Nevertheless, the percentage of those detained for “security reasons” is a constant source of agitation. The IPS is located within the civilian administered Ministry of Public Security, with North, Central, and South Israeli regionalization. As of 2012, there were approximately 8,000 employees operating thirty-three facilities, including the newly built facility in Be’er Sheva (South Israel, Negev Desert) that was intended as a private facility (built during the pendency of the legal proceedings). There is Red Cross oversight for inmates with comparatively considerable avenues for redress including legal means (due process rights), medical, religious, conjugal/other visits, and free education. Nevertheless, the psychological trauma on inmates, families, and the communities they return to is an underappreciated factor.

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<sup>70</sup> Staub’s efforts need to be expanded to the surrounding realities of the unique formation of Israel as a Jewish State in 1948, which emphasizes a perpetual exilic history. The history of European persecution culminated in the German Holocaust (1933-1945), which enhanced led to the United Nations support for the establishment of the Israeli state. The current Israeli population of eight million is comprised of approximately six million Jews, with over one million being from former Soviet Union entities, comprising 13% of the current Israeli Jewish population. The remaining population is comprised of Palestinian, among the fastest growing global population. The political realities of his dynamic influences dualist thought among many Jewish Israelis, being keenly aware of the inhumanities endured specifically by Jews in modernity some strive valiantly to defend the oppressed, while others are zealous in defense of the nation. Perhaps it is only in this crucible that decisions such as *The Academic Center of Law and Business, the Human Rights Program v. The Minister of Finance*, can emerge.

Interestingly the size and population of Israel is comparable to New Jersey as is their corrections system. While Israel has thirty-three facilities, New Jersey has fourteen but most of New Jersey's twenty-one counties have their own correctional facility in addition to the Federal facility at Fort Dix. New Jersey has over 19,000 state inmates and about 20,000 county inmates, Israel has about 21,000 state inmates, with approximately 25% as pretrial detainees and nearly 40% foreign born (mostly Palestinian).<sup>71</sup> Perhaps the indignation that the Israeli court had with private prisons being utilized for such a large segment of its detainees should occur with the increasing use of private service providers within criminal justice institutions as well as the emergence of private facilities especially with respect to immigration detention centers. The precedent setting dignity threshold for the most vulnerable of populations (inmates) established through this Israeli court decision, against a significant cult of efficiency needs to be used to balance and curtail the globalized for-profit detention industry. Unfortunately, America continues to influence punitive policies throughout the world, even in areas that cannot afford such repressive policies, creating oppressive governance in areas that can ill afford such repression. The results are ever increasing human rights abuses and unstable governance through militarized policing practices and expansive detention facilities.

America has long been the world leader in incarceration rates with a current rate of 730 (per 100,000 population), while Israel ranks 55th with 236 (per 100,000 population) out of 219 nations surveyed. The psychological theories of Milgram, Zimbardo, Foucault, and Staub, as they apply to criminal justice should influence responsible governance and alternatives to corrections that negatively impacts not only the inmates, but officers and ultimately society that are impacted by the process of incarceration and the return of the traumatized "ex-cons."

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<sup>71</sup> <http://www.prisonstudies.org/country/israel>, accessed December 17, 2017.

If the state has a duty to provide the basic needs of its inhabitants as a part of the right to human dignity, it has an even greater obligation to the persons who are in its custody and under its protection, for whom it is directly and immediately responsible. Protecting the dignity of the prison inmate as a human being goes beyond the interest of the individual inmate. It is the interest of society, which is responsible for determining the moral and ethical norms that apply within it to its members, including prison inmates, as human beings.

Violent sociopaths and psychopaths, those that will not or cannot conform to societal, norms must be segregated for their own good. Nevertheless, those with stakes in an expansive criminal justice system, such as prison contractors, law enforcement personnel, victim-rights groups, indeed much of society (the bystanders) support an ever-increasing web of surveillance as well as an increase in detention and imprisonment. Unwittingly, the purveyors of punitive penology and bystanders contribute to the expansion of the punitive “Prison industrial complex.” These individuals fail to appreciate decisions that humanize the criminal justice system, such as decisions restricting the privatization of corrections, as well as policies that seek to implement restorative and transformative justice.

The Israeli Supreme Court’s precedent setting decision, as well as Staub’s efforts at alternative reconciliation methodologies are fiscally sustainable, humane, and provide cost effective and universal benefits. Instead of focusing on the offense and securing a guilty verdict through an adversarial system, effort is needed to assist the offender and victim in working towards a resolution of the deviant act as well as the social causes that contributed to such deviancy. Some offenders may require a medicinal approach to combat addictions, or a therapeutic approach to address anger management and psychological issues, or vocational programs to enhance employability. For other offenders, perhaps their remorsefulness and the

subjective desire of the victims that may involve securing restitution and a sincere apology for the underlying harm are the most important, instead of a prosecutor's objective need to secure convictions. Lastly, society will also benefit, as informal resolutions will contribute to enhanced restorative justice and re-entry of offenders into their respective communities and families. These benefits are maximized if truth and reconciliation modalities, such as those advanced by Staub are practiced at the municipal level instead of relegated to international conflicts.

Both religious and secular communities benefit utilizing the paradigm of restorative justice, allowing individuals to solve their own disputes in a peaceful and sustainable manner. The resulting reconciliation avoids the harshness of the traditional criminal justice system and relies on the agency of victims (as well as perpetrators) to resolve their own differences under secure conditions. In such modalities, there is no room for the bystander, as society has an interest in resolving the small disputes that too often manifest into violent affairs. The enhanced "self-concept" of both the victim (being empowered, addressing power differentials violated by the victimization) as well as the perpetrator (controlling his/her own destiny, internalizing responsibility) are positive results. Few disputes that individuals resolving their own dispute, ultimately improves social formation and eventually will diminish society's reliance on its monuments of arrogance, jails, prisons, and detention centers, that all too often merely warehouse the most vulnerable members of society, destabilizing marginal communities, stratifying populaces, and wasting significant and precious public resources.

Institutional racism and discrimination is a worldwide phenomenon and is clear within the prison system of every nation. For the past thirty years, more nations have relied on private prisons and detention centers expanding the inhumane warehousing of individuals, which eventually will be released into society. Restorative justice is not a panacea, but it incorporates

elements of religious and secular systems of justice. Consequently, it is a viable alternative to the negative psychology associated with prison privatization. And thanks to the Israeli Supreme Court, the world community now has a precedent to rely on to curtail the growth of counterproductive prison privatization.

This third chapter provided a jurisprudential (socio-political as well as historical) application consistent with the tenets of Liberation Theology and particularly reflective of neoliberal inspired privatization of carceral systems that theologian Leonardo Boff as well as critical theorist Foucault would critique (deconstruct). While the Israeli sensitivities could have been inspired by the disproportional Palestinian prison population and the American critique based on the disparity between other racialize and ethnic minorities, the reality is a system of corrections operates to subjugate vulnerable individuals and marginalize communities while engendering complacency on a public that is fearful for their own wellbeing. The result, marginalized people are increasingly disenfranchised from lauded democratic system of governance, young people too frenzied to engage in civic duty, and those of modest means too worried about loss or striving to differentiate themselves that society becomes polarized and increasingly fragmented. And all too infrequent are decisions from courts or similarly influential religious institutions, both often co-opted by institutional norms and socio-political realities.

#### ***Chapter 4: Social networks and coercive mobility***

This fourth chapter relies on a Bordieuan analysis as well as the work of criminologist Todd Clear to explore the need for social networks as well as the coercive mobility of incarceration and the resulting exacerbation of marginalization in disadvantaged communities. A criminal justice system is formed through the practices of institutions in making law (the political sphere), enforcing law (policing), responding to perceived violation of law (judiciary), and

reacting to those found guilty of breaking the law (corrections). In complex modern industrialized societies these institutions are interdependent and ubiquitous. Further, in democratic societies that strive for egalitarian principles, criminal justice system institutions, primarily the corrections institution which serves as an ever-present specter, is constantly managing or responding to shifting social, economic, and political forces. Consequently, prisons and jails reflect the ever-changing socio-political role and philosophical goal of a country's criminal justice system. As Michelle Alexander states in her reflection on the symbolic production of race in the America, "Slavery defined what it meant to be black (a slave), and Jim Crow defined what it meant to be black (a second-class citizen). Today mass incarceration defines the meaning of blackness in America: black people, especially black men, are criminals. That is what it means to be black."<sup>72</sup> Wacquant urges emphasis on classism instead of racism to both avoid the polarizing influence of racism as well as extend the conversation to classism.

This chapter explores the fact that while America in the twenty-first century is the most influential economic and militaristic force in history it is currently the most punitive nation with nearly 2.2 million individuals in correctional facilities or detention centers at a cost of over \$80 billion annually. Indeed, while comprising over five percent (5%) of the world's population America detains over twenty-five percent (25%) of the world's custodial population. From this perspective the values of Americans are based on accountability, discipline and punishment, as well as imposing laws and enforcing order. However, such practices disproportionately impose punitive values on the most marginalized populaces, the poor and "people of color" who may comprise at least seventy (70%) percent of the incarcerated.

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<sup>72</sup> Alexander, p. 192.



This chapter presupposes that modern “main stream” criminology and jurisprudence has neglected democratic norms, progressive capitalistic ideals, and purported egalitarian sociological considerations. Primarily there is lack of concern for how mass incarceration negates social network formation and culminates in what Todd Clear refers to as coercive mobility, an emasculation of societal wellbeing. Moreover, for Bourdieu (Wacquant’s mentor) the purpose of sociology lies in cultivating an awareness on how norms and practices of society make life difficult for some, such as creating a carceral state, while securing prosperity for others. Specifically, the mass incarceration that exists is a consequence of an emerging carceral state legitimizing legislation that placates certain interest groups as well as sanctifying judicial proclamations of arbitrary police actions. Thusly, the public accepts such symbolic violence (reproduction of a certain capital mode) through their actions (habitus) and within their sphere of influence (field). The resulting misrecognition of injustice, largely founded on social inequalities, is accepted as just and natural instead of arbitrary by both purported victims as well as offenders, who often are complicit in their ultimate victimization, and ultimately serves to perpetuate social domination. Such domination undermines democratic values, frustrates economic enrichment or mobility, and fragments society.

Lastly, such a development is a recent social phenomenon. In America, mass incarceration commenced unwittingly or unconsciously but nevertheless as an intended collateral consequence of a variety of social, economic, legal, and political developments. The cultural desire to maintain a paternalistic system of segregation, to sustain wealth stratification and social (white) privileges, to improve criminal procedures through an activist Warren Court, and in striving for the “Great Society” in the 1960s, the first prison society in history emerged. According to Wacquant, a protégé of Bourdieu, following slavery, Jim Crow laws, and early

ghettos the modern prison has emerged to reinforce hyper-ghettoization and the exclusion of certain individuals from general society. A historical application of Bordieuan thought, as well as his contemporaries Foucault and Jacques Ellul, provides further illumination.

Throughout history, societies have used corrections to advance their socio-political goals as well as philosophical or theological yearnings. The Sumerian Law of Mesopotamia (c. 3100 BCE), the Code of Hammurabi (c. 1750 BCE), the Mosaic Covenant (c. 1200 BCE), and the Draconian Code (ancient Greek, seventh century BCE) represent comprehensive statements of prohibited behavior applicable to specific communities largely relying on the concept of Lex talionis. A universalization of law was ushered in through Roman law and the Holy Roman Empire. From the Twelve Tables (c. 439 BCE) to the Code of Justinian (529 CE) and through canon law developed by the Catholic Church, authorities relied on written principles that were independent of interests in specific communities and were predisposed to scholasticism facilitating critical analysis and commentary increasing the reliance on a formal justice system.

Roman law therefore could not only be systematized and expanded but could be studied and taught transnationally by professionals. This universal character helps explain its appeal and almost immediate spread to universities throughout most of Western Europe. From the base of Roman law, the church built the elaborate structure of canon law, the first modern legal system. This modern legal system continued to encourage private resolution of disputes and deviant action but increasingly experienced oppressive state action primarily after the Norman conquest of England in 1066 and as evidenced by the Inquisition. Without a strong central government feudal society relied on compensation to settle wrongs and avoid feuds. Those without means to pay fines or restitution received physical punishment and forfeiture of whatever limited rights they had from those in positions of authority, usually feudal lords.

These less complex societies cultivated a criminal justice system that sought to maintain public order primarily among those of equal status as well as preserve the status quo of those in privileged positions. Honorable agreements, penance as well as the payment of fines and restitution was afforded the privileged while corporal punishment inclusive of mutilation, slavery, transportation (exile to a penal colony, a hostile or remote area) and occasionally capital punishment were imposed on marginalized communities. In an increasingly punitive state system a “benefit of clergy” exception developed wherein clerics had the right to be tried in ecclesiastical courts that imposed less severe punishments and relied on penance and salvation. Consequently, the prison emerged to reflect the ever-changing socio-political role of the criminal justice system initially benefitting clerics then gradually expanding to the rest of society.

While Bourdieu and Foucault focus their energies mostly on modern society their contemporary Jacques Ellul argues for a return to specific eternal truths embraced in antiquity (e.g., pre-Constantinian Christianity) that were not subverted by temporal desires. Specifically, Ellul argues for a rejection of state powers and the carceral state (or any temporal criminal justice system) and instead urges practicing the eternal truths of Christianity through community primarily by worship, empathy, and mercy seeking to invert the temporal through sacred practices. Sociologist and anarchist Ellul is unabashed in his religiosity but accepts Jesus Christ as (the) one who has come to “save men” not to establish the power of the state, the reign of mammon, or even a criminal or social justice system. For Ellul early Christian communities were more authentic Christians as they were not dominated by temporal forces inclusive of false and futile appeals to temporal justice and liberty. Instead, there should be “withdrawal, nonparticipation, noninvolvement” with temporal authorities. Not surprisingly, modern religious militancy in various faiths continue to seek this romanticized notice of a religious state.

While such exploration is beyond the scope of this chapter, pious communities would reject mass incarceration as an ungodly practice, preferring private dispute resolution agreements except for blasphemy which would result in corporal/capital punishment.

Increasingly, as centralized governance established itself in the late Middle Ages, as well as the transition from a landed feudal society to a trade-based mercantile society, and the corresponding emergence of a literate middle class, public participation became the preferred approach to determine guilt or innocence and in imposing a penalty. In an era that incrementally expanded upward mobility and individual rights, shame and deterrence emerged as the dominant purpose of corrections as public humiliation and pain were effective ways to secure the peace of society. Instead of seeking reintegration of the offending (deviant) member of society preferably through a private dispute resolution mechanism, social pressures sought to enforce or influence conformity with social norms; norms established by aristocratic as well as hierarchical interests. In 1533, the first “secular” house of correction was founded, and by 1609 England passed legislation that would require a house of correction in each county. These houses of corrections improved the appalling condition of prisons by transitioning those detained from idle prisoners relying on charity to engaged workers manufacturing products that would sustain the house of corrections without need of government subsidy.

Nevertheless, prisons were used primarily for the detention of people awaiting trial and ultimately were unable to be self-sustaining. Consequently, prisons lacked resources to adequately pay guards who would extort goods or money from inmates and inmates had to rely on charity or family for provisions. Moreover, rarely was there segregation of populations based on gender and age, or even type of crime committed and there were limited due process rights for inmate populations until the late nineteenth century. The transition to a trade economy and the

displacement of the rural poor resulted in more inmates as a perverse population control mechanism that endured more severe punishments. Due to socio-political and economic pressures, inmate transportation to the American Colonies (until their independence movement) and Australia became a common practice.

Foucault wrote his classic *Discipline and Punish* focusing on the emergence of the modern punitive state during the seventeenth and eighteenth centuries. For Foucault, punishment was ritualistic and targeted toward the populace so that the secular authority and power of the state was reinforced. While Ellul's contention that practicing a more authentic Christianity was increasingly discarded (except for an ever present ascetic community) and Bourdieu's nuanced approach to the socialization of crime and punishment was yet to develop (such analysis forcefully emerges as a response to neoliberalism), the less complex socio-political desires of the late European Medieval Era was powerfully captured by Foucault. The prison experience may have been brutal, but such harshness legitimized the power of the state. Moreover, the intensive surveillance primarily through the panoptical system was unnecessarily invasive but such intrusiveness supplanted belief in an omnipresent, omnipotent, omniscient God. Lastly, even if incarceration fails, the very nature of incarceration produces delinquency (learn criminal behavior and establishes stigma) and efficiently contributes to the reproduction of deviancy particularly of a certain populace.

From such perspectives the carceral state succeeds. The prison becomes an instrumentality that impacts society to the detriment of marginalized people. For Ellul, by rejecting Christ through striving for temporal justice the prison has perverted God's justice. For Wacquant and Bourdieu, the real function of the prison is to maintain systems of domination and oppression wherein the dominator justifies their beliefs (habitus) and professions (fields) in

striving for purportedly progressive laws while the dominated have accepted and often demand engagement (i.e., increased policing, enhanced punishments, hate crime laws, domestic violence laws, etc.) from a criminal justice system that ultimately exploits that very community. Lastly, calls for prison abolition fail to recognize how multi-dimensional and embedded the prison is in modern society and accusations of prison-profiteering (i.e., the prison-industrial complex, prison-reentry industry) fails recognize the real function of prisons, to classify and stratify society.

Perhaps the most radical change to corrections occurred when Enlightenment principles could flourish after the revolutions in America and France. Once again, the ever-changing socio-political role of the criminal justice system was modified to include liberal ideas of citizenship and government as well as the Protestant belief in the pursuit of human perfectibility. The philosophical goal of the criminal justice system was no longer based on resolving private wrongs, avoiding public feuds, or in a perverted effort at population control but primarily with “saving souls” and populating a nation through reintegration after incarceration. Moreover, democratic governance generated its own legitimacy reducing the need for public and harsh punishment. However, carceral surveillance within the prison system continued while community isolation/stigmatization intensified, as well as the desire to classify/stratify society.

Italian jurist and philosopher Cesare Beccaria (1738-1794) the founder of Classical Criminology and English philosopher Jeremy Bentham (1748-1832) framer of utilitarian philosophy and inventor of the panopticon were among the many who promoted correctional reform. However, like the Enlightenment itself correctional reforms embodied a more ambitious concept for state power to ward off monarchical and ecclesiastical custom and privilege and to increasingly provide and protect individual rights and strive for egalitarian principles. Correspondingly, punitive theories of public deterrence (corporal punishment) as well as

retribution (*Lex talionis*) were supplanted by rehabilitation efforts through incarceration as well as a revived sense of proportionality based on law and codes which were given new sanctity making deviant acts immoral thereby justifying punishment. Philosophically and theologically punishment was primarily to “save souls” and to reform rather than ward off public outrage (feuds) and deter. Sociologically and anthropologically, punishment was to reinforce a system of laws and privilege as the privileged continued to circumvent laws through economic realities.

The American Quaker community in Pennsylvania was at the forefront of placing these Enlightenment inspired reforms into practice. Commencing in 1790, a part of Philadelphia’s Walnut Street Jail was converted to reform efforts and to the solitary confinement of inmates. This Quaker-based reform effort conceived the prison as a penitentiary wherein the inmate could focus on misdeeds, reflect and repent while engaging in productive labor in isolation from negative societal influences and one another. Thereafter, the opening of Eastern State Penitentiary in 1829 effectively replaced capital and corporal punishment with incarceration; however, the psychological trauma of solitary confinement continues.

The efforts of penal reformers in America inspired European interest. Most notably was the 1831 reflection of French political theorist Alexis de Tocqueville (1805-1859). De Tocqueville feared that while America represented a successful democracy he continued to be concerned with the potential tyranny of the majority and its tendency to degenerate into despotism as evidenced by his reflects on corrections. Moreover, in 1842 English author Charles Dickens (1812-1870), who like de Tocqueville, desired to visit America corrections facilities would write of the horrors of the American prison comparing the cell to “a tomb.”

By the middle of the nineteenth century, dramatic changes to the socio-political spheres of America occurred due to increased industrialization and a corresponding shift in populations

from rural to urban as well as from the influx of significant immigrant arrivals. These socio-political changes as well as pre-Civil War tensions and poor penitentiary administration led to disillusionment with the progress of penal reform. Once again, the criminal justice system responded to socio-political pressure by controlling immigrants and former slaves through the enforcement of racist “black codes” (particularly to address “idleness” of former slaves) and the imposition of harsh prison labor camps and leasing system. Additionally, in 1876 the Elmira Reformatory in New York commenced a classification system for inmates that tailored the penal response to the “root cause” of the offender’s deviancy and thereby crafted an individualized program of treatment, work and education for the inmate. Also in 1876, Italian prison physician Cesare Lombroso (1835-1909), the founder of (Positivist) Criminology, wrote *Criminal Man* that sets forth the need to scientifically study the offender and prescribe a remedial program to address the underlying deviant attributes.

Ellul would claim that this Protestant desire to improve a criminal justice system is contrary to an authentic Christianity that does not seek to improve temporal governance but instead seeks to live-out a Christ-centered life. Foucault claims that such progressive reform efforts mask a dysfunctional carceral state. However, Bourdieu through Wacquant provides the most comprehensive analysis. While Ellul rejects such purported progress and Foucault describes this purported progress, Wacquant supplies a response: increase the social welfare state, deconstruct positions of privilege, and minimize the use of punitive mechanism especially on marginal populaces.

By enabling us to break out of the crime-and-punishment box to relink welfare and justice while fully attending to both the material and symbolic dimensions of public policy,



Bourdieu's concept of bureaucratic field offers a powerful tool for dissecting the anatomy and assembly of the neoliberal Leviathan.

Lombroso's Positivist School influenced the Progressive Era (1890s-1920s) that swept across America in the early twentieth century. With great confidence in scientific development and innovation Progressives sought to address deviancy by improving social conditions and social environments that led to criminality as well as rehabilitating individual offenders. The rise of the Medical Model of corrections emerged with the creation of the Federal Bureau of Prisons in the late 1920s and its emphasis on rehabilitation as the primary purpose of incarceration ensuring the proper classification and treatment of offenders. Moreover, progressive academic institutions such as the University of Chicago emerged seeking to modernize their disciplines and make "scientific" the social sciences, including sociology and criminology, and sought to establish international standards for research work. Specifically, the work of French sociologist Émile Durkheim (1858-1917), credited with being a "founder of sociology" and a social determinist in opposition to Lombroso's biological determinism, continues to influence most criminologists.

Durkheim believed that crime and a response to crime that established social boundaries and norms was productive for societies and noted an important pathology which he named anomie that can lead to societal unrest and deviancy. Anomie may occur when rapid population growth limits social interaction among groups leading to fragmentation of established norms. Edwin Sutherland (1883-1950), a 1913 University of Chicago sociology doctoral program graduate, extended Durkheim's work into the emerging field of criminology. Sutherland's Differential Association is a theory contending that people learn criminal behavior through interaction with others, acquiring deviant values and attitudes, making it easier to commit a

crime through cultural transmission and construction. In 1920s the Chicago School was influenced by the work of Sutherland by exploring how cities grow and the volatility that exists when communities are in transition and such work was an extension of Durkheimian thought. There was little thought given to creating a social welfare state, deconstructing positions of privilege, or minimizing the use of punitive mechanism on marginal populaces.

Henry D. McKay and Clifford R. Shaw, also from the Chicago School, found that juvenile delinquency emerges from these zones of transition and called their theory Social Disorganization and Cultural Transmission (1930s). Their work suggested that delinquency was not caused at an individual level but by a culture (distinguishing it from Sutherland) and that deviancy is a normal response by normal individuals (consistent with a Durkheimian perspective). Moreover, urban neighborhoods were more industrialized, diverse, had higher migration patterns which quickened the breakdown in the social structure (church, family, schools) as well as the impoverished (abandoned buildings) live in congested areas which exacerbated the deviancy phenomenon. Again, there was no thought given to creating a social welfare state, deconstructing positions of privilege, or minimizing punitiveness.

Increasingly, Beccaria's "rational choice" and Lombroso's "predeterminism" were discarded in favor of social and anthropological approaches to crime and punishment. American sociologist Robert Merton's (1910-2003) Strain Theory (1950s) has become central to the field of criminology. Strain Theory postulates that due to the "American Dream" of prosperity and entitlements a powerful cultural and psychology has been established, but since the social structure of opportunities are dispersed unequally, a segment of society will resort to deviant means to achieve a semblance of the "American Dream" while another segment will retreat into deviant subcultures. Subculture theorists credit inequalities for the formation of such social

groups, and they contend that by improving egalitarian principles and access to upward mobility the subculture will be influenced to acclimate to societal norms. An elaboration of Strain Theory logic was proposed by American sociologists Richard Cloward (1926-2001) and Lloyd Ohlin (1918-2008). Cloward and Ohlin suggested that Differential Opportunity (1960s) culminates in delinquency primarily for lower class youth as such youth are tempted to take up criminal activities, choosing an illegitimate path that provides them more benefits than conventional employment. Here we see an emergence of thought related to the need for the social welfare state (Social Security Act and 1930s), deconstructing positions of privilege (civil rights movement of 1950/60s), but little thought on minimizing the use of punitive mechanism on marginal populaces.

In addition to criminologists who explore the negative social forces that lead to deviancy by the individual, there are also criminologists that explore the positive social forces that nurture compliance with cultural norms. American criminologist Travis Hirschi's Social Bond or Social Control theory (1960s) explores four factors that when cultivated minimize deviancy: (1) have an attachment to others, (2) share a belief in the moral validity of rules, (3) maintain a commitment to achievement, and (4) exhibit an involvement in conventional activities. Essentially, such a theory calls for people to "live within their means" and have a strong role model exhibiting high self-esteem as well as self-control, traits found in any community. While these traits may be found in any community, Bourdieu argues that these traits are more common in the privileged classes and tend to reproduce themselves continuing to benefit some more than others in an ever-stratified community. Moreover, in the Social Bond theory there is no direct thought related to the need for the social welfare state instead there is an emphasis on meritocracy, achievement, and community involvement. Indeed, social welfare programs are increasingly thought of as

programs that work to the detriment of marginalized communities by encouraging dependency and engendering complacency. Lastly, attachment to others may amount impressionable youths being influenced by an increasingly deviant urban subculture that cultivate counter-cultural norms. Therefore, Social Bond theory does not address positions of privilege nor punitive criminal justice modalities or the welfare state.

Bourdieu through Wacquant are most critical of Beccaria's (Rational Choice) and Lombroso's (Positivist) criminological approaches. In criminological parlance Bourdieu and Wacquant are considered Critical Criminologists or minimally subculture theorists, philosophies that emerged during the Cold War and remain on the periphery of criminology. Such theorists emphasize the intentionality of socio-political institutions and economic interests that desire crime and punishment for certain classes to be formed and sustained, and ultimately exploited due to social inequalities. Moreover, this critical perspective argues that the allegiance to existing powers and principalities enables those with vested interests to define certain acts of defiance as deviant as well as stigmatizing certain classes of peoples through a punitive criminal justice process. For example, a carceral state consistently considers hyper-aggressiveness and drug use deviant acts instead of social responses to oppressive conditions wherein therapy (anger management) and medicinal approaches would be more holistic responsive. Lastly, structural reforms such as an expansive social welfare state, affirmative action programs and restorative justice initiatives are dismissed in favor of harsh austerity programs, romanticized meritocracy, and punitive justice, the hallmarks of neoliberal society. Consequently, it is inevitable that oppressed and marginalized groups have been denied upward mobility (capital) or have fragmented away from the mainstream and continue to form their own values (habitus) and desires (fields).

There are scores of theories of crime, dozens of divergent criminal justice systems, and multiple theories for punishment all with some nexus to sociology. Nevertheless, since Cesare Beccaria founded the Classical School (Rational Choice theory) in the eighteenth century the only French sociologists that have had a prominent presence in modern America criminal justice academy are sociologists Durkheim and Wacquant who has written extensively on criminal justice since the late 1990s. Nevertheless, criminology would be more robust and effective with an increased consideration of the work of philosopher and sociologist Foucault, philosopher, sociologist, and theologian Jacques Ellul (1912-1994), and sociologist Bourdieu all French intellectuals.

Born of a prosperous and socially conservative family, Foucault was the first philosopher and sociologist to not only analyze how prisons work but how they have developed in *Discipline and Punish*. Unbeknownst to Foucault, he was writing this book and visiting America prisons in an era (early 1970s) when penology was undergoing another transition, a pendulum swing from offender treatment and rehabilitation policies (late 1960s) toward a stern Crime Control Model of corrections that continues to the present. The prison rebellions in the early 1970s represented the failures of corrections based on the Medical Model inspired by the Progressives and unresponsiveness from the socio-political as well as philosophical and theological spheres for over a fifty-year period. The inability to discern progress with the Medical Model of corrections from 1930 (founding of the federal prison system) to Robert Martinson's "Nothing Works" in 1974, led to a system of mass incarceration that disproportionately impacts urban communities as well as African Americans and Latinos commencing in the 1970s.

The late 1960s and 1970s represented a period with historic crime rates and such a socio-political environment led to the elections of California Governor Ronald Reagan in 1966 and

President Richard Nixon in 1968 and 1972, all on “law and order” based platforms.

Additionally, New York’s 1973 Rockefeller drug laws created more punitive policies toward drug possession. In 1974, Robert Martinsen’s study of rehabilitation in corrections aptly named “Nothing Works” concluded that “rehabilitation efforts that have been reported so far have had no appreciable effect on recidivism.” Consequently, by the time Foucault’s *Discipline and Punish* was translated to English in 1977, the socio-political decision that pitted Foucault’s imputed liberal argument that prisons negatively impact offender reintegration was embroiled with a conservative argument that prisons need to be more punitive to be effective. The result was a more certain and longer period of incarceration that disproportionately impacts the poor and people of color and has grown from 350,000 inmates in 1970 to 2.3 million in 2011.

Foucault’s work was descriptive and did not discuss why people commit crimes or the enormity of corrections. Instead Foucault focused on the notion of social control and what transpires at the point when punitive mechanisms associated with corrections encounter an offender. Correspondingly, evolving symbolic meanings of justice and punishment were discussed throughout *Discipline and Punish* from a societal perspective. In antiquity revenge was an overarching concern with social forces striving for the vindication of victims and securing moral rightness for their people and causes. Medieval theocratic societies and Empires had a similar cleansing need, but the ultimate desire was to maintain social boundaries and hierarchical norms. With the emergence of the nation-state the power of the secular state was symbolically evidenced through brutal punishments. These are the ritualistic forms of public punishment that Durkheim found important for the social formation of norms. It is such development that Ellul finds an exponential departure from a Christ-centered life and

Bourdieu/Wacquant find as a mechanism to classify/stratify society to benefit some at the expense of others (the marginalized) with the complicity of the marginalized.

Finally, punishment in modernity continues to be influenced by utilitarian concerns related to legitimizing a legal process and maintaining law and order. However, instead of reflecting on social or even biological forces contributing to the deviancy of the offender the instrumentalities of the criminal justice system are largely limited to exploring the offense, the vindication of law, and ultimately the establishment of order; order based on applying laws to offenders, vindicating the notion that we are “a nation of laws, not men/women.” Therefore, Foucault’s view is that punishment occurs through multi-faceted power dispersion (i.e., pervasive surveillance) to defend laws, not to improve society. The interest in the causes of deviancy, reconciliation, compassion, and mercy die on an altar constructed on poles of humanistic scientific knowledge, protestant notions of accountability to community, highly politicized and discriminatory secular laws and law enforcement, and capitalistic designs of efficiency and effectiveness. A generation later Bourdieu/Wacquant would add that the carceral state has made the prison a judicial ghetto and the ghetto is an extrajudicial prison, a mechanism to classify and stratify society, largely benefitting the privileged by exploiting the convict.

Perhaps more than any other person until Wacquant, Foucault analyzes the principles of penal control allowing greater understanding of the internal workings and devastating impact of penal institutions. While Wacquant addresses the collateral consequences to communities and societies due to mass incarceration and the dispersal of discipline, Foucault focused on specific institutional instrumentalities as well as the nuances of penal measures. If the modern punitive society relies on constant surveillance of inmates and acquiring knowledge from these inmates during their incapacitation, common correctional techniques such as solitary confinement,

arbitrary cell searches, and limited communication with the non-incarcerated and even strip searches are processes that maximize institutional knowledge and reinforce systemic power. These arbitrary and capricious institutional routines reinforce institutional dominion and subjectification of the offender. Wacquant manages to problematize this evaluation of penology by extending it to the ghetto while Ellul avoids this complexity altogether.

Foucault reflected on Jeremy Bentham's "panopticons" as metaphor for modern disciplinary efforts and the pervasive inclination to observe and regulate. Through the panopticon a consciousness of permanent visibility and institutional dominion is secured without bars, chains, locks and cells. Such dominion may be most evident in the prison but can occur throughout society, particularly hierarchical and information oriented institutions, where "knowledge is power." Consequently, in the twenty-first century with increased surveillance of public spaces under the pretext of traffic control and security devices as well as marketing research through an ever-expanding social media network "the gaze" of a superior is placed into daily life. As discussed by Foucault, the subtler and nuanced the surveillance the more effective and pervasive the power of those who control surveillance will be.

While Foucault does not offer solutions, his description facilitated Wacquant's logical extension of penology and state powers to a clear majority of marginal populations. Prisons offer the most evident example of a dehumanizing system of surveillance that culminates in centralized power and oppression. As the modern state and increasingly multinational corporations become the custodians of such power, law-abiding populaces become vulnerable to unseen powers and principalities that rely on the criminal justice system to maintain their privileged position by vindicating violations of laws. If Foucault's descriptive analysis of



prisons and surveillance is correct, then Jacques Ellul provides a radical solution to the tyranny of technology, Christian Anarchy.

Like Foucault, Ellul was a French philosopher and sociologist. However, Ellul, unlike Foucault who hailed from a nominal Roman Catholic family and personally did not have any noticeable religious conviction, was a lay theologian and “loosely” a French Reformed tradition member. Both men were influenced by Marx with Foucault being dispirited with a Marxism that as practiced in the Soviet Union was anti-Semitic and bigoted particularly against homosexuals, an identity lived-out by Foucault later in life. Ellul rejected Marxism’s atheistic attributes as well as the prospects of a “dictatorship of the proletariat” being a better alternative than a “dictatorship of the bourgeois.” As a founder of Christian Anarchism, Ellul attempted to synthesize religious devotion with state-less practice. Consequently, while Foucault can easily be criticized for not providing a solution to ameliorate harsh punishment and as such does not humanize the criminal justice system, Ellul is criticized for providing an idealistic solution that is unable to humanize the criminal justice system.

Ellul was born to a middle-class family and became a leader in the French resistance during World War II. His main concern has been with the emergence of technological tyranny, exemplified by Foucault’s concern over surveillance, on humanity. While not directly commenting on Foucault’s concerns over technology as it was applied to corrections, Ellul believed that such technology represented a religiosity that was hostile to other forms of worship and inconsistent with the practice of Christianity. Therefore, Ellul suggests a nonconformist approach to living that minimizes the engagement of technology and continual striving for pre-Constantinian Christian practices that Ellul argues are best representative of a righteous society.

Ellul cultivated a unique Christianity that sought to maintain a high transcendentalism of God (Catholic-like) as well as the centrality of scripture (Protestant-like). Moreover, he dismissed both liberal theology or the finding of goodness in humanity and striving for justice as well as orthodox theology as an arrogant attempt to know the attributes or desires of God. He also rejected secular theology as substituting human desires for spiritual truths and for worshipping material idols making technology and scientific advancements a religion and/or idol in and of themselves. Ellul's *The Technological Society* (1964), concerns itself with humanity's subservience to technology instead of making technology subservient to it. For Foucault, law became sacred and technology a means to sanctify law, but for Ellul it was technology that was sacred, and laws were used to protect and sanctify technology. Ellul suggests rejecting both technology and law, following the eternal laws set forth in the Bible.

Ellul's *Anarchy & Christianity* posits that the absolute power of the nation-state must be challenged with a negative position, the absolute power of a non-state or anarchy. He rejects violence as inconsistent with biblical mandates but in the *Subversion of Christianity* sets forth a perpetual antagonist position for Christians, to always contest secular political power. Consequently, social justice movements and liberty are illegitimate pursuits as they seek to establish justice or secure freedom instead of depending on God to provide justice and freedom or enjoying whatever justice and liberty one has. Ellul places absolute trust in God who has and will continue to provide as God pleases and rejects celebrating human greatness that ultimately leads to alienation from God. Therefore, Ellul would reject movements that call for prison abolition or even prison reform but instead urge noncompliance with the criminal justice system that is organized to perpetuate a system that increasingly alienates humanity from God. Nonetheless, he would support Foucault's criticisms of prison surveillance and institutions of

power dispersions. Foucault hopes that his analysis will inspire others; Ellul has faith that pre-Constantinian Christianity is the solution. Bourdieu and Wacquant clearly utilize Foucault.

For Ellul and Foucault power operates and “materializes” through techniques and institutions. Ellul, and to a lesser extent Foucault, did not seek to influence the status quo or to displace it but rather to emphasize alternatives to the powers and principalities of the state. Therefore, for Ellul while biblical politics creates tension and opposition to the prevalent system, it maintains this resistance to any prospective or emerging power, to the ideologies of both regime and revolution. Biblical politics are persistently and pervasively countercultural and alienated from the politics of any age. As such while Ellul could be accepted as a Critical Criminologist, urging rejection of the criminal justice system, his prolific writings largely focusing on technological tyranny over humanity.

Ellul is a contemporary of both Bourdieu and Foucault but never references either in his writings. Nevertheless, he would oppose any sociological “cult of progress” and instead urges the embodiment of a pre-fourth century (pre-Constantine) “authentic Christianity.” As such while he confirms critical analysis of modern Christianity and its oppressiveness, positions held by Marx, Foucault and Bourdieu, he argues that such an analysis of the powers and principalities of society and of Christianity’s complicity with such oppression is socially and culturally created not genuine to the faith. Consequently, Ellul would emphasize living as the early Christians had lived, in community seeking reconciliation to those offended, as sufficient to address crime and punishment. For Christian anarchists, the history of punishment is critiqued for imposing the harshness of secular governance of both Empire and the nation-state as well as reliance on utilitarian and social scientific notions that rely on technology, information, and social science to

guide and coerce conduct instead of a reliance on the eternal truths of scripture and evident in authentic Christian faith.

Ellul is credited with the phrase “think globally and act locally” in the 1960s and inspiring primitive society movements. For adherents, technology subordinates the natural world, increasingly making humanity (image of God) subservient to the created product and the church (congregation of believers) which embodies the Holy Spirit is to resist conforming to the politics and the culture of any given era. Furthermore, Christian believers will be edified through scripture, strengthened through community, and sustained through theology, that overtime will nurture (either consciously or unconsciously) the authentic Christian perspective of pre-Constantinian Christianity. Currently, in our capitalistic (or even socialistic) and technical state people resist the value of learning and acting that does not directly contribute to their (divergent) economic desires and prefer to strive for material accumulation (or redistribution). While anarchists defy a generic definition, most primitive-anarchists rely on this philosophy, making nature instead of the pre-Constantinian Christian lifestyle sacred.

Ellul’s emphasis on a society formed upon pre-Constantinian Christianity, a legal system derived from scripture, a political system that venerates only God, and an economic system based on communal or tribal living probably has not existed since pre-Constantinian Christianity; or has never existed. However, perhaps modern indigenous communities or societies that rely on Religious Law come closest to Ellul’s religiously oriented society. Reflecting on crime and punishment in such societies reveals that there is no significant society that is not influenced by the Common, Civil or Socialist legal systems. Furthermore, in any hybrid Religious Legal system there is still an emphasis on corporal punishment and on religious scholars to determine

deviancy and punishment. Consequently, a society based on Religious Law will still rely on the ritualistic punishment discussed by Durkheim as relating to primitive societies.

While Christian Anarchists believe secular governance is irrelevant and not to be feared or praised, their society is illusionary and cannot be sustained nor recreated. However, in their absolute allegiance to Christ secular laws are either redundant or immoral and the true kingdom is “not of this world.” According to Ellul, only God can free us, and we must humbly seek God. Moreover, God is not trying to humiliate us but nurture us into a fuller acceptance of God’s power and the need for Grace not self-justification. Most Christians would agree that it is with pride and rebellion and through individualism that anyone can be declared righteous, not needing God’s grace or that it is a sin to substitute self-justification for God’s grace. However, many Christians believe that any authoritarian interpretation of scripture, even one that relegates scripture to its “pre-Constantinian legitimacy” may be arrogance (a luxury afforded to the privileged) and a feigned attempt to glorify humanity by striving for perceived righteousness. Bourdieu, Wacquant, Foucault, and most social scientists avoid such theological reflection.

Norwegian sociologists Thomas Mathiesen (born 1933), Nils Christie (born 1928) and Dutch criminologist Louk Hulsman (born) have called for the abolition of prisons since the early 1970s. Such a desire has grown more popular with the increase in mass incarceration. American social activist Lee Griffith has explicated his 1993 prison abolition perspective with his 2011 book *God is Subversive* and relies directly on Ellul’s technological tyranny over humanity as represented by the calculated application of laws to offenders as well as Foucault’s concern that “the penal ideology of perpetual surveillance has seeped through the prison walls.” Other preeminent prison abolition authors such as American social activist and former convict Angela Davis attributes the need for prison abolition to economic concerns that within our capitalistic

system there are nefarious powers and principalities that profit through mass incarceration culminating in a Prison industrial complex necessitating prison reentry struggles. These authors provide a critical analysis of socio-political dynamics and eventually come to the philosophical and/or theological conclusion that prisons are an inherent problem and are to be abolished. Wacquant shares a similar socio-political analysis, which may lead to prison abolition, but does offer a practical solution reliant on economic empowerment of marginalized neighborhoods as well as critical reflection on the actions of powers and principalities.

Wacquant, a protégé of Bourdieu, calls the popular notion of the “Prison industrial complex” absurd and “Prison Reentry” a misnomer. As Wacquant states, “the notion that convicts constitute a vulnerable labor pool is a figment of the political imagination: it is the dream of advocates of the far Right, who wish to turn penitentiaries into “factories behind bars” to fight idleness and lower the carceral bill, and the nightmare of critics of the far Left, who fear that carceral factories are already humming.” Instead neoliberal policies intensify incarceration with post-custodial supervision or “reentry policies” being little more than a “bureaucratic ceremony.” Such a system is described as “prison fare”, “defined as the rolling out of the police, the courts and custodial institutions and their extensions to contain the brewing urban disorders that the state itself has spawned or aggravated by retracting the social safety net and deregulating the low-wage labor market.” Consequently, the social sciences are more than suitable to address crime and punishment, with theology (Ellul) being used for spiritual pursuits and philosophy (Foucault) being used for political pursuits. “Our theoretical inspiration should come not from Karl Marx and Frantz Fanon but from Durkheim, Max Weber, and Bourdieu, insofar as the contemporary prison is at core a political institution – a concrete of material and symbolic violence – and not an economic outfit or a racial organization.”

Bourdieu was born into a peasant family and did not engage in any religious practice. Bourdieu consistently sought to understand the dynamics of social inequalities and how those inequalities are produced and reproduced or retained by the privileged classes, as well as generally accepted by the lower classes. Bourdieu believed that social class is the basis of social fact and that we live in a highly stratified and class-based segregated society. Such society seeks to sustain the power of the privileged classes as well as the relative powerlessness of the lower class. Influenced by the founders of sociology, Marx, Weber and Durkheim, Bourdieu utilizes multiple research methodologies and encourages reflexivity to address a variety of social issues, most commonly education, politics, and mass media. Later in his life he would be an outspoken critic of neoliberalism.

Bourdieu believes that some individual lives within a socially stratified “habitus” (i.e., working class) that influences their goals and aspirations and such desires are pursued either consciously or unconsciously. In this pursuit they utilize certain resources or “capital” (i.e., networking connections, social, economic, cultural), some having more than others, and act within certain social contexts. When the person has sufficient capital or appropriate strategies for their context or “fields” (i.e., profession), with habitus constantly shaping their strategies, society will deem them a success. However, if the person employs inappropriate strategies or has the wrong resources they will be deemed a failure. Consequently, the success of this person in a field is based on the suitability of their habitus as well as their capital (power) either symbolic or material for that specific situation. While Bourdieu does not directly explore criminology, his concepts can readily be extended as evidenced by Wacquant’s work.

Habitus can be reproduced as the privileged pass social advantages to their children and, correspondingly, the non-elites pass disadvantages onto their children. Since the elites have the

power to define the most important cultural desires, such desires influence the goals and aspirations of others, even though others may be ill-equipped to secure such outcomes. As discussed in relation to the Social Bond theory, the elites will have a sense of superiority, the lower middle class aspiring to the upper class and the working class will have a persistent sense of inferiority. Also, the elites will make it harder for the lower class to have upward mobility and since most desire upward mobility consciously those in power (i.e., teachers) reward those who have upper-class attributes while unconsciously evaluating others based on their habitus. Such prejudice is necessary for capitalistic societies that need a working class but desires to be democratic and purportedly based on meritocracy. Wacquant applies this necessity to law and order facilitating segregation and stratification while claiming to be in “pursuit of justice.”

While Bourdieu does not directly address aspects of criminal justice, he does emphasize an exploration of symbolic capital and its relation to symbolic violence. Essentially, symbolic violence occurs when persons privileged with socially acquired symbolic or material capital impose their will on persons who have yet to develop such a privileged status. For instance, when a person has been labeled a deviant or stigmatized with a conviction, society encourages a negative perception of that person. Consequently, legitimacy of social order is maintained through a criminal justice system that, perhaps unwittingly, preserves the status quo and frustrates supposed egalitarian desires. For Bourdieu and Wacquant crime and punishment have a social predetermined desire, to maintain class differences and to privilege the habitus of one class over others. Prison, parole, arrest, motor vehicle tickets are considered symbolic events used by the few, even those from oppressed classes since they seek upward mobility, against the marginalized “other.”



Few question the emphasis of law enforcement on urban street crimes instead of corporate crime or aspects of political corruption. Despite the rare sensational case that occasionally saturates media outlets, criminal justice mechanisms are almost exclusively limited to street crime, narcotic possession, and disorderly persons crime as well as immigration and juvenile detentions. Furthermore, no effort is made to evaluate the social pressures that were manifested into the deviant conduct or to assess how privileged individuals avoid the mechanisms of criminal justice through a variety of practices: (1) by insulating their activities through utilization of material/symbolic capital (e.g., “knowing the right people,” having someone else do their “dirty work,” having prescriptions issued for their narcotics, or lawfully engaging sex workers through sexual tourism), (2) securing competent legal representation (“being lawyered up”), (3) living in more sparsely populated areas and/or avoiding areas of high police saturation (especially urban areas), (4) paying victims to settle the offense (i.e., workplace fatalities or domestic violence in upper class families), and (5) securing professional assistance for emerging psychological or emotional problems (e.g., anger management, moral injury, trauma, narcotic dependency). These and a myriad of other privileges are rarely considered by criminologists but are pervasive throughout society. In Bordieuan thought, such privileges serve as distinctions that separate individuals and groups in society, contribute to habitus, are manifest in fields, and are capable of being reproduced. Moreover, the adverse attributes and negative distinctions are also reproduced, lacking suitable capital to circumvent responsibility, minimize liability, avoid certain locations, settling disputes or engage therapeutic services. Such nuanced thought is missing from the work of other sociologists (up to Wacquant), and consequently unable to influence public policy and humanize the criminal justice system.

Wacquant has expanded Bourdieu's work to a variety of fields particularly related to urban inequality as well as the punitiveness of criminal justice institutions. The resulting marginalization from urban inequality and stigmatization from a criminal conviction conspires to maintain social subordination. Following the work of Bourdieu in other areas, Wacquant effectively analyzes the consequences of inequality and punitiveness enabling the construction of remedies to minimize negative social structural proclivities. Specifically, expanding the social welfare state and implementing progressive affirmative action programs may offset systemic social inequalities. Lastly, alternatives to a punitive criminal justice system are necessary. As a sociologist Bourdieu sought to lessen the pain imposed by social institutions and Wacquant theorizes that deconstructing the ghetto and minimizing the prison are interrelated and mutually reinforcing. Since social inequalities lead to deviancy and deviancy leads to inequalities it is necessary for government to encourage the deconstruction of both systems of inequality.

For far too long Christianity has been complicit with secular powers and principalities instead of being critical of these socio-political forces that develop systems of inequality which ultimately exploit vulnerable peoples. Foucault largely avoids this discussion but serves to describe the problem of crime and punishment and inspires a societal response. Ellul stresses the subversion of Christianity and urges segregation from society and correspondingly from the issue of crime and punishment. Bourdieu problematizes social relations, inclusive of relationships and acts associated with crime and punishment, and urges engagement instead of complaint or retreat. Wacquant's engagement with crime and punishment (and probably that of Bourdieu) would be to roll back neoliberal policies of fiscal austerity and deregulation and have the state reassert a social safety network that will replace "prison fare" with "workfare." To socially construct a just society where presumably the state would take resources from the privileged and

provide for the needs of marginalized people. In doing so all would benefit and a more just society would be created.

Much more needs to be done and can be done. Mass incarceration is too expensive for fiscal conservatives as well as for liberal progressives. Mass incarceration is also too cumbersome and uncertain for crime control advocates as well as overly punitive and discriminatory for those concerned with due process. Lastly, mass incarceration is unsustainable and counterproductive from the humanistic perspective as well as immoral and a sin from the religious perspective. Consequently, social scientists mindful of political realities, philosophical pursuits, religious concerns, economic limitations, psychological predispositions, and anthropological customs and preferences are uniquely situated to provide understanding and proposals that will humanize the criminal justice system, which when done, can gradually lead to prison abolition. At least that is my faith in sociology.

### ***Chapter 5: Shame adjustment and soul attunement***<sup>73</sup>

The fifth chapter is influenced by sociologists Thomas Scheff and Suzanne Retzinger's work on shame adjustment and its application to the attunement of the soul as well as the psyche. During President Bill Clinton's successful 1992 campaign against President George H. W. Bush, "It's the economy, stupid," was the dominant political catch phrase. While many praise the Clinton era's (1993-2001) economic growth, others believe that a collateral consequence was an

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<sup>73</sup> *The quality of mercy is not strain'd,  
It dropped as the gentle rain from heaven  
Upon the place beneath. It is twice blest;  
It blesseth him [her] that gives and him [her] that takes.* "The Merchant of Venice." William Shakespeare, 1596.

unprecedented punitive criminal justice legacy, which may have been a regressive reaction to the political expedient shame of being “soft on crime.”<sup>74</sup>

Forgiveness is the essence of the supposed “third sacrament” (Penance and Reconciliation). My graduate studies were based on the belief that creation is sacred; that people are “created in the image of God.” Further, that which is sacred cannot be killed by the state (anti-death penalty), nor should that created by God be engaged (imprisoned) by those who have made “laws and order” or political processes and systems sacred. Instead, for social as well as religious well-being, we need to practice forgiveness more often. Social Psychologists (Scheff and Retzinger) believe that shame and remorse associated with the forgiveness process subverts alienation and violence. Practical Theologians (Stephen Pattison) believe that in narcotics addiction and abuse a “shame-bound cycle of control and release” exists.<sup>75</sup> Psychotherapists (Gershen Kaufman) believe that violence can result from a “powerlessness-affect-stress cycle.”<sup>76</sup> Criminologists (Braithwaite) believe that re-integrative shaming will build stronger communities and minimize deviancy. Ethicists (Zehr) believe that restorative justice empowers victims as they reclaim rights, lost in their victimization. Urban Sociologists (Wacquant) believe that punitive public institutions and structures are counter-productive. These powerful contemporary notions (emerged in 1980s) are based on the ancient principles of forgiveness, compassion,

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<sup>74</sup> Indeed, during the 1992 campaign, Bill Clinton return to his native Arkansas to ensure a mentally challenged man, Rickey Ray Rector, was put to death for his crime. <http://www.nytimes.com/1992/01/25/us/1992-campaign-death-penalty-arkansas-execution-raises-questions-governor-s.html>, accessed December 17, 2017. An infamous story related to the execution and mental stability of Rector was that he left his desert on the side of the tray, telling the corrections officers he was “saving it for later,” after his execution. Most claim such political expediency has been influenced by the infamous “Willie Horton” racialized campaign during the 1988 Bush/Dukakis race.

<sup>75</sup> Pattison, p. 122.

<sup>76</sup> Kaufman, p. 50.

mercy, set forth in the norms and practices of most religions. They are also central to the Christian rite of confession.

Nevertheless, our “Christian nation” imprisons more than 25% of the world’s prison population, impacting millions of lives, spending billions of dollars, particularly devastating marginalized peoples (the poor, “black/brown” communities) as well as entire communities. For the significant population incarcerated for narcotics, the criminal justice system rejects a medicinal and vocational approach to “hold them accountable.” For the rest of the imprisoned who committed “violent crimes” or corporate crimes, most of their victims simply want an apology and restitution; instead, democratic principles are exalted over individual desires, opting for punitive as opposed to restorative approaches to deviancy. While I am not a prison abolitionist, I am inspired by the work of abolitionists and do believe that the only Christian justification to imprison someone is out of agape, love that is wholly selfless and spiritual. I work and pray toward the end of mass incarceration and for a penitentiary system that only imprisons the few that are unremorseful sociopaths, resistant to vocational, medicinal or therapeutic efforts. This chapter explores the confessional, or the rite of penance and reconciliation, as a healing and reconciling event for a penitent.

Generally, the sacrament of confession is a conversation between the divine Holy Spirit and a tormented person, with a priest serving as a conduit in many instances.<sup>77</sup> This chapter reflects on Scheff’s and Retzinger’s emphasis on the management of shame as part of the confessional process, specifically the penance aspect that precedes forgiveness, absolution, and reconciliation. Thereafter, Braithwaite’s reintegration process is engaged culminating in restorative justice, as the restorative justice system is set forth by Zehr. The conclusion is that

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<sup>77</sup> Primarily for Roman Catholics, Orthodox denominations, Anglicans, and many Lutherans.

the ancient rite of confession, even when considered or practiced secularly (i.e., through therapy), is efficacious when shame management occurs.

An exploration of this process within a specific denomination and a specific factual circumstance is instructive. For instance, an Episcopal priest is to adhere to the following, “The secrecy of a confession is morally absolute for the confessor, and must under no circumstances be broken,”<sup>78</sup> and “Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to the Division of Youth and Family Services by telephone or otherwise.”<sup>79</sup> As there are over fifty secular jurisdictions<sup>80</sup>, dozens of religions, hundreds of denominations, and countless denominational dioceses spread throughout America, it is necessary to focus the requirements for the cleric-penitent privilege within a certain jurisdiction. As will be discussed, with respect to New Jersey law the 2010 *State v. J.G.* Supreme Court<sup>81</sup> case sets forth that there is no conflict of interest between the sacrament of penance and reconciliation and a duty to report deviant activity. Quite clearly, the New Jersey Supreme Court found that the cleric need not report, and if the cleric does report,

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<sup>78</sup> BCP, Reconciliation, p. 446. Consider the Roman Catholic perspective. “Given the delicacy and greatness of this ministry [penance] and the respect due to persons, the Church declares that every priest who hears confessions is bound under very severe penalties to keep absolute secrecy regarding the sins that his penitents have confessed to him. He can make no use of knowledge that confession gives him about penitents’ lives. This secret, which admits of no exceptions, is called the ‘sacramental seal,’ because what the penitent has made known to the priest remains ‘sealed’ by the sacrament.” *Catechism of the Catholic Church*, p. 1467.

<sup>79</sup> NJSA Section 9:6-8.10 (2010). However, consider the operative Texas duty to report statute. “A person having cause to believe that a child’s physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter. The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, and an employee of a clinic or health-care facility that provides reproductive services.” Tex. Fam. Code Ann. Section 261.101 (2009).

<sup>80</sup> Fifty states, Washington DC, Puerto Rico, Guam, Virgin Islands and the federal system.

<sup>81</sup> <https://www.leagle.com/decision/innjco20100407432>, accessed December 17, 2017.

such testimony cannot be used against a defendant at trial. Nevertheless, the law in a few states does create a conflict and said states may criminally prosecute the priest for obstruction of justice when the priest fails to report child abuse.<sup>82</sup> Such obligations raise First Amendment freedom to practice religious rights issues. However, finding that a cleric-penitent privilege exists may raise First Amendment establishment clause concerns (favoring one religion over another).

An exploration of the Episcopal tradition is informative, as Episcopalians claim to be the middle way (via media) between Roman Catholicism and Protestantism. Although each faith tradition and denomination have unique governing principles, Episcopal clerics are to follow the Book of Common Prayer and “be loyal to the doctrine, discipline, and worship of Christ” as received by the Episcopal Church and to work “in accordance with the canons of this Church, obey your bishop and other ministers who may have authority over” the priest and his or her work.<sup>83</sup> In pertinent part, the Constitutions and Canons of the Episcopal Church state, “In exercising his or her ministry, a Member of the Clergy shall: (a) respect and preserve confidences of others except that pastoral, legal or moral obligations of ministry may require disclosure of those confidences other than Privileged Communications; (b) conform to the Rubrics of the Book of Common Prayer; (c) abide by the promises and vows made when ordained.”<sup>84</sup> With respect to privileged communication, such communication,

shall not be disclosed, nor shall any negative inference be drawn respecting the claim of the privilege, unless the privilege is waived by the person to whom the

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<sup>82</sup> Specifically, New Hampshire and West Virginia enumerate clergy as mandatory reporters and the cleric-penitent privilege is denied in cases of suspected child abuse or neglect. North Carolina, Oklahoma, Rhode Island and Texas also deny the cleric-penitent privilege in cases of suspected child abuse or neglect but do not enumerate clergy as mandatory reports but instead include clergy within an ‘any person’ designation. *Clergy as mandatory reporters of child Abuse and neglect: Summary of state laws*, Child Welfare Information Gateway, p. 4.

<sup>83</sup> BCP, Ordination: Priest, p. 526.

<sup>84</sup> Canon IV.4.1(a-c).

privilege belongs. Waiver of a privilege may occur by (a) voluntary disclosure; (b) failure to timely object to use of a Privileged Communication; or (c) placing the Privileged Communication at issue. Notwithstanding any provision of this section to the contrary, no waiver by a penitent of the privilege which attaches to communications or disclosures made within the Rite of Reconciliation of a Penitent shall work to require any confessor to divulge anything pertaining to any such communications or disclosures, the secrecy of the confession being morally absolute as provided in the Book of Common Prayer.<sup>85</sup>

Finally, privileged communication is further defined as “any communication or disclosure made in confidence and with an expectation of privacy within the Rite of Reconciliation of a Penitent.”<sup>86</sup>

Many faith traditions and denominations empower their respective ministers with a special responsibility to admonish, call to repentance, and even declare forgiveness in certain situations. Additionally, among the blessings that clerics in Roman Catholic, Orthodox, Anglican and Lutheran clerics can bestow is absolution of sin.<sup>87</sup> Cox states, “[t]he priest is *a person of blessing and of reconciliation*. Anyone can hear confessions, but the priest has the unique ability to pronounce absolution in the name of God and church. . . . In bringing forgiveness and blessing, furthermore, the priest’s obligations go well past the confessional or the altar, ideally infusing all that the presbyter may do.”<sup>88</sup> Clearly, the Episcopal Church holds

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<sup>85</sup> Canon IV.19.27.

<sup>86</sup> Canon VI.2. (a).

<sup>87</sup> Cox, p. 276. There is serious disagreement among Christians whether there can be more than two sacraments (Baptism and the Lord’s Supper), with Hugo of Saint Victor (12th Century Augustinian mystic) claiming as many of thirty sacraments, Peter Lombard (12th Century theologian) deriving seven (which was accepted by the Roman Church), Martin Luther (1483-1546) referring to three during the Reformation, and a generation after Luther, John Calvin (1509-1564) stating that there were only two, that most main-line Protestants accept. Generally, reformers thought that the more sacraments, the more central the church would be, and the more oppressive their lives would be. Furthermore, for Calvin, Luther’s supposed Third Sacrament (in Luther’s Apology of the Augsburg Confession), that of Holy Absolution (Confession, Penance and Reconciliation) was especially repulsive, promoting purgatory and indulgences to forgive one’s sins or minimize one’s time in purgatory (Luther protested the corrupt indulgences aspect).

<sup>88</sup> Id. at p. 278. (emphasis in the original).



the secrecy of a confession morally absolute for the confessor, has held this position throughout its history<sup>89</sup>, considers this position scripturally based, and has set forth this position in the Book of Common Prayer as well as its Constitution and Canons.

The Catechism of the Episcopal Church states, “Reconciliation of a Penitent, or Penance, is the rite in which those who repent of their sins may confess them to God in the presence of a priest, and receive the assurance of pardon and the grace of absolution,”<sup>90</sup> and secular laws in most jurisdictions will respect this shame adjustment process under the cleric-penitent privilege. Moreover, this privilege may even be considered an absolute privilege held by the offender, even though the evidence prohibited from the confessional act may frustrate effective law enforcement efforts primarily aimed to protect vulnerable populations. The New Jersey Supreme Court (among most other courts) has decided this issue in favor of protecting the cleric-penitent privilege for a variety of reasons.<sup>91</sup> Those reasons are based on “the public interest in fostering the cleric-penitent relationship.”<sup>92</sup>

The cleric-penitent privilege has been called the most privileged communication of all. In the case of *State v. J.G.*, the penitent (J.G.) had spoken in private to his pastor about sexually abusing the penitent’s daughters. After their meeting, the pastor informed the penitent’s wife

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<sup>89</sup> “The Anglican doctrine of Priesthood stretches back in essential continuity to the patristic period in which Anglicanism was born, and even earlier to the Holy Scriptures themselves.” Father J. Robert Wright.

<sup>90</sup> BCP, Catechism, p. 861.

<sup>91</sup> A review of specific state laws, statutes as well as constitutions, are more instructive because under the 10th Amendment to the United States Constitution, states pass most criminal justice laws, and child protection laws are among the most important as they involve a very vulnerable population. Moreover, under principals of federalism each state is a sovereign entity with the federal constitution being the supreme law of the land. Consequently, the analysis of whether the cleric-penitent privilege applies will necessitate review of the laws, both statutory and case law, of the state of interest.

<sup>92</sup> *State v. J.G.*, 201 NJ 369 (2010), p. 5 of 26. A petition for certification (to reargue the case) was denied on June 14, 2011. 207 NJ 35 (2011).

and police. Upon the penitent's indictment, he requested that statements made to his pastor be barred from trial under the cleric-penitent privilege. While the trial court ruled that the statements were privileged, the Appellate Division reversed, leading to the New Jersey Supreme Court to rule on the matter. The New Jersey Supreme Court ruled, "that the cleric-penitent privilege applies, when, under the totality of the circumstances, an objectively reasonable penitent would believe that a communication was secret, that is, made in confidence to a cleric in the cleric's professional character or role as a spiritual advisor."<sup>93</sup> Therefore, the criminal trial is to proceed without any testimony from the pastor or reference to any statements made by the pastor to third parties.

The relevant facts of this most recent case were that the pastor and penitent knew each other for over thirty years, were both Jamaican, the penitent's wife and children were members of the New Creation of Apostolic Faith where the pastor worked part-time, and the penitent attended that church "two or three times."<sup>94</sup> After the penitent's wife called the pastor to advise of possible sexual abuse the pastor contacted the penitent who upon meeting with the pastor confessed of his guilt in private. During this initial conversation, the penitent asked for help and counseling, and to be baptized. The pastor refused saying he was "too close to the situation and too angry." Based upon the constant urging of the pastor, the penitent surrendered to police. Thereafter the pastor gave testimony regarding the penitent's confession at a pretrial evidentiary hearing over the objections of the penitent. The trial judge ruled that testimony inadmissible because (1) the pastor had reached out to the penitent, (2) the penitent knew the religious position of the pastor, and (3) they spoke in private whereupon the penitent asked to be baptized.

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<sup>93</sup> *State v. J.G.*, p. 2 of 26.

<sup>94</sup> *Id.* Most aspects of the *State v. J.G.* case is made public with the publication of the legal opinion including the name of the church and pastor.

The Appellate Division reversed this decision stating that (1) the pastor never said the conversation would be confidential; (2) the pastor acted to protect children not as a spiritual advisor, and (3) the pastor refused to counsel or baptize the penitent. The Supreme Court disagreed with the Appellate Division and issued a comprehensive decision clarifying New Jersey law.

The court referred to “the Catholic seal of confession” as founding the cleric-penitent privilege. As the court states, “Under the Code of Canon Law of the Roman Catholic Church, it was a crime, punishable by excommunication, for a priest to break the seal of the confessional by revealing information acquired during a confession.”<sup>95</sup> It did not matter that the penitent was not Roman Catholic. Instead, the court relied on early cases that traced the sanctity of the confession to,

English law from the Norman Conquest in 1066 until the English Reformation in the Sixteenth Century. After the Reformation, hostility towards the Catholic Church in England resulted in a refusal to recognize the privilege. As a result, the cleric-penitent privilege did not exist as part of the common law when our nation was founded. Courts in New Jersey and elsewhere thus looked to developing statutory law as the basis for the privilege.<sup>96</sup>

New Jersey first enacted the privilege in 1947, and expanded it in 1960 to prohibit not only disclosure of confessions but also other confidential information given by penitents to clerics. In 1981, influenced in changes to psychologist-patient privilege law, the cleric-penitent privilege was expanded to include spiritual advisors and others engaged in spiritual therapy practices.<sup>97</sup> As of 1994, the cleric-penitent privilege is found in statutory law (NJSA 2A:84A-

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<sup>95</sup> Id., p. 5 of 26.

<sup>96</sup> Id. (supporting citations omitted).

<sup>97</sup> The enhanced cleric-penitent law was part of a legislative effort related to proposed changes to the psychologist-patient privilege. The court provided the following summary in the *State v. J.G.* case (based on Senate 1295 (Sponsor's Statement), 199th Leg. [N.J. May 19, 1980]).

23) as well as evidentiary law (NJRE 511) and has been expanded to protect both the person making the communication and the cleric. To have a bona fide cleric-penitent privilege, the expectation is that (1) there needs to be a cleric-penitent relationship (someone must be a religious practitioner), (2) there needs to be privileged or confidential information (cannot be disclosed in a public area to third parties), and (3) there must be a reasonable expectation from the penitent that the statements would be held in confidence.

Ironically, since the Roman Catholic and Episcopal Church recognized the secrecy of the confession, with the secularization of laws the privilege was expanded to other denominations, even faith traditions that did not recognize the absolute secrecy of the confessional. Consequently, to protect the religious freedoms of Roman Catholics and Episcopalians (among others) all individuals who seek spiritual advice can have their statements protected if they intentionally engage a spiritual advisor, speak to him/her in confidence, and on a matter, that relates to moral development such as acts of deviancy. As the court stated, “the Legislature’s

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Previously, confidential relations and communications between psychologists and individuals were protected; the new statute enacted in 1981 covered communications with couples, families, and groups. L. 1981, c. 303, § 2 (N.J.S.A. 2A:84A-23 (1981)). To bring about that change, Senator Matthew Feldman initially introduced legislation to amend only the Practicing Psychology Licensing Act. S. 1295 (Sponsor's Statement), 199th Leg. (N.J. May 19, 1980). His bill was referred to the Senate Committee on Labor, Industry, and Professions where it was amended “to provide similar confidentiality for duly ordained ministers of religion exercising their professional counseling roles.” S. Labor, Indus. & Professions Comm. Statement to S., No. 1295 with S. Comm. Amendments, 199th Leg. (N.J. Dec. 11, 1980). An Assembly statement about Senate Bill 1295 explained that “[t]he increasing proliferation of group therapy, marriage counseling, family therapy and other types of group therapy has created a need to broaden the existing confidentiality provisions.” Assem. Commerce, Indus. & Professions Comm. Statement to S., No. 1295, 199th Leg. (N.J. June 15, 1981). Thus, the expansion of the priest-penitent privilege in 1981 was driven by changes to the psychologist-patient privilege and not by religious doctrine or practice. The 1981 revision paralleled the psychologist-patient privilege in one other way: it protected both communications and the fact that a confidential relationship existed between a cleric and a penitent.

statutory changes demonstrate profound respect for the role of religion, religious practice, and religious leaders in our society, affording communications with penitents far greater protection today than they had sixty years ago.”<sup>98</sup> However, the court was careful not to impose a secular right (the cleric-penitent privilege) on the doctrinal norms of any given religion. This concern led to one dissenting vote (the final decision was six to one).

The dissenting jurist emphasized that since the search for the truth was paramount the cleric-penitent privilege was to be construed narrowly, and that there should be a balancing test between the public interest in securing a just result and the individual interest in seeking spiritual guidance. Essentially, the cleric-penitent privilege should be limited to a confessional within a denomination that has practiced this sacrament. The dissent’s concern was that “under the majority’s iteration of the cleric-penitent privilege, an odd and topsy-turvy result obtains: an observant Buddhist speaking “in confidence” with a Roman Catholic priest successfully may assert the privilege even though the Code of Canon Law to which that Roman Catholic priest must abide does not require such confidentiality.”<sup>99</sup>

Another concern is that the majority decision establishes a religious right that may be offensive to another’s religious practice. For instance, “a Muslim, who is duty-bound by his faith to disclose a murderer’s confession, will be barred from making that disclosure by the assertion of a privilege originally founded on a deep and abiding respect for religious beliefs. That result needlessly pits civil law antagonistically against one of the world’s major religions; it cannot be sustained.”<sup>100</sup> Finally, the dissent referred to potential Jewish law infringements; “Maimonides ruled that one who can save another by reporting on a wrongdoer, and refrains

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<sup>98</sup> Id., p. 11 of 26.

<sup>99</sup> Id., p. 19 of 26.

<sup>100</sup> Id., p. 20 of 26.

from doing so, has violated the prohibition of standing idly by.”<sup>101</sup> Consequently, the dissent argues that the privilege be limited to “the fundamental tenets and practices of the religious belief represented by the cleric and espoused by the penitent.”<sup>102</sup>

Notwithstanding the important concerns raised by the dissent based on the court constructing a sacrament<sup>103</sup> in violation of the First Amendment’s Establishment Clause and the Free Exercise Clause as well as the concern over perverting justice, the cleric-penitent privilege is securely recognized in New Jersey. Moreover, the cleric-penitent privilege is viable in the great majority of states and even in the few that place restrictions on it, the prospect of clergy going to jail for complying with their religious beliefs rather than disclosing a penitent’s confession results in very few prosecutions against clergy for obstruction of justice or contempt of court citations. Consequently, for those that seek to advance a shame adjustment process, the confessional process provides legal privilege to do so.

However, keeping the secrecy absolute does not mean that the cleric cannot engage in proactive steps to protect vulnerable populations. After a full and complete confession and credible evidence of penitent contrition, “the priest gives such counsel and encouragement as are needed.”<sup>104</sup> Dependent on the attendant circumstances the counsel could be to report oneself to authorities or to other guardians of the exploited child, and the encouragement can include for the penitent to seek therapy, psychological and medical attention. Secondly, a spiritual discipline (prayer, reading) or an affirmative act can be requested as a sign of (but not as a condition of)

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<sup>101</sup> Id.

<sup>102</sup> Id.

<sup>103</sup> In a 1994 case, *State v. Szemple*, 135 NJ 406 (1994), the New Jersey Supreme Court recognized that confession is not a tenet of all religious traditions but did recognize it as part of the Roman Catholic, Episcopal, Lutheran, Presbyterian and Baptist Church.

<sup>104</sup> BCP, *Reconciliation*, p. 446. The Reconciliation Rite is set forth in pages 446-452.

penitence as well as an act of thanksgiving. Again, the affirmative act can be to seek counseling or to avoid the exploited child. Lastly, the cleric can ensure that in acts of child molestation the penitent is to remove him/herself from areas wherein the children within parish grounds congregate. The cleric may also emphasize issues related to child molestation throughout the church community (perhaps through newsletters, forums, and sermons) as well as be attentive to the needs of those the priest knows are being abused. Moreover, if the cleric is made known of such abuse outside the confessional (i.e., independently from a concerned third party such as a schoolteacher or nanny) then there is clearly a duty to report.

There is no perfect solution to address the exceptional case of the cleric-penitent privilege with respect to child abuse allegations. Nevertheless, by reflecting on this extreme (but not unheard of) example the expectations of clerics to others and society is made evident. Above all, most Christian denominations believe that through the great sacraments of Baptism and Eucharist (and the lesser sacrament of penance), clerics are called to be reconciliatory because that is what Jesus was. Further, seeking the reintegration of deviants and subversives is also a Christian imperative since Jesus was a deviant.<sup>105</sup> Therefore, for Christians the New Testament's emphasis on a God of grace, mercy, compassion, may be especially relevant to those that violate local norms and laws, as did Jesus (as well as St. Dismas, the Penitent Thief).

Ideally, the shame-adjusted penitent will be empowered to reintegrate into society following penance. Criminologist Braithwaite explores such reintegration in *Crime, Shame and Reintegration*. Generally, criminology is the study of how social norms are enacted, why people

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<sup>105</sup> Even the Hebrew scriptures, which Christians believe were fulfilled with Jesus, indicate that the Messiah will be a deviant. "Therefore, I will give him a portion among the great, and he will divide the spoils with the strong, because he poured out his life unto death, *and was numbered with the transgressors*. For he bore the sin of many, and made intercession for the transgressors." Isaiah 53:12 (emphasis added).

violate these norms, and society's response to such violations (i.e., the making of law, the breaking of law, and the social response to the breaking of law). This relatively modern branch of science differs from blaming deviant behavior on acts of (divine) providence or finding fault in arbitrary and capricious secular rule. Specifically, classic criminology emerged in the eighteenth century with the development of rational choice theory and utilitarianism (respectfully, Cesare Beccaria, Jeremy Bentham), positing that individuals make a conscious decision after weighing the costs and benefits of the deviant act. However, few deviants engage in such calculation, especially those with psychological, emotional, or addiction issues. Braithwaite's contemporary contribution to criminology is both more ambitious as well as focused on society's response to deviancy, and secondarily as to why people violate those norms (instead of why certain norms are established at all).

As criminologists seek to engage neuroscience to address mass incarceration in the twenty-first century, religious practitioners are uniquely situated to reflect on the supposed eternal truths inherent in their traditions that facilitate critical investigation of presumed scientific truths. Specifically, should religious practitioners be persuaded by a neuroscientist explanation that the higher levels of deviancy in disadvantaged communities are at least partly attributable to biological or psychological factors (it's their nature) more persuasive than the sociologist who rely on socio-political and economic realities (it's nurturing). Conventional wisdom accepts incarceration as a socio-political manifestation. Engagement in neuroscience to alleviate mass incarceration harkens back to the counterproductive legacy of criminological positivism and the subjugation of vulnerable people, instead of a pursuit of scientifically inspired "best practices" in criminology. Should such a nefarious history prejudice progressive initiative or is it a coincidence that neurocriminology is emerging during the greatest wealth disparity in



contemporary society? This chapter posits that since the increase in incarceration was socio-politically motivated reliance on neuroscience to assess antisocial proclivities or as criterion to determine reentry possibility is of limited value, but it is of value. The abuse probability of those assessing the neuroscientific data, particularly related to racism, classism, and able-ism, significantly outweighs the purported beneficial outcome of crime prevention and recidivism reduction. Instead, expanding socialization and reflecting on the psychology of religion within the confines of prison through pedagogical and/or spiritual encounters offers more persuasive evidence than neuroscience.

In 2012, America comprised about 5% of the world's population and had over 20% (2.24 million) of the world's prison population (10.2 million), as well as over 4.78 million people on parole or probation. The restricted lives of these seven million individuals affected millions more, including the 2.7 million children that have an incarcerated parent, and thousands of disadvantaged communities that endure the disruptive "conveyor belt" of reentry, as well as squandering of tens of billions of dollars in scarce public resources. Consequently, concern is indispensable for fiscal stewardship and if society is to be judged by how it treats its prisoners. Moreover, vigilance is required when almost all those incarcerated are impoverished, disproportionately "People of Color," and most suffering from diagnosed mental impairments. Further, caution is necessary when implementing purported "scientific" processes, especially on vulnerable populations such as the incarcerated. A summary of criminology's evolution evidences that neuroscience is not the first "scientific" engagement in criminology.

As has been discussed above, the Classical School of criminology emerged during the Enlightenment in the eighteenth century. Cesare Beccaria and Jeremy Bentham emphasized a rational approach to punishment and sought a more humane system of justice. No longer, would

external mystical notions of deviancy (i.e., “the devil made me do it”) dictate nor would mutilations and corporal/capital punishment be the norm, legitimizing the emerging nation-state. Increasingly deviancy became a secularized interest and penology (the study of punishment) influenced by the utilitarian principle and “the reasonable person” to maximize deterrence and minimize crime. The central tenet of the Classical School is eviscerated by neurocriminology as the “free will” and “reasonable person” standard have been compromised, perhaps nullified, by neurobiology. Consequently, instead of reverting to the external force that prompted antisocial behavior, the emphasis is on the individual, minimizing social and cultural influences (and religion’s role).

A century later, the Positivist School emerged in response to Beccaria’s “free will” Rational Choice Theory, that criminals make a cost-benefit analysis prior to acting. Prison psychiatrist Cesare Lombroso (1835-1909), a “founder” of criminology, sought a more scientific analysis engaging the social sciences to embrace an explicit determinism. The focus transitioned from the external mystic forces that dominated the understanding of deviancy since antiquity and the individual’s capacity or “rational thought” for deviancy that emerged during the Enlightenment, to the biological, psychological, and social causes that comprise criminology crafted with the development of scientific thought. Specifically, Lombroso’s *Criminal Man* (1876), discusses atavist theory (an ancestral/anthropological reversion) and phrenology, the pseudoscience based on measurements of the human skull and a perverse precursor to modern neuroscience and neuropsychology (the localization of emotions/thoughts within the brain). Neurocriminology is related to a neo-Positivist School, that some individuals are predisposed to antisocial behaviors and that they need to be treated (segregated) for their own good and the good of society. The emphasis on biological and psychological responses to the exclusion of

societal variables, however, de-emphasizes structural and institutional factors that influence biological and psychological development. Moreover, neurocriminology marginalizes the Chicago/Ecological School that has dominated criminology for the past century. Religion's role, marginalized by the Classical School ("free will" emphasis) was either limited further under Positivism (its predetermined), or religion was used as justification (a neurochemical or psychological version of manifest destiny, "God wills it").

The subtle determinism of the Classical School as well as the explicit determinism of the Positivist School was eviscerated by the French School and preeminent sociologist Durkheim as well as the criminologists associated with the Chicago/Ecological School (1920s-1930s). The twentieth century's evolving scientific reflection on deviancy now emphasized extrinsic factors of culture (anthropology) and primarily society (sociology) instead of the intrinsic factors of biology and psychology. The essence of crime was culturally relative and found outside the criminal act, in what Durkheim referred to as the "common consciousness" of society. Critical or conflict criminologists (Karl Marx, 1818-1883; W.E.B. Du Bois, 1868-1963) extended French School of thought by continuing to emphasize intentional or inherent social and structural inequalities that produce and perpetuate criminality through persistent inequalities, the theme emphasized in contemporary society by urban sociologist Wacquant. A tenet of this school is that there is a sliding scale of blameworthiness and that an individual cannot be punished for whom they are but for what they do. For instance, being an addict or a pedophile is not punishable but acting (driving under the influence or possession of child pornography) is regulated and blameworthy. Further, biological and psychological proclivities minimize blameworthiness; consequently, the youthful offender, the insane, the person having "an irresistible impulse" is generally afforded less blame. The sociological and anthropological

factors, however, have dominated this socio-political version of criminology. For the most part religious beliefs played a positive role in this Durkheimian perspective, but it was not essential.

In contemporary society, there are dozens of criminological theories reflecting on anti-social behavior are dominated by socio-political thought. Optimistically, neurolaw or neurocriminology is an interdisciplinary emerging field of study that relies on neuroscience and psychology to determine blameworthiness for deviant action as well as identifying appropriate rehabilitative programs. Pessimistically, neuroscience is a radically reductionist construct making “free will” and one’s experiential life subject to the evolutionary history embedded in one’s brain. While sociologists reflect on the notion of “responsibility” and “blameworthiness” being a social construct and socially influenced, some neuroscientists believe “we are our brain.” David Eagleman, director of Baylor College of Medicine’s Initiative on Neuroscience and Law, suggests that neuroscience completely erodes the notion of individual autonomy and free will, “you are your biology [brain].” Consequently, deviant acts would be attributable to one’s biology, negating blame and undermining *mens rea* (guilty mind), the traditional predicate for criminal culpability (along with *actus reus*, guilty act).

A person with a “scientifically” perceivably impaired brain, however, can also be segregated and/or incarcerated as a preventive option. More likely is the failure to discharge a convicted offender from institutionalization due to perceived threat concerns. In such an instance, societal involvement is curtailed, communal formations weaken, mercy is worthless, hope is valueless, and faith is futile. The religious perspective accepted as a benign practice under a Durkheimian sociological approach might now be discarded as neurobiology is the determinative factor to assess antisocial behavior. Furthermore, a system of laws based on democratic principles defers to a system of science based on undemocratic principles. In the

worst-case scenario, neurocriminology may minimize human misery, perhaps deviancy, at the expense of humanity.

Behavioral testing, psychology, and brain cognition amplified by functional magnetic resonance imaging (fMRI) allows deeper insight into thought processes and brain activity. Therefore, if one's brain activity is predictive of human behavior, decision-making capacities can be reexamined as well as the voluntariness of antisocial and criminal behaviors. Unfortunately, such reexamination is directed at a vulnerable population, the incarcerated that are being assessed with respect to "impulse control" and "empathy development" as criteria of probation. Conversely, if brain activity is predictive of prosocial behavior, and the belief in God or cultivated spiritual disciplines resonates with prosocial behavior, religious practices/disciplines and a prosocial "conversion experience" could develop. Consequently, if fMRIs will eventually have persuasive predictive value for antisocial behavior with respect to impulse control or empathy measurements, perhaps it can also have predictive value for prosocial behavior such as assessing ethical and moral beliefs related to religious or spiritual practices.

The fMRI provides a "higher degree of resolution" that some criminologists use to assess impulse control and predict the ability of the subject to control actions if discharged from incarceration. Expectedly, much debate exists over this application of science and using it as a predictive criterion for probation. How likely is it that perceived "impulse control" abnormalities indicative of antisocial behaviors in the incarcerated would be considered normal for the athlete, military service member or corporate executive? Consequently, sanctions imposed related to perceived impulse control concerns are based on the status of the individual not on his/her acts, a probable violation of the Eighth Amendment to the United States Constitution proscribing cruel and unusual punishment.

While no scientist has yet to localize the reductionist oriented “God gene or spot” in the brain, there are other prosocial tenets of religious belief. Freud’s meaning-making in *The Future of an Illusion* (1927), theorizes that the purpose of religion is to explain the unfathomable world and provide comfort as well as societal order. From the criminological perspective, one’s incarceration can be less toxic to personal development if a Freudian religious approach is relied upon. By displacing blame (i.e., blaming God or other mystical forces), the resident inmate may be able to cope or make sense within his/her restrictive existence. Similarly, Ann Belford Ulanov’s meaning-making in *Finding Space: Winnicott God and Psychic Reality* (2005), enables readers to define their own relationship with God, and thereafter experience the prosocial dependence and interdependence that includes a relationship with one’s God, which may be specifically manifested in creative works. Religious and/or spiritual practices by the incarcerated within their confinement may represent such creative works, a relationship with one’s God. Consequently, reconciliation practices (i.e., a forgiveness ritual), within the confines of incarceration is a religious practice and should be accepted as such, as a prosocial activity (for the psychologist, an attunement of the psyche).

Ulanov relies on the work of Carl Jung (1875-1961) who reflected on “the fourth,” “the “quaternity” of the Son of Man” as opposed to the trinity, “the third” found in the Holy Spirit and “the fourth” possibly found in an ecstatic moment following the reconciliation process. Following Vatican II (1962-1965), Gustavo Gutiérrez reflected on the preferential option for the poor that to work with the poor is to please (perhaps to find) God. Such a concept is consistent with Jung’s appreciation of “the One who dwells within.” As Gutiérrez states in *On Job* (1986), “It is for us to find our own route amid the present sufferings and hopes of the poor of Latin America, to analyze its course with the requisite historical effectiveness, and above all, to

compare it anew with the word of God.” Consequently, it may be in the incarcerated, by ameliorating their suffering, that one can find that word of God. Using a Dr. King (1929-1968) quote to advance Gutiérrez’s argument, “Everyone can be great [find God] . . . because anyone can serve [be with God],” and the incarcerated need assistance not only during their incarceration but also in the reintegration process as well.

Lallene J. Rector referenced preeminent psychoanalyst Heinz Kohut (1913-1981) to discuss self-object experiences. An understanding of the bi-polar self as Kohut theorized is vital. Within this structure, a core self develops and has its existence, giving each person a sense of being in body and mind, a sense of spatial and time continuity. The extent to which the person has a sense of independence of action and perception, regardless of the transience of reality, is a measure of cohesiveness within the core self. Specifically, Kohut states that there are two opportunities in the early development of the child, which contribute to the formation of the cohesive self: the first being (a) the establishment of the grandiose-exhibitionist self (the root of the need for recognition, ambition, and power) and (b) the establishment of the parent-image (the root of values and goals). The former is developed in relationship with an empathically responsive other who allows him/herself to be an object for mirroring approval, while the latter is developed in relationship with an empathic other who allows the child to idealize him/her. This “other,” initially a parental figure, is experienced as part of the child’s self and is termed a “self-object.” Self-objects are also a part of the adult life as well, but the nature and extent of narcissistic attachments is influenced by the degree of cohesiveness of the core self. Although Kohut critiqued the “created in the image of God” (Imago Dei) as an association with a “narcissistic paradise,” it is common for those engaging in prison ministry to rely on Imago Dei in hopes to sustain and inspire those enduring incarceration. Consequently, what Kohut and

Rector critique as a “narcissistic paradise” the incarcerated may accept as a life-giving affirmation. Perhaps such an idealized self-object is needed to confront the intense toxicity of incarceration, a realization that few can appreciate.

One’s shame or guilt can manifest itself in repressed anger in a society that ostracizes and discriminates with inequality measures indicative of such structural and institutional oppressive conditions. Additionally, being victimized by repeated racial profiling and enduring violence and victimization (residents in disadvantaged communities are more likely victims of crime), rage can emerge from such repressed anger. Following Kohut, revenge violence is an attempt at reasserting the integrity of the grandiose self through the elimination of what Kohut terms “a flaw in the narcissistically perceived reality;” it is a means toward self-cohesion. Once the act of revenge or antisocial behavior is complete, shame in the form of guilt can be apparent; this reflects the inability of the core self to fulfill the value for life instilled at youth. What is needed and received through a therapist (or cleric, a powerful idealizing and mirroring self-object), is forgiveness of a moral transgression. With respect to the incarcerated, a moral transgression publicly accepted and imposed through a court of law. Such forgiveness provides a new merger, providing cohesion of the self in both idealized and grandiose areas of the self. During incarceration, an offender can address perceived narcissistic failures endured in the temporal world but due to inevitable power dynamics (differentials), care must be taken when affording such therapy. The work of Scheff and Retzinger must be a constant reminder: if shame is unacknowledged, psyche attunement is frustrated, and antisocial behavior to oneself (i.e., addiction) or to others (violence) is probable.



## *Chapter 6: Convict Theology<sup>106</sup>*

The sixth chapter is inspired by various theologies of liberation as well as the work of convict criminologists and the International Conference on Prison Abolition (ICOPA) culminating in the emergence of Convict Theology, the preferential option for the incarcerated. Giving agency and “lifting up” the least in twenty-first century America. Correctional facilities are toxic environments by most perspectives. Residents include those convicted of violating social norms that spend months if not years in structured environments under constant surveillance, increasingly in solitary environments that have been restricted by international norms. Employees work in volatile environments dressing in military style uniforms with most required to search one another prior to their shifts, culminating in a profession that has among the highest turnover rates. Visitors are usually stripped of their ability to comfort physically their resident and must carefully parse their words so to not further traumatize their resident or expose their resident to further punishment. Those that study such environments bemoan the reduction of external stimuli and overly structured environments that fail to encourage self-direction or cultivate impulse control skills that are essential upon reintegration into society, an event experienced by most residents, returning to their predominately disadvantaged communities. Moreover, the failure to reduce stressful or conflict laden environments complicates rehabilitation as does volatile environments that constantly pose safety concerns and rarely have opportunities for space, privacy, or formation of nurturing friendships.

In 2017, America has nearly seven million people in prisons, jails, juvenile detention facilities, immigration detention facilities, and on parole or probation. The lives of these seven million, nearly 60% suffering from diagnosed mental impairments affected millions more,

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<sup>106</sup> *(like to revise & incorporate work set forth above)*

including nearly three million children and dependents that have a parent or child in some form of criminal observation and a host of disadvantaged communities that endure the disruptive “conveyor belt” of reentry are restrictive. Moreover, the incarcerated mentally impaired resident being largely nonviolent offenders, many of whom committed crimes of survival not only have their conditions mistreated while in prison, their confinement exacerbates their underlying impairment significantly contributing to the \$80 billion per year dedicated to corrections.

Concern is indispensable for fiscal stewardship and societal failure if society is to be judged by how it treats its prisoners, especially its mentally impaired prisoners. Moreover, vigilance is required when almost all those incarcerated are impoverished, nearly 70% being “People of Color,” and nearly 60% suffering from diagnosed mental impairments, with clinical depression seemingly affecting the great majority of residents. Recent statistics show that the female jail inmate population increased nearly 11% between 2010 and 2013, growing by an average of “1% each year between 2005 and 2013.” Further, caution is necessary when implementing purported “scientific” processes, especially on vulnerable populations such as the incarcerated. Chief among the concerns of the Prison Watch Project is the violations of mental health laws by correctional facilities.

While efficacious and cost-effective treatment can be secured in non-residential facilities by the mentally impaired deemed culpable by societal interest, our society relies on mass detention to serve immediate concerns. At the forefront is community safety, for the more critical theorist there are socio-economic aspects, and there is always the obvious issue, the lack of viable alternatives to dependency on our carceral state. While the underlying biological and psychological causes of mental impairments can be treated in noncustodial institutions, criminalization is the easy although costly and immoral option. While the actual prison

environment may help some with structured living, medications, “three hots and a cot,” it is unsustainable and often evidences “cruel and unusual punishment.” People with mental illness must be accommodated as it may present a human rights violation as well as an Americans with Disability Act (ADA) violation not to treat a vulnerable inmate. The ADA proscribes this lack of medical attention. For purposes of this work, Crip Theology can easily apply to the incarcerated instead of or in addition to the proposed Convict Theology.

### ***Chapter 7: Science and faith<sup>107</sup>***

The seventh and final chapter calls for the secularly inspired efforts of most of the sociologists and organizations discussed herein (e.g., AVP, ICOPA) to collaborate and even integrate their work with the sacramentally and spiritually oriented theologians mentioned throughout this work and engaged in prison ministry on a regular basis. A dawn of the Sociology of Religion discipline can be attributed to the publication of Emile Durkheim’s “*Suicide*” in 1897, wherein the differentiation among Protestants and Roman Catholics were studied with respect to suicidal tendencies. Predating Durkheim’s work is Karl Marx (Prussian/German, 1818-1883) who explored religion as a source of conflict or oppression. The third major classical thinker was Max Weber (German, 1864-1920), who examined the social change possible through religious belief. Most evidently, Durkheim relied on the positivist tradition and contributed to the functionalist tradition by investigating the societal cohesive aspects of religious beliefs. Another classical thinker was W.E.B. DuBois (USA, 1868-1963), who reflected on the pragmatism of religious belief. These founding theorists challenge present day theorists to explore religion and religiosity, for purposes herein defined as a unified system of beliefs,

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<sup>107</sup> *(like to revise & incorporate work set forth above as well as expand reflection on talks and meditations)*

practices, and organizational traits related to the sacred through sociological methods and philosophies.<sup>108</sup>

This chapter engages all four founding theorists as follows. Liberation theology has long been considered “a Marxist interpretation of the gospel,” with the difference being liberating the oppressed as opposed to classical Marxian analysis that religiosity is the “opiate of the masses,” exacerbating subjugation. Weberian analysis is also present as redemptive scripts influenced by faith-based narratives influence social change as reintegration is facilitated. Similarly, the cohesion that Durkheim explores is present with both the outside religious service providers as well as the inside residents, creating a pseudo social network that Bordieuan scholars and criminologists such as Todd Clear encourage to sustain reintegration within dominant society. Lastly, the pragmatism of DuBois, that religiosity is a necessary tool even if one “fakes the funk” as often stated people “find God when they hit rock bottom.” A DuBoisian response may be, and the problem with this is . . . ?

Science and faith have always been entangled but largely in Europe and the colonized world, the latter half of the nineteenth century represented an escalation and confluence of major social dynamics. Following the Age of Enlightenment (roughly 1648 Peace of Westphalia) through the intensification of the Industrial Revolution (invention of steam engine and thereafter the Cotton Gin 1794), there were radical changes in the economy with capitalism and finance (1776 Adam Smith’s “Wealth of Nations”) overtaking mercantilism (trade-based 1500-1800) as the world’s main political economy. Further, the “revolutionary wars” against England by America (1776) and within France (1789), ushered in radical individualism with an emphasis on liberty, the pursuit of happiness, fraternity, and an egalitarian society (for some). Consequently,

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<sup>108</sup> See Robert Bellah, USA 1927-2013.

industrialization, rural to urban migration, and creative reflection on Enlightenment philosophy (particularly Hegel for Marx, Comte for Durkheim, Kant for Weber, William James for DuBois), shaped the contribution of the classic theorists. Thereafter, the contribution of these classical theorists has shaped the sociology of religion evidenced by having multiple international and domestic academic conferences on the discipline (American Academy of Religion, Society for the Scientific Study of Religion, ASR, Society of Christian Ethics, etc.) and a majority of the world's population continuing to engage in religious practices (over 80% in American as well as worldwide).

Auguste Comte (1798-1857), ushered in the positivist tradition seeking to replace religion with science and faith with reason.<sup>109</sup> Durkheim provided the methodology for this endeavor and ultimately formed the first Sociology department in France, during the 1890s. Durkheim believed that religion represents a venue to explore idealized society. Religious beliefs and practices contribute to cohesion and collective consciousness or an effervescence wherein community is formed through individualized shared sacrifice and practice. This cohesion is vital to avoid anomie, community fragmentation, inequality and instability, and maintain social order. This function is specifically important in an era when the division of labor was so intense that the individual was isolated from the norms of family and community and seemingly cast adrift exposed to despair, depression, and disorder.

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<sup>109</sup> The Positivist School was so influential in Brazil that a Positive Church emerged in the 1880s and its slogan "Order and Progress" continues to be emblazoned on the Brazilian national flag (1889). It is slightly ironic that Liberation Theology has roots in Brazil. A quote conflating socio-political economics and theology has been attributed to Brazilian Bishop Hélder Câmara (1909 – 1999), "When I feed the poor, they call me a saint. But when I ask why they are poor, they call me a communist."

In “*Suicide*”, Durkheim<sup>110</sup> explored how levels of integration and repression influence suicide and concluded that Protestants, largely emphasizing individualistic virtues, were more likely to commit suicide than Roman Catholics, who largely emphasized communal propensities. Ideally, such correlation is not to assess the superiority of one belief to another, as the sociology of religion is to be “atheistically methodical”.<sup>111</sup> Through empirical study, Durkheim found that there were four categories of suicide and they can be measured based on the level of integration of repression within a given society. Anomic suicide occurs when there is a weak collective consciousness (i.e., depression), fatalistic suicide when there is excessive regulation (i.e., despair), egoistic suicide when there is significant self-detachment from society, and altruistic suicide is most often associated with hyper-attachment to society (i.e., martyrdom).

In 1903, Durkheim and his nephew wrote the “*Sociology of Knowledge*” that explored the different learning capacities and traits of individuals and concluded that learning is a societal function. Durkheim’s last major work was the 1912 “*Elementary Forms of Religious Practice*”, wherein he examined Australian aboriginal worship practices and concluded that the religious symbols used, totems, were to internalize external realities via collective rituals, that society was represented as the totem and worship or reverence of the totem corresponds to collective effervescence. He further made the distinction between the profane (secular aspects) and the

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<sup>110</sup> In Durkheim’s 1893 “Division of Labor”, he urged mutuality and a shared experience to bond society and avoid the cult of individuality (after 1913, the “Cult of Man”), which culminates in anomie. Further, he urged solidarity formation and explored mechanical as well as organic solidarity and systems of laws to bring detractors to order. Specifically, for individuals that function in a mechanical solidarity (imposed bonding, i.e., the underemployed) the state needs to punish detractors to coerce mutuality, while those in organic solidarity (voluntary bonding, i.e., the professional sector) should be treated with restorative measures, restitutive laws, to encourage mutuality. His 1895 “Sociological Methods” and formation of a department of Sociology facilitate empirical engagement with “social facts” that Durkheim opined were objective and coercive/influential. Such positivist notions largely rely on quantitative methodology and Durkheim was the first to apply such methodology in 1897 “Suicide.”

<sup>111</sup> See Peter Berger (1929-2017).

sacred (set apart divine aspects) in establishing social order in what he suspected with a primitive religious practice. Although this research is much critiqued (as is all classical theorist research), the classification of the ritual and belief system as primitive as well as the operationalization of the totem variable is bias and offensive to many. Such reductionism is inherent in many theorists that reflect on the reification (and alienation) of religion and religiosity. Indeed, the forgiveness ceremony discussed herein is directly related to the internalization of shame adjustment which will be manifested in the creation of one's redemptive script.

While all classical theorists were secularists, the classical theorist that had the most negative view of religiosity specifically regarding alienation and reification was Karl Marx (1818-1883). It is emphasized that classical theorists thought that through modernization and rationalization, that religion would fade away, but Marxists opined most forcefully that would be a positive as opposed to both Durkheim and Weber that feared the resulting social chaos. Marx was influenced by GWF Hegel (1770-1831) and his contemporaries among the "Young Hegelians" such as Feuerbach (1804-1872) and Frederick Engels (1820-1895). Using aspects of Hegelian thought about the essence of humanity and the evolving mind, these Young Hegelians such as Marx emphasized the reification of religious belief and alienation relying primarily on Feuerbach's 1841 work "*The Christian Family*". Through dialectical reflection (thesis, antithesis, synthesis) the Young Hegelians thought that religion alienates men/women from its essential human nature. That any faith claim to otherworldliness undermines the ability to engage the material essence of that man/woman. Marx, as a chief economic determinist weary of religiously inspired transcendental thought, went on to opine that religion had been co-opted by capitalism and that capitalistic systems of oppression needed to be reversed to enable liberty to emerge. While many believe that atheism is endemic to Marxian thought, proponents of

Liberation Theology, where there is a preferential option for the material existence of the marginalized, refutes these assumptions. Indeed, a contemporary reflection on the Marx's axiom that "religion is the opiate of the people" also states that it is the "soul of a soulless world", that religion can both express exploitation as well as protest it. good

Such didactics (thesis/antithesis) was prominent in Marxian thought. Such thought emphasized self-affirmation instead of the objectification through the commodification of labor and repression of liberty, negating the essence of humanity. Marx's 1844 "Economic Manuscripts" that were only publicized by the Frankfurt School in the 1930s, commenced voluminous work by both Marx and Engels that was founded on the exploitative economic base of humanities existence and the superstructure of the arts, science and technology, as well as morality and religion that kept that base secure. Marxian Conflict Theory emerged from his "Community Manifesto" (1848) and Historical Materialism to change (not only study) society for the liberty interests of the masses of Proletariat/peasant workers. Accordingly, human nature is to be liberated from wage labor that commodifies individuals into mechanical cogs that could be exchanged with excess/surplus value kept by the capitalist Bourgeoisie dominant class. This alienation, further exacerbated by the specialized division of labor that separates the laborer from his/her product, can only be curtailed by a revolution and part of that revolution is to restrict religion from the public domain or at least from being co-opted by capitalist interests. As practiced in Marx's era (and perhaps with contemporary practice) religion gradually separates humanity from its essence and material reflection – it is a drug – an opiate in that it tells them they should be happy, content, or accepting of the structures of society. Therefore, private property is to be abolished as well as the production apparatus to such private wealth accumulation and the system (religion) that enables such exploitation.



By 1867 Marx had commenced publication of his multi-volume work on “*Capital*” (volume 2 and 3 published by Engels in 1885 and 1894 and volume 4 from 1905-10). “*Capital*” further synthesizes Marxian thought on how the pursuit of wealth and accumulation of goods “imprisons” individuals who futilely and desperately attempt to find security in an insecure world based on an exploitative economic system. A capitalistic system that segregates people, abuses child labor, and is based on Adam Smith’s and David Ricardo’s “labor theory of capital” that together with automation is decimating humanity. While Marx feared that religion anchors the social world in something alien and supporting the status quo, he never considered that perhaps religion could have been relied on to liberate the social world to its potential of social justice and used to critique the status quo.

While Durkheim emphasized the cohesive aspect of religion and Marx its conflict propensity (in that religion seemed to be the source of conflicts that were really about material interests, and that religion stifled conflict that should arise), Max Weber (1864-1920)<sup>112</sup>, reflected on the social change possible through religious belief and practices. Weber was chiefly influenced by Immanuel Kant (1724-1804) and Idealism thought. Contrary to a Marxian reflection that the economy determines ideas, Weber believed that ideas (especially religious ideas) can influence markets. Weber’s main work, “*The Protestant Ethic and the Spirit of Capitalism*” (1904/5), interpreted the linkages and sequencing (as opposed to Durkheimian

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<sup>112</sup> Weber reflected on ideal types (magicians, prophets, priests as well as mystics, charismatic and rational leaders) and the work of private asceticism (i.e., minimization) and inner-worldly/public asceticism (i.e., prosperity) in the “Protestant Ethic and the Spirit of Capitalism”, “The Religion of China: Confucianism and Taoism” (1915), “The Religion of India: Hinduism and Buddhism” (1915), and “Ancient Judaism” (1920), consistently reflecting on how religion stabilizes and facilitates change. In 1922, his wife posthumously published “Economy and Society” as well as “The Sociology of Religion.” Weberian thought fears a “less enchanted world” through rationalization and a power dynamic that keeps the majority in domination, unable to be/act with free will.

“social facts”) that facilitated the emergence of capitalism and found evidence within the Calvinist practice of Christianity that one’s religiously inspired aspiration culminated in intensified labor and increased productivity. Specifically, the belief in predestination and eternal blessing from a benevolent god influenced a work ethic to justify such election that directly influenced economic pursuit and wealth accumulation.<sup>113</sup> Ideally, the belief in successful reintegration from prison will influence sobriety and a work ethic in conformity with one’s own redemptive script.

The last classical theorist discussed is WEB DuBois (1868-1963). DuBois was influenced by noted pragmatist and psychologist William James (1842-1910) at Harvard and eventually became the first African American to secure a PhD from that prestigious university. DuBois contributed to the formation of Critical Race Theory applying Marxian thought to race relations in segregated Jim Crow (1868-1964) America. DuBois often opined that religious belief and the “Black Church” was a hindrance to social action and often refused to lead public prayer, but DuBoisian writings were reliant on African spirituals which he opined was the voice of the slave to the world and his writing had a prophetic basis.

In 1899 “*Philadelphia Negro*” was published, the first sociological book reliant on statistical significance and graphs/charts to conclusively demonstrate the structural oppression

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<sup>113</sup> The fear of Weber is that this rationalization and resulting sophisticated political economy will develop bureaucratic structures that will place humanity in an “Iron Cage.” This less enchanted world led by rational figures, as opposed to traditional clan leaders or charismatic ideal types, will result in an excessive division of labor and “specialization without heart”. Further, such hierarchical bureaucracy in an ever specializing and sophisticated world will be dominated by the interests of the few elite that increasingly lack an understanding of others, “*verstehen*.” This *verstehen* (German) relies on research from the point of view of the subject, to stand in their shoes and empathize, rather than make supposedly objective conclusion from a dispassionate distance. Consequently, the Sociology of Religion, primarily using qualitative methodology and ethnography is predisposed to share the plight of the marginalized, “speak truth to power,” and hold other accountable, striving toward social order and enhanced society.

that African American endured in post-Reconstruction era Philadelphia. In the *“Souls of Black Folk”* (1903), DuBois relies on the voice of the slave through spirituals to base each chapter and essay that discussed race being socially constructed, that the Black soul was magnified through volitional and intentional acts overcoming unbearable hardships, that a “Talented Tenth,” although elitist can and should emerge and lead social action to benefit Blacks as well as the American experience. He also formed the theory of double consciousness, how Blacks view themselves first and foremost through White society and standards. Such demoralization often culminates negatively to people of color depicted through internal inferiority complexes as well as dominant groups that form internal superiority complexes. The “veil” is also discussed emphasizing segregated America and the resulting marginalization of racial minorities which DuBois believed was endemic to American culture.<sup>114</sup> Many critical theorists led by Wacquant would add that saturation policing and the criminal justice system conspires to further segregate communities and complicate those striving for upward mobility.

Ironically, a noted school of thought from the Frankfurt School that is consistent with critical theory and the concerns of ICOPA and perhaps AVP that religiosity possesses as many detriments as benefits, is Habermasian thought. Since the turn of the century Jürgen Habermas has sought to accommodate and perhaps even promote a religious understanding of society. Habermas is a proponent that all rational discourse is to be allowed within the public sphere, for

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<sup>114</sup> DuBois and his religious pragmatism contributed to his effort to start the 1905 Niagara Institute as well as the 1909 NAACP and his newsletter *“The Crises”* (1910). He finally left the NAACP in the 1930s but continued public activism and eventually joined the communist party that he believed best represented the interests of people of color. He also had lifelong disputes with Booker T Washington’s (1856-1915) accommodationist stand and emphasis on vocational instead of classical education as well as Marcus Garvey’s (1887-1940) racial segregationist desires. DuBois, who also wrote *“The Negro”* (1915), did significantly contribute to Pan African studies and initially supported Garvey’s efforts but ultimately found such segregation inconsistent with the best interests of people of color and society in general.

fear that it will be suppressed and manifested in anti-social actions. Habermas believes that communication derived from a consensus of individuals, even those on the margins, leads to a more robust representative government and enhance justice systems. While much has been written about totalitarian states that repress religious belief such as the forgiveness ceremony outlined above, more reflection is necessary on progressive communities that dismiss spirituality and religion as irreconcilably irrational. Indeed, this intellectual elitism and smugness among political elites is as polarizing to society as regressive conservative thought.

For instance, President Trump supporters are largely “undereducated” working class male whites who are currently dying due to suicides, drug overdoses and other health ailments far exceeding the national average for others and for those similarly situated in the rest of the world. This “Trump population” is showing “empirically significant” maladies of our society, perhaps related to unrealized expectations not associated with marginalized populations yet many from the “left” continue to label them as privileged and some as racist or ignorant. While Trump supporters in relation to other marginalized groups are privileged, the elitism from “the left” which minimizes the maladies of Trump supporters through *ad hominem* attacks is as problematic in reaching consensus and adds to the increasingly polarization of society that enables systemic forces to dominate society. Further, as an active member of prison ministry and seeking to engage in prison ethnography, white and Latina women are the only increasing carceral population yet little research is geared as to why this is. Lastly, Habermas has a great legacy, however, the legacy of those who claim to be Habermasian and other intellectuals are usually related to the elitist and hypocritical world of academia that produce and reproduce systems that marginalized those that desire to be critical of Critical Theorists. Unfortunately, in an ever complex and sophisticate world where publishing and “likes/followers” is so important,

“specialists without a heart” are often found in those who are securing advanced degrees and these organic leaders have lost their credibility because they spend too much time in Ivory Towers and very little where the “rubber hits the road.” The emergence of the Trump phenomenon evidences problems with our society, problems that “the left” needs to be more empathetic of the entire society as well as tolerant if not supportive of evangelical communities that express their social justice pursuit in religiously inspired ways.

Central to the work set forth herein is to advance a critical perspective of prison ministry into social discourse of interest to both the temporally and spiritually inclined. This eclectic desire will have opponents from both the secular side who refuse to incorporate theological or religious principles and those who will solely work within their chosen faith/denomination. However, hopefully supporters will include a vast part of society that is concerned with contributing to a more legitimized correctional system and fiscal stewardship as well as relying on religion to challenge scientific notions of progress. Specifically, my future work will explore the psychology and theology of long-time religious service providers to the incarcerated, specifically the men of Kenosis of Yardville, New Jersey and Kairos of Chester, Pennsylvania.

The Garden State Youth Correctional Facility in Yardville, New Jersey houses over 1,500 male low-level offenders (medium and minimum-security level) between the ages of 18-30, of which about 50 are invited by the Chaplain to participate in bi-annual religious ministry events. The demographics for SCI Chester as well as their religious service providers are similar except this medium security facility has an average resident age of 38 and concentrates on substance abusers, meeting as a religious retreat only once a year. Having worked with both groups for years this chapter focuses on the conversion experiences and “testimonies” of volunteer religious service providers from several Christian denominations.

Although America's history of incarceration is infused with Christian transformative characteristics, these factors have diminished with ever increasing hyper-incarceration and a more punitive model of corrections. Nevertheless, religious service providers continue to deliver cost-effective (and possibly life altering) services to an increasingly marginalized population based on conversion narratives/testimonies. How and why do these men do it? How effective are their efforts compared to secularly based programs such as vocational and educational programs? Related analyses involve public support for prisoner reentry that is tied to religious belief and that the fear of hell is correlated to law abiding behavior and reduced recidivism.

Through interviews with over three dozen volunteer religious service providers as well as participation in and observations of religious meetings and ceremonies that emphasize conversion experiences this chapter discusses the psychology and theology of the religious service providers. Although more than faith and moral resolve are required for reintegration, the formation of moral communities led or informed by prison ministry service providers as well as increasingly popular restorative justice modalities that rely on reintegrative shaming, can be pivotal. Either as a necessary alternative to an often inhuman and costly system of correction or as a more effective and efficiency system of justice, religious practices and theologies, continue to build and influence community and societal forces.

The weekend schedule is intense and filled with some fifty activities and dozens of hymns. Although manual instructions caution to have an attitude of flexibility and to adjust the more modifications one makes the more the resistance from more senior members will be. Many of the volunteers are pious and believe in orthodoxy even within the program. Thursday's theme is limited to an introduction and chapel set up as well as clearing materials that will be used, undergoing PREA training (Prison Rape Elimination Act) and even TB screening (in PA).

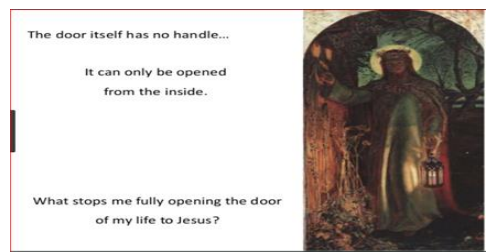
Friday's theme is based on encountering "the self" and reflection of one's standing with God.

Saturday's theme is based on reflection of Christ, especially finding acceptance, forgiveness and redemption through Him. Sunday's theme is based on encountering others and growing in faith as well as community with others.

The talks or discussions scheduled for Friday involve "Choices" and from the onset an emphasis on one's free-will choices that led to their incarceration is advanced. Although the discussion encourages transitioning from being "victims of circumstances" towards future positive choices, most of the speakers" place blame directly on the inside resident. I consider the Friday theme the crucifixion aspect of the weekend. The next discussion should be led by a cleric and will emphasize living in community reflecting on "You are not alone". Emphasis is placed on developing social networks and recognizing the multitude of congregations and other Kairos groups that send letters and posters of good-will. There is also a "prayer wheel" listing numerous people who have signed up to pray for the volunteers as well as the inside residents every hour of the retreat. The next speaker is to discuss forming a "Friendship with God", the most worthwhile of any achievement in life. God pursued us through Jesus and nothing of what we say or do can separate us from the love of Christ.

The next speaker should be a lay person that discusses "The Church", a collection of adopted brothers and sisters in Christ, making us family. Repeated and loud affirmations that "We ARE the Church!" concludes this discussion. The Friday evening presentations ends with reflection on "Opening the Door", that we are to response, nourish and encourage God's initial offer to live in relation to us primarily through cultivating spiritual disciplines and engaging in spiritual actions. While each of the presentations lasts for about 15-20 minutes, each table is then requested to spend 15-20 minutes in fellowship and discussion with one or more inside residents

working on the poster for “Choices”. This poster usually depicts a divergent road and success as the road less traveled while the wider road is full of sex, drugs, profanity and other hedonistic desires. Appointed prayer groups help prepare each speaker and there are frequent breaks for refreshment and to fellowship. Consequently, each discussion lasts about an hour (five in total) with a poster competition at the end of the evening lasting another hour – each “table family” explaining their depiction of either ‘Choices’ or ‘Opening the Door.’ Quite often speakers rely on ‘The Light of the World’ (1851–1853), an allegorical painting by the English Pre-Raphaelite artist William Holman Hunt (1827–1910) representing the figure of Jesus preparing to knock on a long-unopened door.<sup>115</sup> The door in the painting without a handle that can only be opened from the inside, representing “the obstinately shut mind” as well as an opportunity for inside residents to begin reflection.



In addition to the six hours of talks, reflection and poster preparation and preparation as well as fellowship and breaks there are three meals shared with the inside residents of varying quality. And if mandatory counts are conducted mid-day and mid-afternoon another 2-3 hours is spent wherein the inside team members either pray, journal or catch up on reading. The 12-hour day (7:30am-7:30pm) concludes with volunteers returning to their collective housing where there is prayer and reflection on the day’s activities.

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<sup>115</sup> Illustrating Revelation 3:20: “Behold, I stand at the door and knock; if any man hears My voice, and open the door, I will come in to him, and will sup with him, and he with Me.”



Although there are only two discussions for Saturday, much of the day is spent in meditative work. The first discussion is “Discovery through study”, emphasizing the need to continue studying and learning about Christ and deepen one’s relationship.<sup>116</sup> The other discussion is based on “Christian action”, a three-dimensional response to God’s love for us by sharing our blessing with others. God, others and ourselves is also demonstrated using a three-legged stool representing the need to develop spiritual disciplines such as prayer, develop continuing educational habits and use our gifts in dedicated Christian action for the Glory of God. There are the occasional stations of the cross as well as the forgiveness ceremony that can take well over an hour. *Palanca* (gifts/letters) are also given during the day’s activity. So, two hours of talks, reflection and fellowship with breaks, three meals, multiple meditations and distribution of *palanca* and culminating in the forgiving ceremony. This second twelve-hour day concludes with volunteers once again returning to their collective housing where there is prayer and reflection on the day’s activities and mutual support.

The final day is Sunday which includes three discussions. The first is “Obstacles to Accepting God’s Grace”, when the “footprints in the sand” poem is often shared. Emphasis is placed in affirming that God hears the pleas of his creation and is always with them no matter the hardship and we don’t understand all the mysteries of the faith. EGO – edging God out is also cautioned against as well as taunting by other inmates. A Clergy volunteer should lead the next discussion of “Walking in God’s Grace”, encouraging participants to return from the mountaintop events of the weekend to return to the valleys of despair refortified and confident in their deepened faith. Discover Jesus, walk with Jesus and Love others through Jesus. The weekend leader, often called the Rector has the final discussion on “Hang in there” primarily

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<sup>116</sup> An acronym, FROG is often used with this reflection, one should Fully Rely on God.

through dedicated bible study, attendance at Chapel service, engaging in educational opportunities, as well as follow up meetings and exposure to various elements of Kairos. There is also a cross ceremony, certificate ceremony and bible enthronement which takes over an hour and the occasional testimony. Three hours of discussion and fellowship, two hours of meals, and two hours of ceremony makes this an 8-hour day with the program ending about 4pm.

1. Meditation: *Know Yourself* (Image of God) John 1:43-51<sup>117</sup>. Take an inventory of yourself and make the most of the weekend without having an “expected response.”
2. Meditation: *I Chose You* (Relationality). Christ has invited the outside volunteers in with intentional reading of message from Christ to all.
3. Meditation: *Prodigal Son* (Nothing can separate you from God) Luke 15:11-32.<sup>118</sup> Place the inside resident at the mercy of God. Allow it to identify with their story, since it is a universal story.

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<sup>117</sup> John 1:43-51 (New Revised Standard Version) Jesus Calls Philip and Nathanael. “The next day Jesus decided to go to Galilee. He found Philip and said to him, “Follow me.” Now Philip was from Bethsaida, the city of Andrew and Peter. Philip found Nathanael and said to him, “We have found him about whom Moses in the law and the prophets wrote, Jesus son of Joseph from Nazareth.” Nathanael said to him, “Can anything good come out of Nazareth?” Philip said to him, “Come and see.” When Jesus saw Nathanael coming toward him, he said of him, “Here is truly an Israelite in whom there is no deceit!” Nathanael asked him, “Where did you get to know me?” Jesus answered, “I saw you under the fig tree before Philip called you.” Nathanael replied, “Rabbi, you are the Son of God! You are the King of Israel!” Jesus answered, “Do you believe because I told you that I saw you under the fig tree? You will see greater things than these.” And he said to him, “Very truly, I tell you, [a] you will see heaven opened and the angels of God ascending and descending upon the Son of Man.””

<sup>118</sup> Luke 15:11-32 (New Revised Standard Version). The Parable of the Prodigal and His Brother. “Then Jesus[a] said, “There was a man who had two sons. The younger of them said to his father, “Father, give me the share of the property that will belong to me.” So, he divided his property between them. A few days later the younger son gathered all he had and traveled to a distant country, and there he squandered his property in dissolute living. When he had spent everything, a severe famine took place throughout that country, and he began to be in need. So, he went and hired himself out to one of the citizens of that country, who sent him to his fields to feed the pigs. He would gladly have filled himself with the pods that the pigs were eating; and no one gave him anything. But when he came to himself he said, “How many of my father’s hired

4. Meditation: *3 Encounters with God* (always a real and present reality). Rich young man-sacrifice all for JC, Judas – build wall, Peter -used shame to build a bridge not a wall.

Mark 10:17-22<sup>119</sup>, John 12:4-6<sup>120</sup>, Mark 14:27-31<sup>121</sup>

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hands have bread enough and to spare, but here I am dying of hunger! I will get up and go to my father, and I will say to him, “Father, I have sinned against heaven and before you; I am no longer worthy to be called your son; treat me like one of your hired hands.” “So, he set off and went to his father. But while he was still far off, his father saw him and was filled with compassion; he ran and put his arms around him and kissed him. Then the son said to him, “Father, I have sinned against heaven and before you; I am no longer worthy to be called your son.” But the father said to his slaves, “Quickly, bring out a robe—the best one—and put it on him; put a ring on his finger and sandals on his feet. And get the fatted calf and kill it, and let us eat and celebrate; for this son of mine was dead and is alive again; he was lost and is found!” And they began to celebrate. “Now his elder son was in the field; and when he came and approached the house, he heard music and dancing. He called one of the slaves and asked what was going on. He replied, “Your brother has come, and your father has killed the fatted calf, because he has got him back safe and sound.” Then he became angry and refused to go in. His father came out and began to plead with him. But he answered his father, “Listen! For all these years I have been working like a slave for you, and I have never disobeyed your command; yet you have never given me even a young goat so that I might celebrate with my friends. But when this son of yours came back, who has devoured your property with prostitutes, you killed the fatted calf for him!” Then the father said to him, “Son, you are always with me, and all that is mine is yours. But we had to celebrate and rejoice, because this brother of yours was dead and has come to life; he was lost and has been found.””

<sup>119</sup> Mark 10:17-22 (New Revised Standard Version). The Rich Man. “As he was setting out on a journey, a man ran up and knelt before him, and asked him, “Good Teacher, what must I do to inherit eternal life?” Jesus said to him, “Why do you call me good? No one is good but God alone. You know the commandments: “You shall not murder; You shall not commit adultery; You shall not steal; You shall not bear false witness; You shall not defraud; Honor your father and mother.”” He said to him, “Teacher, I have kept all these since my youth.” Jesus, looking at him, loved him and said, “You lack one thing; go, sell what you own, and give the money[a] to the poor, and you will have treasure in heaven; then come, follow me.” When he heard this, he was shocked and went away grieving, for he had many possessions.”

<sup>120</sup> John 12:4-6 (New Revised Standard Version) “But Judas Iscariot, one of his disciples (the one who was about to betray him), said, “Why was this perfume not sold for three hundred denarii[a] and the money given to the poor?” (He said this not because he cared about the poor, but because he was a thief; he kept the common purse and used to steal what was put into it.)”

<sup>121</sup> Mark 14:27-31 (New Revised Standard Version). “And Jesus said to them, “You will all become deserters; for it is written, “I will strike the shepherd, and the sheep will be scattered.” But after I am raised up, I will go before you to Galilee.” Peter said to him, “Even though all become deserters, I will not.” Jesus said to him, “Truly I tell you, this day, this very night, before the cock crows twice, you will deny me three times.” But he said vehemently, “Even though I must die with you, I will not deny you.” And all of them said the same.”

5. Kairos Homily *Isaiah 49:15-16a*<sup>122</sup>
6. Meditation: *Acceptance of Self* (created in God's image): sinner, repentance, redeemed, fall, guilt, Avoid self-glorification. Pray for me a sinner – Amazing Grace
7. Spiritual counseling (i.e., individualized confessions)
8. *Acceptance of God's forgiveness*. John 3:16<sup>123</sup>
9. Meditation: *Who is Jesus Christ* (the most marginalized of marginalized). A man and God asks for help Matthew 26:36-41<sup>124</sup>
10. Meditation: *Forgiveness of Self* (hurt people, hurt people – why carry that stone?)
11. Meditation: *Forgiveness of Others* (we all fall short), Lord's prayer – forgive us as well forgive others.
12. Talk on Chapel visits
13. Distribution of agape
14. Meditation: *The Wall* (why insulate yourself from others)

<http://www.ccemmaus.com/thewall.html> (break to enable reflection), accessed December 17, 2017.

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<sup>122</sup> Isaiah 49:15-16 (New Revised Standard Version). "Can a woman forget her nursing child, or show no compassion for the child of her womb? Even these may forget, yet I will not forget you. See, I have inscribed you on the palms of my hands; your walls are continually before me."

<sup>123</sup> John 3:16-17 (New Revised Standard Version). "For God so loved the world that he gave his only Son, so that everyone who believes in him may not perish but may have eternal life. Indeed, God did not send the Son into the world to condemn the world, but in order that the world might be saved through him."

<sup>124</sup> Matthew 26:36-41 (New Revised Standard Version). Jesus Prays in Gethsemane. "Then Jesus went with them to a place called Gethsemane; and he said to his disciples, "Sit here while I go over there and pray." He took with him Peter and the two sons of Zebedee, and began to be grieved and agitated. Then he said to them, "I am deeply grieved, even to death; remain here, and stay awake with me." And going a little farther, he threw himself on the ground and prayed, "My Father, if it is possible, let this cup pass from me; yet not what I want but what you want." Then he came to the disciples and found them sleeping; and he said to Peter, "So, could you not stay awake with me one hour? Stay awake and pray that you may not come into the time of trial; the spirit indeed is willing, but the flesh is weak.""

15. *Open mic night*

16. Forgiveness ceremony & sacramentality – confessional

17. Meditation: *Healing memories*: weekend incorporated as a prayer

18. -Meditation: *The rooster* (behavior modification & aversion stimuli when “noise comes back”) “Go bury your roosters and quit digging them up.”

<http://legendfalls2.blogspot.com/2012/03/once-forgiven-always-forgiven-rooster.html>,

accessed December 17, 2017.

With this ‘clean slate’ (soul) the mind is clear to formulate their individualized redemptive script incorporating both the opportunities and challenges confronting everyone with the assurance that we will be blessed to walk with them. “Don't walk in front of me — I may not follow; don't walk behind — I may not lead; walk beside me and just be my friend.” attributed to Albert Camus.

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