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*Cell blocks & red ink: mass incarceration,
the great recession & penal reform*

The financial crisis, coupled with the election of Barack Obama, has raised expectations that the United States will begin to empty its jails and prisons because it can no longer afford to keep so many people behind bars. As Attorney General Eric Holder told the American Bar Association last summer, the country's extraordinary incarceration rate is "unsustainable economically."¹

Some evidence suggests that economic hardship may force a major shift in penal policy that will reduce the country's incarceration rate, which for years has been the highest in the world. Dozens of states cut their corrections budgets in 2009, and many proposed closing penal facilities to cover gaping budget gaps. States have enacted a slew of penal reforms aimed at shrinking their prison populations. Last year the total state-prison population dipped for the first time since 1972.²

The sentiment that the "war on drugs" may have lost its momentum is widespread. Congress and the Obama administration have been seriously considering measures to reduce the sentencing disparity between crack and powder cocaine and to soften other drug laws. Several states and municipalities have designated

enforcement of marijuana laws their lowest priority, and a number of states are debating marijuana decriminalization. Last fall, Minneapolis became the first major U.S. city without a narcotics squad when it disbanded its special drug unit to help close a massive budget deficit. The U.S. Sentencing Commission, the panel that sets guidelines for the federal courts, has begun to investigate alternatives to incarceration, and last October, Congress ordered the Commission to review mandatory minimum sentencing.

The current economic distress certainly provides an opportunity to rethink the direction of U.S. penal policies. But we should not assume that the crushing economic burden will unhinge the carceral state. While the prison population edged downward in twenty-seven states between 2008 and 2009, it continued to grow in twenty-three others. Meanwhile, the federal prison population increased nearly 7 percent.

Mounting fiscal pressures on their own will not spur communities, states, and the federal government to empty jails and prisons. The race to incarcerate began in the 1970s, at a time when states faced dire financial straits. It persisted over the next thirty years despite wide fluctuations in the crime rate, public opinion, and the economy. The 2001

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recession raised hopes that the prison population would shrink as severe budget deficits forced states to close prisons and lay off guards. But the surge of sentencing and drug-law reforms enacted in the wake of that recession did not make a dent in the U.S. incarceration rate. If history is any guide, rising public anxiety in the face of persistent economic distress and growing economic inequalities may, in fact, ignite support for more punitive penal policies.

Economic crises may foster public punitiveness for several reasons. Growing economic despair, rising uncertainty about the country's economic future, and massive dislocations in the labor, real estate, and financial markets may effectively fortify the "culture of control" that sociologist David Garland identified as the lifeblood of the prison boom launched nearly four decades ago. In Garland's account, societal angst stemming from deep structural changes in the U.S. economy and society in the immediate postwar decades ushered in a new culture of control premised on harsh punishment and extensive surveillance. Widespread perceptions of state impotency in addressing the economic upheavals of the 1970s further bolstered the shift in policies.

The U.S. government's inability to tame the economic demons in the current financial crisis (and its alleged culpability in releasing those demons) casts doubt on the efficacy, legitimacy, and *raison d'être* of the state. While the government struggles to restore economic health, some public officials may be tempted to act out in impulsive, unreflective ways, promoting highly punitive measures for their immediate symbolic and expressive value.³ The apparent surge in firearm purchases in early 2009 and the brazen display of weapons at public events – notably the town meetings called in

Summer 2009 to discuss health care reform – are ominous indicators of growing public anxiety that may have important implications for penal policy and law enforcement. The not-too-subtle message appears to be that if the state is not prepared to protect the public, individuals are locked and loaded to do so.

Furthermore, there is a well-established "relationship between economic insecurity and scapegoating behavior."⁴ Claims that immigrants are stealing jobs from citizens have more salience in today's plunging economy and in turn justify harsher attacks on the immigrant population. In a striking new development, Latinos now represent the largest ethnic or racial group in the federal prison system. High-profile raids of workplaces that employ large numbers of immigrants have become more commonplace, and local police are collaborating more closely with the federal authorities to detain and deport immigrants. As a consequence, immigration detention has become a growth industry. The number of people held by Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service) on any given day has increased more than elevenfold since the early 1970s as the immigration service has become a miniature Bureau of Prisons.

Studies of the United States and other industrialized countries indicate that the imprisonment rate tends to rise with the unemployment rate, regardless of whether the crime rate is rising or falling.⁵ Experts disagree about the underlying causal relationship between the unemployment rate and the incarceration rate. We do know that public opinion about crime and punishment is highly susceptible to political manipulation. Some suggest that during hard economic times, it is easier – and more tempting – for

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government officials and politicians to exploit the popular stereotype of a marauding underclass. Deteriorating economic conditions do not necessarily cause a spike in the crime rate – but the public often believes they do. As the sociologist W. I. Thomas once said, if people define situations as real, they are real in their consequences.

Certain crimes tend to rise in recessions and recede in good times, but this relationship is not ironclad. For example, crime rose during the boom years of the 1960s; it fell during the Reagan recession of the early 1980s and rose during the recession of the late 1980s and early 1990s (due in part, most likely, to the destabilization of established drug markets with the introduction of the crack trade). Some evidence suggests that the crime rate for certain offenses drops during tough economic times, as people go out less, shop less, carry less money, and have less to spend on alcohol. This correlation may explain why crime spiked in the Roaring Twenties but plummeted after the 1929 stock market crash.

Although crime does not necessarily rise during periods of economic distress, protests, strikes, and civil unrest often do, as the unemployed, unions, the elderly, veterans, the poor, the sliding middle class, and other groups take to the streets. In times of political and social unrest, government officials, politicians, and prominent commentators often conflate crime and social protest and by doing so provide an opening to strengthen the law-and-order apparatus. The imposing armories that dot American cities, for instance, were built as part of the late-nineteenth-century response to the wide-scale urban unrest of the Gilded Age.

Labeling demonstrations and other acts of protest as crime is an age-old strategy to justify expansions of law en-

forcement and delegitimize challenges to the prevailing political and economic order. The response to the civil rights movement is a good case in point. When Senator Barry Goldwater (R-Ariz.) denounced the “growing menace” to personal safety in his electrifying speech before the 1964 Republican Convention, he was appealing not only to fears of crime but also to fears of racial integration and the burgeoning civil rights movement. A full decade earlier, conservative congressional Democrats were already strategically using the street-crime issue to delegitimize the civil rights movement, even though the crime rate remained stable in the mid-1950s.⁶ As riots broke out in major cities across the country in the mid-to late 1960s, conservatives “worked vociferously to conflate crime and disobedience, with its obvious extensions to civil rights.”⁷ This was a doctrine not just of words but of deeds. Conservative Southern Democrats shrewdly used civil rights bills as a vehicle to stiffen and broaden criminal penalties. Should widespread civil unrest break out in the next couple of years, calls to amplify law enforcement will likely increase, as will efforts to portray ensuing protests as criminal behavior.

The Great Depression and the New Deal offer a cautionary tale to those who claim that mounting fiscal pressures will automatically soften U.S. penal policies and ultimately reverse the prison boom. During the Great Depression, vast numbers of Americans took to the streets, fueling fears that the social and economic fabric of the United States was tearing apart. This political turbulence sparked calls for greater police authority to regain control.

The Depression provided an opportunity to legitimize the expansion of a number of federal and state powers,

ranging from government control of the economy to law enforcement.⁸ The profound social anxiety associated with massive economic distress made the public susceptible to calls from President Franklin D. Roosevelt and J. Edgar Hoover, director of the Federal Bureau of Investigation, to get tough on criminals – whatever the cost – even as crime rates fell in the 1930s. Furthermore, the construction of prisons and the expansion of law enforcement were touted as public works programs that promised to boost the flailing economy.

The recent economic downturn may spur a comparable expansion of law enforcement and the penal apparatus. The economic stimulus package enacted in February 2009 resuscitated two controversial law enforcement programs that the Bush administration had begun to phase out. The stimulus bill pumped \$1 billion into Community Oriented Policing Systems, or COPS, which provides federal grants to local police forces and was one of the signature programs of the Clinton administration's draconian 1994 crime bill. COPS was created to reduce crime by promoting community policing tactics whereby police officers would walk their beat and act more like members of the community than aggressive outside enforcers. But COPS also fostered more confrontational styles of policing by funding SWAT teams and encouraging the wider use of paramilitary tactics and equipment. Over the years, COPS has had a minimal effect on reducing the crime rate.⁹ Democrats have persistently defended COPS, while many conservatives and Republicans have called for phasing it out. In the stimulus package debate, Senator Patrick Leahy (D-Vt.), chairman of the Senate Judiciary Committee, pushed for resurrecting COPS on the grounds that it would aid the economy "as fast, or faster than, other spending."

Joined by police chiefs and law enforcement organizations, Leahy played on public fears of rising crime during economic downturns.¹⁰

The stimulus package also threw a lifeline to the controversial Byrne Justice Assistance Grants program, which was established under the Anti-Drug Abuse Act of 1988 and became a cornerstone of the war on drugs. The bulk of these grants has been used to fund law enforcement programs, most notably special drug enforcement units and anti-gang initiatives. The drug units, which are largely unaccountable to local police chiefs and sheriffs, have proliferated across the country (thanks to Byrne money) in spite of their contested efficacy.

Though championed by police unions and other law enforcement organizations, the Byrne program has come under withering attack from the right and the left over the years. The American Civil Liberties Union has documented numerous civil rights and other abuses by Byrne drug task forces. In late 2007, Congress unexpectedly slashed Byrne grants by two-thirds, to a record-low allocation of \$170 million. State and local officials pushed hard to restore Byrne funding in the stimulus package, promoting it as a key crime-stopping measure and a way to generate jobs.¹¹ The Economic Recovery Act of 2009 included more than \$2 billion in new Byrne funding and an additional \$600 million to increase state and local law enforcement across the country.¹²

A stated goal of the Obama administration's economic recovery package was to favor projects that were "shovel ready." As a result of the unprecedented prison boom of the last three decades, many states now have the experience and capacity to build prisons fast. Some states planned to use the stimulus money

they received from Washington to expand or maintain prison infrastructure.

In his address to the American Bar Association last summer, Attorney General Holder lamented that spending on incarceration has continued to increase even as crime rates have flattened or dipped. “We will not focus exclusively on incarceration as the most effective means of protecting public safety,” he promised.¹³ But the administration’s 2010 and 2011 budgets for the Department of Justice (DOJ) reduced spending for juvenile justice programs and significantly increased allocations for law enforcement and new prison construction. The DOJ’s proposed \$100 million allocation for the Second Chance Act in 2010, to provide services to people reentering the community after prison, is a drop in the department’s \$29 billion budget and comprises barely 0.14 percent of the \$70 billion spent nationwide on corrections each year. As many states grapple with how to reduce their budget deficits by closing prisons and diverting offenders to probation and other community-based programs, the federal government is dramatically bolstering its law enforcement and penal operations.

Evidence increasingly shows that prisons provide few economic benefits to local communities, notably the rural areas that have been the primary sites for new prison construction since the 1980s.¹⁴ Nevertheless, there are compelling economic development arguments in favor of prisons, even when budgets are tight. First, the huge incarcerated population in the United States artificially lowers the official unemployment rate for males by at least 2 percent, making the U.S. economy appear more successful than it actually is.¹⁵ Second, corrections and law enforcement have become major sources of employment on a national level, even if

individual prisons do not necessarily bolster the local market. In 2006, the country spent more than \$68 billion on corrections, which employs an estimated 750,000 prison guards and other personnel. It spent another \$100 billion on police and \$47 billion on the judiciary. In an economic downturn, mass incarceration may “exert a Keynesian, stabilizing effect, to be sustained for economic reasons.”¹⁶ As legal scholar Michael Cavadino and criminologist James Dignan explain, “In a perverse variation of Keynes’s hypothetical cure for recession – get the state to hire large numbers of people to dig holes and then fill them in again – the USA has hired one lot of people to keep another lot locked up.”¹⁷ It is no wonder that top state officials in Illinois tried to stem public anger over the Obama administration’s plans to transfer some Guantánamo detainees to an empty supermax prison in northwestern Illinois by portraying the plan as an economic windfall for the local community.

Public officials who have attempted to close penal facilities have faced fierce local resistance, even when they have promised not to eliminate anyone’s job or release any offenders early. Prison guards’ unions, private prison companies, public bond dealers, and the suppliers of everything from telephone services to Taser stun guns compose a “motley group of perversely motivated interests” that has coalesced “to sustain and profit from mass imprisonment.”¹⁸

Antiprison activists are developing fresh economic arguments and strategies to challenge these vested interests. They have seeded growing doubts that prisons necessarily bring economic development to rural communities and have tried to make the financial burden of penal facilities more visible. For example, some groups have begun to educate the public on lease-revenue bonds (LRBs), a back-

door way to finance new prison construction that skirts states' balanced budget rules and voter-ratification requirements for new government-bond projects.¹⁹

Most prison costs are fixed and are not easily cut. The only way to substantially reduce spending on corrections is to send fewer people to jail or prison and shut down penal facilities. Confronted with powerful interests that profit politically and economically from mass imprisonment, public officials make largely symbolic cuts that do little to reduce the incarcerated population – or save money. Rather, these cuts render life in prison and life after prison leaner and meaner.

As the federal prison population grows and staff positions go unfilled, homicides, assaults, and other acts of violence appear to be on the rise in federal penitentiaries.²⁰ Reports of inmates being fed spoiled or inedible food are rising nationwide. Budget cuts have targeted so-called nonessential prison services like educational, substance abuse, and vocational programs that help reduce recidivism and were already grossly underfunded.

Charging prisoners fees for services like meals, lodging, and visits to the doctor is becoming more common. Politicians in Des Moines, Iowa, even considered charging inmates for toilet paper to save \$2,300 a year. In some cases, former prisoners and family members of juvenile offenders have been sent to prison because they could not pay off fees charged by corrections. As judicial budgets contract, judges in some states have become exceptionally aggressive about collecting fines and fees. Sending poor people to jail if they cannot pay corrections fees or court-imposed fines is a practice of dubious constitutionality.

These developments are part of what some call a new war on the poor, as poverty is increasingly criminalized.²¹ The

number of ordinances against the poor for acts of vagrancy, panhandling, and sleeping on the street has been rising since 2006. “Zero tolerance” policing is increasingly prevalent, as officers issue more tickets and make more arrests for minor infractions like jaywalking, littering, and truancy. Justice delayed is often justice denied as judges and courthouses go on furlough, judgeships remain vacant to save money, and trials are postponed. The quality of justice is also deteriorating because of cuts in legal services for the indigent.

At the same time that poverty is being criminalized, states and the federal government are slashing social services for the poor, a scenario that may result in more people ending up in prison. The limited research available suggests that certain types of social welfare spending reduce crime. What we do know conclusively is that states and countries that spend more on social welfare tend to have lower incarceration rates, while high rates of inequality are associated with higher rates of imprisonment.

The vested interests in maintaining the United States' extensive penal system are considerable. A sea of red ink may be a necessary, but not sufficient, condition to force the closing of prisons and jails and to spur a sharp drop in the incarcerated population. The most telling precedent for such a shift is the deinstitutionalization of the mentally ill in the latter half of the twentieth century. Deinstitutionalization was a rare instance when the government eventually shut down a vast archipelago of institutions that states had invested in heavily for many years. But the shutdown involved a protracted political drama that played out for decades. In 1955, the state mental health population was 559,000, nearly as large on a per capita basis as the prison popu-

lation today. By 2000, it had fallen to below 100,000, a drop of more than 90 percent.²² The development of new drugs like Reserprine and chlorpromazine to combat mental illness helps explain some of this drop. But federal actions, the culmination of decades of political agitation around this issue, were the primary catalyst.

The deinstitutionalization case demonstrates the enormous importance of the political context for the development and implementation of successful federal and state policies to dramatically shrink state institutions. Rising anxiety among state officials about the escalating costs of state mental institutions in the late 1940s did not on its own empty state asylums; leadership at the federal level was critical to enacting change. Another vital component was the shift in the training, worldview, and identity of the psychiatric profession, as the American Psychiatric Association split over the question of institutional care versus the community mental health model. Furthermore, the emergence of major new and interconnected social movements (including the civil rights movement and the senior citizens movement) as well as journalistic and popular attention to the dire conditions in state mental hospitals were pivotal in pushing policy-makers to embrace change. Moreover, the issue had to be reconceived. No longer was mental health concerned only with individuals and their individual diseases. Rather, mental health became a barometer for the health of the whole community.

Mental institutions were a huge and growing drain on state budgets for years, yet deinstitutionalization progressed very slowly. Politicians and policy-makers faced enormous resistance to closing state mental hospitals. Unions and communities for which mental hospitals were the primary employer bitterly opposed

closing the facilities. Only after many contentious years did unions secure government support to retrain workers in psychiatric hospitals to prepare them to be transferred into community treatment programs. Even though many of the psychiatrists moved on and many residents of state mental hospitals were eventually transferred to other facilities or released, these largely empty hulks stayed open for decades. It wasn't until the 1990s – nearly four decades after talk of deinstitutionalization began – that whole institutions began to close in large numbers. It took just as long for political leadership and the public to acknowledge that successful integration requires more than adequate medical treatment; the mentally ill need access to housing and jobs as well. Remarkably, it wasn't until 1993 that state funding for community mental health surpassed state funding for mental institutions.²³

The expected financial savings from deinstitutionalization were oversold to politicians and the wider public, thus undermining the case for adequate funding of services for the mentally ill. Cutbacks in mental-health funds, which started in the Reagan years, and cuts in federal money for public housing and other services resulted in streams of apparently deranged people living on the streets. This outcome fueled a backlash against deinstitutionalization and community mental health and overshadowed the fact that many mentally ill people made successful transitions to community life. With the closing of state mental hospitals and the contraction of federal money for treatment, services, and housing, jails and prisons, unfortunately, became the mental institutions of last resort for many people with mental health problems.

It is also important to keep in mind that states were able to reduce their mental health tab by getting someone

else to pick up the bill. Under the landmark Medicare and Medicaid legislation enacted in 1965, the federal government would not reimburse states for the cost of care for indigent and senile elderly people residing in state asylums. As a result, the elderly, who made up a large proportion of the state mental hospital population, were transferred to nursing homes, where the federal government would pick up the cost.

Although there are important parallels between deinstitutionalization of the mentally ill and efforts to end mass incarceration, there are also major differences suggesting that successfully reducing the country's incarcerated population will be an even greater challenge.

The mentally ill and their legal advocates had considerable access to the court system to press their civil rights claims and to expose the dire conditions in state mental hospitals. By contrast, the 1996 Prison Litigation Reform Act, the Anti-terrorism and Effective Death Penalty Act, and a string of unfavorable court decisions have made it increasingly difficult for inmates and their legal advocates to use the courts to pursue civil rights claims and to document and expose the degrading and inhumane conditions in U.S. prisons and jails. Likewise, the media no longer serve as vehicles to prod reform. Due to cutbacks and restructuring in the news business, investigative pieces documenting abuses in all kinds of institutions (prisons, nursing homes, hospitals) are increasingly rare. Furthermore, prison and state officials have been erecting ever-higher barriers for journalists attempting to cover what happens behind prison walls, including, in some states, complete bans on face-to-face interviews with inmates. Moreover, the once vibrant in-house penal press is nearly extinct.

Debates about crime, punishment, and law and order have been deeply entangled in wider political battles and electoral strategies in ways that the mental health issue never was. Mental health policy has been a controversial subject from time to time, but it has never been a lightning rod in American politics in the way penal policy and law and order have been since the 1960s.

Republicans waged the rebirth of the modern Republican Party on the "Southern strategy." They used the rhetoric of law and order as code words for race to undermine the new Democratic majority resting on the civil rights movement and to build a new coalition of white voters anchored in the South and West. Bill Clinton staked his campaign for the White House on a kinder, gentler version of the law-and-order Southern strategy to woo the so-called Reagan Democrats back to the party. Given the high profile of crime and punishment at the federal level and how this issue has been a pillar for repositioning the major political parties, political openings to shift penal policy in a less punitive direction are fraught with risk and are hard to sustain.

Public opinion poses an additional hurdle to penal reform. Penal policy is particularly vulnerable to moral panics – often fueled by politicians – in the wake of certain high-profile crimes or events. Some suggest that moral panics are more likely to occur during periods of broad uncertainty and insecurity in society. Faced with a particularly heinous high-profile violent crime, many public officials believe that they need to respond with bold law-and-order gestures to address what they perceive to be the public's anger and moral outrage.

Yet policy-makers grossly misperceive public opinion on penal matters, mistakenly seeing the public as more supportive of punitive measures than it actually

is.²⁴ This judgment error may explain policy-makers' persistent reticence to make bold moves that would slash the incarceration rate and why politicians across the political spectrum respond to increases in the crime rate by reflexively calling for more prisons and tougher sentences.

In reality, public opinion research indicates that Americans have a much more nuanced view of spending on criminal justice than the popular media or public-policy debates suggest. The public overwhelmingly favors spending more on policing, crime prevention programs for young people, and drug treatment for nonviolent offenders. But it strongly opposes additional funding for prisons.²⁵

Differences in the structure of state institutions and the quality of civic life may help to explain why redirecting penal policy from the law-and-order path, however costly it has become, will be more difficult in some states than in others.²⁶ The case of California is a stark reminder that political and institutional logic can matter as much as or more than economic logic in determining the future course of penal policy. California has been teetering on the brink of fiscal and social disaster for several years. Commentators have even begun to refer to it as a "failed state," a term usually associated with countries like the Congo or Afghanistan. The Golden State has been unable or unwilling to soften its Three Strikes law, the toughest in the nation. Third-strike offenders in California – some with modest third offenses, such as petty theft – languish in the state's overcrowded prison system at an average cost of \$49,000 a year.²⁷

The state's voter initiative and referendum process continues to warp penal policies, making California highly vulnerable to penal populism and well-funded single-issue groups. Facing fiscal Arma-

geddon, the state's voters nonetheless narrowly approved Proposition 9 in November 2008; it toughens requirements for granting parole and calls for amending the state's constitution to give crime victims unprecedented influence on criminal cases. Voters soundly rejected Proposition 5, which would have expanded alternative sentences for nonviolent drug offenders and saved billions of dollars.

California faced a \$24 billion budget shortfall in 2009 at the same time that a federal court was demanding that the state spend billions more on prison health care or else release about forty thousand offenders to relieve gross overcrowding. A proposal to release some nonviolent offenders created a political firestorm. A watered-down compromise was nearly scuttled in the eleventh hour in the State Assembly after the sensational story of Phillip Garrido became front-page news worldwide in Summer 2009.²⁸ Law enforcement groups successfully pressed Democrats to strip the bill of provisions to reduce sentences for some nonviolent offenders and establish a commission to revise prison sentencing guidelines. The final bill had the capacity to reduce the prison population by sixteen thousand inmates, far fewer than originally proposed.²⁹

The current economic crisis presents an opportunity to redirect U.S. penal policy that opponents of the prison boom should exploit. But framing this issue as primarily an economic one will not sustain the political momentum needed over the long haul to drastically reduce the prison population. Economic justification also ignores the fact that a successful decarceration will cost money. The people reentering society after prison need significant educational, vocational, housing, health, and economic

support. We need to make considerable reinvestments in reentry to ensure that the communities prisoners return to are not further destabilized by waves of former prisoners whose time inside has greatly impaired their economic, educational, and social opportunities.

In addition, while we need to make reentry a priority, we cannot focus only on those who are released. We need to reduce the number of people who are sent to jail or prison and the length of their sentences. Prisons and jails exacerbate many social ills that contribute to crime and poverty and are unlikely to significantly rehabilitate anyone. Roughly half the people in U.S. prisons are serving time for nonviolent offenses (many of them property or petty drug offenses that would not warrant a sentence in many other countries), while sentences for violent offenses have lengthened considerably.

Criminal justice is fundamentally a political problem, not a crime-and-punishment problem. A vast penal system is well on its way to becoming a key governing institution in the United States. Like the vast military-industrial complex that quickly insinuated itself into the political and economic fabric in the postwar decades, the penal system has become so large and so integral to the U.S. polity and the economy that we barely see it anymore.

Framing the carceral state primarily as an economic issue may yield some

short-term benefits. However, focusing too heavily on the economic burden may draw attention away from the fact that the penal system has begun to fundamentally alter how key social and political institutions operate and to pervert what it means to be a citizen in the United States.³⁰ It also undercuts the compelling civil- and human-rights arguments that the carceral state raises as it removes wide swaths of African Americans, Latinos, and poor Americans from their neighborhoods. Mass incarceration devastates the families and communities the imprisoned leave behind. It raises troubling questions about the fairness and legitimacy not only of the criminal justice system but also of the political system more broadly. In the absence of more compelling arguments against the prison buildup and of a durable movement to sell these arguments to skeptical policy-makers and the wider public, it becomes that much easier to revert to funding a vast carceral state, no questions asked, once the economy picks up.

A durable reform movement to weather the backlash that will inevitably be sparked by efforts to substantially reduce the incarceration rate has yet to coalesce. The economic crisis does not spell the beginning of the end of mass incarceration in the United States. To borrow from Winston Churchill, "It is not even the beginning of the end. But it is, perhaps, the end of the beginning."³¹

ENDNOTES

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- ²⁸ Garrido was accused of kidnapping an eleven-year-old girl and confining her to an undiscovered backyard encampment for nearly two decades while he was on parole for rape and kidnapping offenses dating back to 1976.
- ²⁹ Solomon Moore, "California Passes Bill Addressing Prisons," *The New York Times*, September 13, 2009.
- ³⁰ For a development of this point, see Marie Gottschalk, "City on a Hill, City Behind Bars: Criminal Justice, Social Justice, and American Exceptionalism," *Nanzan Review of American Studies* 31 (2009).
- ³¹ Quoted in "Editorial: What's With All the Good News Lately?" *Drug War Chronicle* 583 (May 1, 2009).