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INTRODUCTION TO YOUTH, FAMILY AND THE LAW

Steven R. Donziger*

The fact that children in the United States suffer from the highest rate of poverty in the industrialized world exacts a terrible and deadly toll. The United States has the most wealth of any developed country, yet it fails miserably to take care of its children.¹ This is not an isolated problem. An estimated fifteen million children live in poverty in the United States and about twelve million are malnourished.² The effects of this should not be surprising: rates of incarceration,³ child abuse, youth violence⁴ and classroom overcrowding have skyrocketed. In New York City,

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¹ THE REAL WAR ON CRIME: THE REPORT OF THE NATIONAL CRIMINAL JUSTICE COMMISSION 27-28 (Steven R. Donziger ed., 1996) [hereinafter THE REAL WAR ON CRIME]. For a discussion criticizing the United States for its failure to ratify the United Nations Convention on the Rights of the Child, ratified by 187 countries worldwide, see Paula Donnolo & Kim K. Azzarelli, *Ignoring the Human Rights of Children: A Perspective on America's Failure to Ratify the United Nations Convention on the Rights of the Child*, 5 J.L. & POL'Y 203 (1996).

² THE REAL WAR ON CRIME, *supra* note 1, at 27-28. Forty-four percent of African American children, 38% of Latino children and 16% of White children in the United States are born into poverty, compared to 1.6% of all children in Sweden. THE REAL WAR ON CRIME, *supra* note 1, at 29 tbl.21.

³ For in-depth analysis and discussion of the rate of incarceration and its effect on families, see THE REAL WAR ON CRIME, *supra* note 1, at ch. 2.

⁴ For an in-depth analysis and discussion of youth violence, see THE REAL WAR ON CRIME, *supra* note 1, at ch. 5.

students receive their lessons in lavatories for lack of adequate classroom space⁵ while upstate, new prisons house inmates who are products of the same educational system that so easily tolerates classroom overcrowding.

Most disturbing is that rates of child poverty and rates of incarceration have increased dramatically in recent years. The two trends seem to feed off each other:⁶ the more child poverty rises, the more at-risk children there are, the more crime that results and the more prescient investments in prisons appear. The more money that goes into prisons, the less money there is to fund programs for children, the more child poverty rises, the more at-risk children there are, the more crime there is—an so on. While we slash programs that provide a safety net for young people, we plan for young people to fail by shifting the “savings” to fund the largest peacetime prison expansion in world history.

Our rates of incarceration, already one of the highest in the world in 1980, have since tripled. Five million persons are under criminal justice supervision on any given day. About eleven million people are arrested in any given year. The number of people admitted to a locked facility in a single year surpasses the combined populations of Alaska, Delaware, Hawaii, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont and Wyoming.⁷ Profits from this massive investment are soaring for private prison and security companies that capitalize on this trend. The prison expansion has almost no relationship to rates of crime, which (with the exception of a small amount of juvenile homicide that accounts for about 3000 out of twelve million arrests each year) has stayed remarkably stable for the last twenty years even though most Americans, because of an emphasis on violent crime by the media, believe it has risen

⁵ See, e.g., Jacques Steinberg, *Teachers Step Up Pressure on Issue of Overcrowding*, N.Y. TIMES, Sept. 26, 1996, at B3 (reporting that the New York City Board of Education “has 91,000 children attending class in inferior settings, such as overcrowded classrooms or in hallways and auditoriums”).

⁶ See THE REAL WAR ON CRIME, *supra* note 1, at 29-30 (discussing “the tradeoff between prisons and opportunities for youth”).

⁷ THE REAL WAR ON CRIME, *supra* note 1, at 34-35 (“Each year, prisons and jails across the country admit 11 million individuals for booking.”).

dramatically.⁸ Peter Cicchino, in the article that follows, points out that child poverty kills far more children each day in the United States than homicide.⁹

Many advocates of continued prison expansion argue that longer sentences are necessary to protect families from crime. But few realize that our criminal justice policies have made it increasingly difficult to create the very family units these people claim to want to protect.¹⁰ Because one out of three African American males aged eighteen through thirty-four is under criminal justice supervision—a fact that has more to do with a discriminatory crime policy than with rates of crime—there is a gross shortage of available men for marriage.¹¹ This fact is exacerbated by a shortage of job opportunities in the inner city and a law enforcement policy that aims its “war” on drugs almost exclusively at inner city neighborhoods even though drug use is just as common in suburbia. Disruption of family life due to parental incarceration is also an increasingly serious consequence of our policy of prisonization.¹² Of the over one million children who have a parent in prison, studies show that these children are more likely to live in poverty, lose self-confidence, experience traumatic stress and ultimately spend time in prison themselves.

⁸ For a brief discussion of the public misperception of juvenile crime, see Robert B. Acton, Note, *Gubernatorial Initiatives and Rhetoric of Juvenile Justice Reform*, 5 J.L. & POL’Y 277 (1996); Linda F. Giardino, Note, *Statutory Rhetoric: The Realities Behind Juvenile Justice Policies in America*, 5 J.L. & POL’Y 223 (1996).

⁹ See generally Peter M. Cicchino, *A Problem Child: An Empirical Survey and Rhetorical Analysis of Child Poverty in the United States*, 5 J.L. & POL’Y 5 (1996).

¹⁰ The term “family” as used in this Introduction is broadly construed to include both traditional and nontraditional familial relationships. For a discussion advocating the broad definition of “family,” see Paula L. Ettelbrick, *Wedlock Alert: A Comment on Lesbian and Gay Family Recognition*, 5 J.L. & POL’Y 107 (1996).

¹¹ See THE REAL WAR ON CRIME, *supra* note 1, at 101-03 (discussing the “magnitude of minority imprisonment”).

¹² Fully 78% of the 100,000 women who are locked up in America have children. See THE REAL WAR ON CRIME, *supra* note 1, at 146-58 (discussing “women and the criminal justice system”).

It is vital that we try to gain a greater appreciation of how criminal justice trends interact with the issue of children and families. We cannot bemoan the recent welfare bill without understanding how our criminal justice system robs tax money that could pay for programs to lower child poverty. Nor can we control crime effectively without an understanding of how prisons can create crime by exposing so many millions of men to its violent subculture, and then sending them back to the streets without employable skills and economic opportunity. Nor can we effectively combat arguments that there is not enough government money for programs to support children without understanding how the criminal justice system wastes money and manipulates our fear.

The articles and notes that follow, each compelling in their own right, together focus attention on the issues of family and children that so trouble our nation. The writers of this material and the staff of the *Journal of Law and Policy* at Brooklyn Law School deserve praise for organizing such a remarkable scholarly effort to examine this most important of issues. This work makes it all the more clear that we must act now to ameliorate suffering and create a just world for our children.