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Prisons for Profit: Neoliberal Rationality's Transformation of America's Prisons

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PRISONS FOR PROFIT:
NEOLIBERAL RATIONALITY'S TRANSFORMATION OF AMERICA'S PRISONS

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ABSTRACT

This project examines the dramatic changes in the American prison system that resulted from privatization and deregulation. Using Wendy Brown's conceptualization of neoliberal rationality, this study focuses on the important neoliberal transformation that resulted in a dramatic increase in privatization of prisons. This transformation has affected more than the institutions themselves, as some argue that even individual rationality has been transformed by neoliberalism. The purpose of this study is to analyze the transformation of American prisons from publicly run to privately operated. The analysis includes how this has affected American prisons and the rationalities of those who advocate on behalf of and against these private businesses. Specifically, this study examines the largest private prison company in the United States: The Corrections Corporation of America. The focus is on not just the macro level, but also on the micro level transformations that affected the lives of inmates, families, and their communities.

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INTRODUCTION

**“The degree of civilization in a society can be judged by entering its prisons.”
- Fyodor Dostoyevsky**

The issue of mass incarceration has slowly entered the mainstream consciousness of everyday Americans. Increasingly, the issue has found its way into public discourse due to the efforts of the Black Lives Matter movement, other advocacy groups, and think tanks. However, a component of mass incarceration that has not received much attention is the role that private prisons play in the issues of America’s criminal justice system. Studying the privatization of prisons in America is important because the fundamental transformation of our prison systems has serious consequences for our society and political system. Privatization of governmental services increased rapidly throughout the 1970s and 1980s due to increasing popularity of the argument that private companies can do governmental jobs cheaper and more efficiently. This argument is identified as neoliberalism, a rather fragmented ideology that favors privatization, deregulation, and promotes individual responsibility. The fragmentation of neoliberalism makes it difficult to study as there are many dimensions and interpretations of this concept. Most scholars, however, do regard the late 20th century as a time that promoted an increase acceptance of neoliberal ideals. An important but understated aspect of neoliberalism is the privatization of prisons.

Today, private prisons constitute 6% of America’s state prisons and 16% of America’s federal prisons (American Civil Liberties Union 2015b). In 2010, there were 128,195 state and federal prisoners are held in private facilities. While this is only around 8% of the total prison population, between 2002 and 2009, the amount of people incarcerated through private companies rose 37%, and trends suggest that this percentage has continued to grow to the present

day (Lee 2012). While it may seem like this is such a small issue in the context of the large issue of mass incarceration, a lot of money goes into the privatization of prisons. The Corrections Corporation of America, the largest private prison company in the US, was reported in 2011 as making \$1.7 billion in revenue, spending \$17.4 million on lobbying expenditures in the last ten years, spending \$1.9 million on political contributions between 2003-2012, and awarding \$3.7 million for executive compensation to their CEO in 2011 (Lee 2012). Clearly, a significant amount of money is involved in the privatization of prisons. Because of the increasing prevalence of private prisons, I believe that questions must be asked regarding the acceptability of this situation, and if the economic benefits to privatization outweigh potential concerns.

The privatization of prisons is an important feature within the United States' criminal justice system. In this paper, I analyze multiple aspects of neoliberal transformation on the privatization of prisons. Because neoliberalism can be conceptualized in various ways, it is important to note that I will use Wendy Brown's framework of neoliberal rationality for this project. Her specific conception of neoliberal rationality is useful because it provides a framework to understand the neoliberal transformation of prisons while placing emphasis on a micro-level of analysis, thus raising several questions about private prisons prioritizing profits over people.

To analyze neoliberalism and the privatization of American prisons, I begin by analyzing what neoliberalism is. In Chapter One, I will review several conceptualizations of neoliberalism in the existing literature and describe how neoliberalism's importance has grown historically in the late 20th century. In Chapter Two, I will unpack Wendy Brown's framework and conception of neoliberal rationality, drawing out what makes her perspective unique and useful to this project. In Chapter 3, I contextualize the privatization of prisons and the use of the criminal

justice system to amass profits. In Chapter Four, I conduct a case study of the Corrections Corporation of America, utilizing Wendy Brown's concept of neoliberal rationality to identify aspects of privatization that are frequently ignored in the prevailing debates surrounding the topic. In the fifth and concluding chapter, I analyze how Brown's framework is useful for understanding and questioning private prisons as applied to the Corrections Corporations of America and discuss the possible paths of future research on privatization of prisons.

CHAPTER ONE: THE EMERGENCE OF NEOLIBERALISM IN AMERICA

For the last quarter century, neoliberalism has increasingly gained attention in political debates, academia, and media. It has been associated with various political figures and platforms, even while not being publicly embraced as a label. Reaganomics, Thatcherism, Bill Clinton's market globalism, and Tony Blair's Third Way all present variations of neoliberalism that have influenced policy in America and the rest of the world. Because of the broad nature of this economic ideology, neoliberalism has been able to adapt to a variety of circumstances. All the while, it has held enough semblance to still be thought of, by some, as singular theory (Steger and Roy 2010: 14).

Deeper reflection on neoliberalism, however, reveals that conceptualizations of neoliberalism vary across the board. Perhaps it has been so pervasive because neoliberalism is not a fully formulated ideology that would require specific governmental conditions, and can thus be applied to several governmental structures (Thorson and Lie 2006: 15). A flexible neoliberal theory, then, can be used by liberal democracies and autocratic regimes alike. This has led to the conceptualization of neoliberalism on multiple levels: from an economic outlet, as an ideology, and as a form of governmentality. These differences make it difficult for both supporters and critics of neoliberalism to categorize it as a monolithic ideology. Now, scholars have begun to understand neoliberalism in new ways that attempt to circumvent these differences.

While scholars agree that neoliberalism refers to the re-emergence of classical liberalism, there are still obstacles to creating one, all encompassing conceptualization of neoliberalism. The greatest obstacle to conceptualizing neoliberalism is that each account associated with political figures is different and has its own peculiarities. While not embracing the title, many including

Thatcher, Clinton, Blair, Yeltsin and Bush “all share some affinity for ‘neoliberal’ policies aimed at deregulating national economies, liberalizing international trade, and creating a single global market” (Steger and Roy 2010: X). Because of this discrepancy, scholars have found issues when discussing an exact definition of neoliberalism. Scholars have written about neoliberalism as operating on several different levels. For my research, Wendy Brown’s interpretation of neoliberalism proves extremely useful in conceptualizing this idea and understanding the repercussions, as she takes understanding neoliberalism to a deeper level. Brown conceptualizes neoliberalism as a rationality. She describes it as:

“a distinctive mode of reasons of the production of subjects, a ‘code of conduct,’ and a scheme of valuation. It names a historically specific economic and political reaction against Keynesianism and democratic socialism, as well as a more generalized practice of ‘economizing’ spheres and activities heretofore governed by other tables of values. Yet in its differential instantiations... neoliberalism takes diverse shapes and spawns diverse content and normative details, even different idioms. It is globally ubiquitous, yet disunified and nonidentical with itself in space and over time” (2015: 21).

In other words, Brown argues that this rationale governs decision making, regardless of whether or not ‘neoliberalism’ is a term used to describe the actions of authorities and workings of a policy. It is important to understand that neoliberalism does not have a set definition or a single manifestation that can be recorded as what neoliberalism specifically is. For this reason, one must look to the scholarship on neoliberalism.

Origins of Neoliberalism as a Term

Neoliberalism has been conceptualized in various ways due to its history of simultaneous attempts to describe the re-emergence of classical liberal perspectives. Neoliberalism as a term was first coined in post-World War I Germany, where a small group of economists and scholars of the “Freiburg School’ aimed to revive classical liberalism, an ideology that emphasizes

economic freedom. In the 1970s, the term *neoliberalismo* was also adopted by Latin American economists for their pro-market model. The term became increasingly used in the 1990s by left-leaning critics of market reform in the global South to describe their critique of the economic situation of previous years. They believed that situation they were critiquing occurred due to a recent spread of economic ideals with which they found issue. These ideals can be attributed to neoclassical economist Nobel-prize winners Milton Friedman and Friedrich von Hayek.

Friedman and Hayek did not claim the title of ‘neoliberals’ for themselves, but their theories have been consistently described as neoliberal. Since this time, neoliberalism has stayed public view and has been associated with political figures across the world, even if the title was not claimed on their own accounts. (Steger and Roy 2010: X) Neoliberalism, then, entered first entered the vocabulary of critics attempting to describe the spread of ideals they did not find favorable.

Despite these beginnings, neoliberalism has been conceptualized by its supporters and opponents as a simultaneous return to economic liberalism, which believes in the idea “that states ought to abstain from intervening in the economy, and instead leave as much as possible up to individuals participating in free and self-regulating markets” (Thorson and Lie 2006: 2). While some describe the shift to neoliberalism as a return to this mode of economic thought, as neoliberalism does resemble liberalism and draws from many of its points, scholars such as Thorson and Lie argue that it has become an ideology that is truly its own (2006: 4). To understand the birth of neoliberalism, it is important to look at two different types of liberalism, as one form serves as a base for neoliberalism and the other is a completely different conception. This should remedy common misconceptions that many have about neoliberalism, including how it relates to liberalisms.

The 'neo' in Neoliberalism: Modern Liberalism versus Classical Liberalism

A common misconception about neoliberalism is that it holds to the same values and understandings of today's liberal ideology. Many are confused by the term neoliberal, and do not know how it relates to classical liberalism, and question if it is the same thing as modern liberal ideology. Even though both classical and modern liberalism are forms of liberal ideology, they are very different, and these differences are important for understanding scholarship regarding neoliberalism.

Classical liberalism draws mainly from scholars around the 16th century, including Adam Smith, John Locke, and Alexis de Tocqueville. This form emphasizes minimal state involvement to the extent that the states serves only "to uphold the most fundamental aspects of public order," and thus, classic liberals tends to favor laissez-faire economics (Thorson and Lie 2006: 4). Classical liberals hold private property and the enforcement of contracts as key ideals and rely on the 'invisible hand' of the market place to allocate resources and to foster economic success (Steger and Roy 2010: 3). Other than the 'invisible hand,' classical liberal Adam Smith also is credited with the concept of "*homo economicus*- the view that people are isolated individuals whose actions reflect mostly their material self-interests" (Steger and Roy 2010: 2). Going forward, this *homo economicus* concept will be very important, as Foucault will extend on this notion. Furthermore, classical liberalism views economics and politics as separate, but gives economic matters a superior status as it can operate smoothly without intervention (Steger and Roy 2010: 3). For this reason, many call this same ideology *economic liberalism*. The important connection to make is that classical liberal ideas correspond with neoliberalism and act as a building block for this mode of thought.

The second type of liberalism that needs attention in order to avoid confusion is modern liberalism. In today's context, 'liberals' in American terminology represent the political left. Most members of the political left do not ascribe to neoliberal ideologies, so this vocabulary can be incredibly confusing. In modern liberalism, the government is an active participant in the marketplace, and thus the ideology stands in stark contrast to neoliberalism. Modern liberalism is a profound revision of classical liberalism as it suggests that the state should "supply essential goods and services to everyone" (Thorson and Lie 2006: 5). While classical or 'economic' "liberals favor laissez-faire economic policies because it is thought that they lead to more freedom and real democracy, modern liberals tend to claim that this analysis is inadequate and misleading, and that the state must play a significant role in the economy, if the most basic liberal goals and purposes are to be made into reality" (Thorson and Lie 2006: 5). This is the form of liberalism that most use to describe today's politics, and because of these drastic differences, can cause much confusion for those attempting to understand neoliberalism.

Because classical liberalism is so different than modern liberalism, it is important to recognize that neoliberalism is a revival of the former. It is also important to recognize that neoliberalism has roots in classical liberalism, and that modern liberalism is a completely different concept. When scholars discuss neoliberalism as a revival of liberalism, they are referring to liberalism in the classical sense. This in mind, more can be understood about the conceptualization of neoliberalism by further exploring the historical progression that brought about neoliberalism.

Neoliberalism's Historical Emergence as a Term of Analysis

Before diving into the implications of neoliberalism, it is important to understand the historical context from which scholarship on this ideology has stemmed. Neoliberalism cannot

be given a date of origin, as it pulls from past liberal ideology and has slowly emerged over time. The ideology has its roots in economic theory and policy making as part of liberalism as presented by Adam Smith. In the late 20th century, these values reemerged as a new ideology that is said to be behind the world's current stage of capitalist development as its ideals are arguably conducive to privatization and growth (Thorson and Lie 2006: 8).

Neoliberalism can, in large part, be understood in terms of the economic theories and ideologies it displaced. Between 1945-1970, American policy was greatly inspired by John Maynard Keynes. His ideology focuses on the positives that occur from intervention by public services on the private sector, and thus promotes a healthy balance between the two sectors. This ideology has been frequently referred to as the Keynesian Welfare State (Offe 1983: 240). Keynesian political philosophy is challenging to fully understand, because many followers came after him added much to his theories. While focused on economic models, Keynesian ideology nonetheless emphasized certain matters, such as justice, to take precedence over others (Fitzgibbons 2003: 64). Keynesian theory focused on the wellbeing of the people, and emphasized goals such as the alleviation of poverty and full employment (Thorson and Lie 2005: 8). Keynes argued there was justification for inequalities of incomes and wealth that existed in his day, as there are valuable human activities which require the motive of money making in order for full fruition. Yet, he said that the large disparities which existed in his day were far too large (Fitzgibbons 2003: 67). Because people aim to make money, the game should be played with rules and limitations (Fitzgibbons 2003: 67). In order to compromise this dilemma, Keynes promoted a 'Middle Way,' which constituted a compromise between pure free markets and fully centralized activity.

The significance of Keynesianism is highlighted in its rejection of the view that markets operate best when governed only by ‘the invisible hand’ and its recognition of the need for substantial state intervention in economic affairs (Berman 2005: 17). This view also advocates occasional state action as it could help to avoid economic crises that threaten both democracy and capitalism (Berman 2005: 17). The ideology aimed to achieve the aforementioned social objectives “without changing the ownership of industry.” He believed that a state could reconcile private ownership of the means of production with a democratic management of the economy (Berman 2005: 18). Still, Keynes did argue that redistribution was a likely method to secure full employment. Moderate redistribution is viewed as a more politically radical implication of Keynes’s economic theory. As long as “the state is able to determine the aggregate amount of resources devoted to augmenting the instruments [i.e., the capital base] and the basic reward to those who own them,” there is no “obvious case” for further involvement (Economists View 2010).

While Keynesianism was a dominant outlook for some time, change was bound to come. 1945-1970 fostered the expansion of “New Deal style institutions of social protection and regulation,” following World War II, Keynesianism was replaced as the dominant theory in American politics (Palley 2004: 21). The 70s presented a swift shift towards neoliberalism, aided by social and economic woes associated with oil shock prices and the Vietnam War. Scholars argue that this entry point could be a revival of liberalism, hence the term ‘neo,’ meaning new new, ‘liberalism.’ Others argue that this emergence of so-called neoliberalism was the start of a new ideological frame altogether. At an economic level, New Deal policy success led many to believe that the structure was no longer needed as the problems had been solved. On a cultural

level, radical individualism rhetoric was increasingly promoted (even more so than it already was in America) as the Cold War led to a sharp response to communism. (Palley 2004: 21-22).

With the ascendance of Margaret Thatcher in 1979 and Ronald Reagan in 1980, neoliberal economic policy solidified its domination. Keynesianism then became formally “replaced by a more ‘monetarist’ approach inspired by the theories and research of Milton Friedman (Thorson and Lie 2006: 8).” Keynesianism set the stage for development of neoliberal economic analysis in three ways: First, Keynes articulated the value of governmental intervention. Second, he invented macroeconomic analysis. Third, his legacy was built upon by his followers after his death. (Jones 2012: 182) These are important as Keynes’ emphasis on governmental intervention contrasted greatly with economists such as Friedman and Friedrich Hayek, as they argued that intervention led to inflation and were the cause of economic troubles. Keynes’ view that “the economy ought to be managed according to the large-scale relationships that were in operation, which in turn influenced the many economic decisions of individual actors in the marketplace” created the basis on which monetarists like Friedman could erect their counter theory which emphasizes the importance of laissez-faire and supply and demand (Jones 2012: 184). Keynes’ legacy is also important as his followers expanded his ideas about inflation, and these very ideas were against everything the monetarists stood for. The influence of Keynesianism set the stage for Friedman and other neoliberalism to assert their own theories in stark contrast to those of Keynes (Jones 2012: 182-187).

The shift from Keynesianism towards neoliberalism emphasizes building the economy through less severe regulations, at the cost of Keynesian, socially based goals. Compared to Keynes’ egalitarian liberalism, those who promote neoliberalism “have sought to redefine liberalism by reverting to a more right-wing or laissez-faire stance on economic policy issues”

(Thorson and Lie 2006: 9). These new theories established by Milton Friedman placed “deregulation and individual initiative as the keys to economic success” (Cornwell 2006). These neoliberal ideals were spread to powerful leaders. For example, Friedman served as an economic advisor to Margaret Thatcher and his conception of neoliberalism strongly influenced Republican President Ronald Reagan, leading to significant changes in the economic policies of the United Kingdom and the United States (Cornwell 2006). Reagan sought to create major changes during his presidency, and fostered the idea that governmental intervention had been the driving reason for all of America’s economic issues (Albo 2001).

The theoretical tools of Friedman led Reagan to “roll back state interference and consolidate free market mechanisms” (Munck 2005: 62-62). As inflation posed a serious issue, Reagan enacted a “mixture of monetarist macroeconomic policy and supply-side reform” (Jones 2012: 263). Reagan had four main goals for shifting economic policy: increased deregulation and market liberalization, reign back money supply caused by inflation, cut taxes, and lower public spending. His emphasis on supply-side economics and individualism drove his decisions. Friedman believed that tax cuts were a good thing, as they allowed greater individual freedom and weakened governmental influence. In accordance, Reagan signed into law the largest tax cuts in American history, contributing to the spiraling of the federal deficit. (Jones 2012: 266) Reagan’s stances were similar to those of Thatcher, but had important differences: Trade unions were not as important or as powerful in the U.S., reflecting the distinct nature of the welfare state. In addition, more of the U.S. economy rested in “private hands, which meant that the development of a denationalization or privatization strategy... was less pressing or necessary than it was in Britain” (Jones 2012: 263). This created a unique neoliberal emergence in the United States. “Neoliberal ideas helped smash apart the policy consensus of the immediate

postwar years and led to a change in economic strategy and policy” (Jones 2012: 269). These changes continued from the 1980s onward, as free markets, deregulation, low taxes, limited government, and flexible labor markets reigned supreme (Jones 2012: 271).

This roll back was soon followed by a “roll out” of new policies. In the 1990s, a more proactive, policy-driven form of neoliberalism was furthered. Clinton “broke the back of the New Deal” as he consolidated “the Reagan neoliberal program of small government, tax cuts, deregulation, free trade, and monetarist financial policies” (Albo 2001). Many see great continuity from Reagan to Clinton, and some have even gone as far to say that Clinton finished out many of the unfinished goals of the Reagan administration. “Clinton’s surrender to the right was complete: health care reform was scrapped; welfare was devolved to the states; and from 1995 on Clinton traded back and forth with Republicans over the favored path of deficit reduction and smaller government. Even the fiscal surpluses of Clinton’s second term did not overturn the neoliberal trajectory established during these years” (Albo 2001). In other words, through the Clinton administration, neoliberal theory was extended beyond economics into “the social domain with issues such as welfare reform, penal policy, urban regeneration, and asylum seekers coming to the fore” (Munck 2005: 63). The belief was that socially excluded members of society needed to be regulated for a neoliberal political effort. Society was increasingly viewed as a market, and the state itself became “marketized.” In this way, the state becomes a player, rather than a referee, within the order of capitalism (Munck 2005: 63).

During the Reagan and Clinton presidencies, these changes influenced American prisons as the privatization of many industries increased at this time. The first privatized prison was created just a year before Clinton began his presidency, and privatization continued from there. Before diving into America’s private prison system, it is important to analyze the scholarship

surrounding this topic, as this will draw out issues that may arise when examining the privatization of prisons in relation to the rise of neoliberalism.

The Problem of Theorizing Neoliberalism: Mainstream Accounts

Generally, the basic tenets of neoliberalism include the dominant rule of the market, cutting public expenditure for social services, deregulation, privatization, and the elimination of the “public good” and “community” in exchange for “individual responsibility” (Martinez and Garcia). Diving any deeper into neoliberalism presents multiple understandings and uses of this so-called ideology. With so many different understandings, it can be difficult to pinpoint exactly what neoliberalism is and if it is truly a recognizable ideology. For this reason, I will look at several mainstream accounts of neoliberalism in attempt to fully conceptualize neoliberalism at various levels. I will demonstrate a split in conceptualization, as some see the so-called ideology in purely economic terms, others in ideological terms, and also as a governmentality.

The formulation of economic liberalism served as the main precursor to neoliberalism, thus contributing to the economic dimensions of neoliberalism. Milton Friedman’s economic doctrine strongly influenced Reagan and Clinton. While Friedman is identified as one of the ‘founders’ of neoliberalism, he never takes on the title of neoliberalism to describe his own thoughts. Still, it is worthwhile to understand what he has said, as he did write much about neoliberal ideals. Friedman’s conceptualization of neoliberalism is rooted in an economic perspective. and these notions guide what Friedman sees as the best practices for governmental operations.

“As neoliberal guru Milton Friedman put it in *Capitalism and Freedom*, because profit-making is the essence of democracy, any government that pursues anti-market policies is being antidemocratic, no matter how much informed popular support they might enjoy. Therefore, it is best to restrict governments to the job of protecting private property and enforcing contracts, and to limit

political debate to minor issues. (The real matters of resource production and distribution and social organization should be determined by market forces)” (McChesney 1999).

In other words, Friedman regards market forces, as opposed to governmental regulation, as an important way to maximize profitization. It is important to note, however, that Friedman is not a true libertarian, meaning that he did not completely oppose governmental regulation. This situational opposition of governmental intervention is seen time and time again in neoliberal theory (England and Ward 2007: 3-11).

While most of his perspectives are economic in nature, Friedman brings his economic theories down to a micro-level so that it is possible to understand how people are affected by neoliberalism. He explains best himself the relationship between individuals and organizational structures in neoliberalism.

“Neo-liberalism would accept the nineteenth century liberal emphasis on the fundamental importance of the individual, but it would substitute for the nineteenth century goal of laissez-faire as a means to this end, the goal of the competitive order. It would seek to use competition among producers to protect consumers from exploitation, competition among employers to protect workers and owners of property, and competition among consumers to protect the enterprises themselves. The state would police the system, establish conditions favorable to competition and prevent monopoly, provide a stable monetary framework, and relieve acute misery and distress. The citizens would be protected against the state by the existence of a free private market; and against one another by the preservation of competition.” (Friedman 1951: 3)

In this way, it is possible to see that Friedman did take people's' safety into account, and actually placed high priority on protecting them from the market. Thus, Friedman was clearly concerned about individuals and their role in a neoliberal society. Friedman goes on to explain what neoliberalism means on an individual level, as the ideas extend into how people think and

perceive themselves. “Neoliberalism could also include a perspective on moral virtue: the good and virtuous person is one who is able to access the relevant markets and function as a competent actor in these markets. He or she is willing to accept the risks associated with participating in free markets, and to adapt to rapid changes arising from such participation (Friedman 1980)” (Firestone 2012). So even though he does care about the protection of individuals, this explanation demonstrates that Friedman does regard individuals first and foremost as a piece within the capitalist structure.

Other scholars conceptualize neoliberalism further than just economic terms, however, as demonstrated by Dag Thorson and Amund Lie, who develop their conception of neoliberalism as a new formulation of liberal ideology. They define neoliberalism as a revival of liberalism, but say it can be understood as its own *ideology*. What is important about neoliberalism, according to these scholars, is that it emphasizes economic liberalism, which argues that states should not intervene in the economy and individuals should be able to participate in free, self-regulating markets (Thorson and Lie 2006: 2). This focus on economic liberalism advocates “a radical, roll-back of the state and the creation of a society principally governed by market mechanisms” (Thorson and Lie 2006: 14). Thorson and Lie attempt to create a succinct definition, and ultimately find neoliberalism to be an ideology, based on a loose “set of political beliefs which most prominently and prototypically include the conviction that the only legitimate purpose of the state is to safeguard individual, especially commercial, liberty, as well as strong private property rights,” thus leading to the idea that the state should remain minimal in size and influence (2006: 14). They also argue that neoliberalism includes a component of morality, citing Milton Friedman’s *Free to Choose*: “the good and virtuous person is one who is able to access the relevant markets and function as a competent actor in these markets. He or she is

willing to accept the risks associated with participating in free markets, and to adapt to rapid changes arising from such participation” (2006: 15).

Manfred Steger and Ravi Roy also view neoliberalism ideologically, but take a step further and understand it also as a “governmentality.” They recognize that neoliberalism has never been publically embraced as a label by any political leaders, yet has still remained pervasive. It has taken multiple forms, adapting to “specific environments, problems, and opportunities. For this reason, it makes sense to think of our subject in the plural - neoliberalisms rather than a single monolithic manifestation” (Steger and Roy 2010: xi). In general, they identify neoliberalism as the deregulation of national economies, liberalization of national trade, and the creation of a single global market have characterized many politicians and platforms that have been dubbed neoliberal in nature.

This conceptualization can be broken down into three groups, as Steger and Roy see neoliberalism manifested as an ideology, a mode of governance, and as a policy package. As an ideology, Steger and Roy argue that neoliberalism provides a conceptual map that guides people through the complexity of their political worlds, encouraging people to act in certain ways. Global elites including corporate executives, corporate lobbyists, and influential individuals legitimize these behaviors, saturating public discourse with idealized images of a consumerist, free market world (2010: 11). Second, as a mode of governance, neoliberalism serves as what “Michel Foucault called ‘governmentalities’ - certain modes of governance based on particular premises, logics, and power relations” (Steger and Roy 2010: 12). This governmentality embraces entrepreneurial values and celebrates individual empowerment through small government. So, instead of operating for the public good by seeking the advancement of social justice, neoliberal governmentality makes decisions based on the transformation of bureaucratic

mentalities into entrepreneurial identities where government workers focus on their responsibility to the market (Steger and Roy 2010: 12-13). Third, as a policy package, neoliberalism adheres to, what the scholars call, the D-L-P Formula: emphasis on deregulation, liberalization, and privatization. These basic policies, they argue, have led to other neoliberal policy measures including tax cuts, reduction of social services and welfare, anti-unionization, “and the creation of new political institutions, think tanks, and practices designed to reproduce the neoliberal paradigm” (Steger and Roy 2010: 14). With Steger and Roy’s conceptualization of neoliberalism, it is possible to see how neoliberalism can act as an ideology, but also as a governmentality.

Kim England and Kevin Ward have similar views as Steger and Roy, and understand neoliberalism as more than ideology. Like others, the scholars realize that there are many different ways to view neoliberalism. England and Ward have compiled a comprehensive study on neoliberalism, and found that “as we move away from these basic philosophical and programmatic definitions of neoliberalism it becomes much harder to find definitional consensus. There almost appears to be an inverse relationship between the volume of scholarship produced on neoliberalism and the agreement over what it really means” (England and Ward 2007: 8). Because neoliberalism has been used to describe a range of things, outcomes, and processes, England and Ward think of neoliberalism through four different modes of understanding.

Some of England and Ward’s categories are in line with how Steger and Roy operationalize neoliberalism. First, neoliberalism can be regarded as an ideological hegemonic project. This means that through political and cultural dominance, elite actors, institutions, and other representations of capital circulate a coherent program of ideas and image about the world,

its problems, and how they can be solved. Second, neoliberalism operates through policy and programs. When transferring ownership from the public to private sector, this understanding of neoliberalism explains that there is a logical reasoning for these policies and deregulation will create a more efficient system. Third, neoliberalism becomes embodied in a particular state form. It restructures nation-states to redraw the boundary between civil society, market, and state, and it shrinks the size of the government's own capacities. Finally, the fourth understanding is neoliberalism as governmentality, or how interactions and between peoples and institutions are coordinated. In this understanding, “both the economy and the state are involved in the construction of autonomous, responsabilized ‘neo-liberal subjects.’ Through ‘privatization and personalization, neoliberal govern(mentality) aims at transforming recipients of welfare and social service into entrepreneurial subjects, who may be motivated to becomes responsible for themselves.” (England and Ward 2007: 11-13)

David Harvey takes his theoretical analysis of neoliberalism step further than a governmentality, and describes the far reaching effects of neoliberalism outside of how states govern. The type of neoliberalism he examines extends from governmentality into the societal implications for individual thinking. Harvey recognizes that neoliberal political-economic practices have been on the rise since the 1970s. He argues that neoliberalism has grown to become a “hegemonic” mode of discourse that has become incorporated into the way people “interpret, live in, and understand the world,” thus bringing “all human action into the domain of the market” (2005: 3). His account describes neoliberalism as a “theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade” (2005: 2). Guided by economic thought and

management, the state's purpose under this system is to create and preserve an institutional framework that allows for these economic ideals. To do this, states must "set up military, defense, police, and legal structures... to secure private property rights and to guarantee... the proper functioning of markets" (Harvey 2005: 2). Beyond these roles, Harvey says that neoliberalism proposes that states not intervene because the market will work itself out, and any state intervention would lead to bias from involved interest holders. In Harvey's book, *A Brief History of Neoliberalism*, he devotes an entire chapter to the role of the state. By promoting the freedom of individuals and corporations, the neoliberal state will promote "continuous increases in productivity [that] should then deliver higher living standards to everyone" (Harvey 2005: 64). Prosperity should then trickle down to all as productivity is increased across the board.

Harvey contends that this same capitalist mentality from neoliberalism is transferred to the people, and it comes to envelope all aspects of their lives. The idea of promoting individual freedom is central to Harvey's understanding of neoliberal theory, and he argues that neoliberalism has not had a positive effect on freedom. As posited by neoliberalism, individual freedom also means that all individuals are responsible and held accountable for their own actions and well being; "Individual success or failure are interpreted in terms of entrepreneurial virtues or personal failings... rather than attributed to any systemic property (such as class exclusions...)" (Harvey 2005: 65). Harvey also emphasizes neoliberalism's conflict with democracy. Neoliberalism tends to perceive majority rule as a threat to individual rights, which is why it favors rule by economic elites (Harvey 2005: 66). This anti-democratic element has led neoliberal states to move towards elite-ruled governments, even if a democracy is still in place. This has made Harvey extremely skeptical of the results that neoliberalism has brought about. "Political representation is... compromised and corrupted by money power," and the electoral

system is “easily manipulated and corrupted” as well (Harvey 2005: 205). Harvey connects various anti-democratic features of contemporary democracy, such as gerrymandering, the revolving door between government and corporations, corporate lobbyists, with neoliberalism. “Institutions with enormous power, like the Federal Reserve, are outside any democratic control whatsoever” (Harvey 2005: 205-206). Instead of valuing the economized traits that neoliberalism cherishes, Harvey presses the value of “open democracy dedicated to the achievement of social equality coupled with economic, political, and cultural justice” (Harvey 2005: 206). He concludes, “there is a far, far nobler prospect of freedom to be won than that which neoliberalism preaches” (2005: 206).

The issues that scholars find with neoliberalism are directly related to levels at which it is conceptualized. Because the types of critiques depend on how the scholars understand the level of permeation of neoliberalism, it is important to look at scholars’ critiques with this in mind, as this will frame how they articulate the issues they see with neoliberalism.

Negative Effects of Neoliberal Rationality as Understood at Various Levels

The various analyses of neoliberalism focus on both the positive and negative effects neoliberalism has had across the globe. The rapid emergence of innovative products has occurred thanks to the free enterprise. Some have seen their economic structures strengthen and grow. Larger states have benefitted. For a majority, however, poverty and the rise in inequality has been the most prominent result of these policies (McChesney 1999, Shaw 2010). Today, half of the human race live on less than two dollars a day and 86 percent of the world’s resources are used by the wealthiest 20 percent (Shaw 2010). “Defenders of the neoliberal order claim that the spoils of the good life will invariably spread to the broad mass of the population - as long as the neoliberal policies that exacerbated these problems are not interfered with by anyone,” namely

by the government (McChesney 1999). What is intensely debated is if the wealth really does “trickle down,” as advocates of Reaganomics would believe. This inequality on economic terms is one of the critiques many scholars who focus on the economic component of neoliberalism highlight. The issues that result from neoliberalism can be analyzed by looking at its various levels of influence.

While neoliberalism has been primarily understood as an economically centered ideology, it is impossible to separate economic issues from the social and political (Shaw 2010). On a social level, John Rapley recognizes a “shift toward the celebration of greed and selfishness” in response to neoliberalism (2004: 65). Across societies in the 1990s, youth culture across societies was characterized by cynicism, resignation, and materialism (Rapley 2004: 64). Material gratifications in the neoliberal era became less focused on the collective, and arguably entirely on the individual. This “greed is good” rationality has led to high levels of inequality, according to Rapley, and this type of economic growth is unsustainable (2004: 68).

Scholars including Harvey see the economic impact of neoliberalism as permeating deeper than the presence of inequality, to how inequality is regarded.

“Increased social inequality” becomes seen “as necessary to encourage the entrepreneurial risk and innovation that conferred competitive power and stimulated growth. If conditions among the lower classes deteriorated, this was because they failed, usually for personal and cultural reasons, to enhance their own human capital (through dedication to education, the acquisition of a Protestant work ethic, submission to work discipline and flexibility, and the like). Particular problems arose, in short, because of lack of competitive strength or because of personal, cultural, and political failings” (Harvey 2005: 156-157).

Neoliberalism then, is related to a change in how individuals see the world. A free market rationality has led to increased individualism, leading to an association with success and virtue and thus failure with sin. As was typical in 20th century America, the poor were regarded as

responsible for their own conditions. “Devaluing losers allows people to maintain their belief that the world is fundamentally just, even when it patently is not” (Hochschild 1950: 10-31). While problematic, this rationality has maintained an acceptance of neoliberal policy.

Harvey acknowledges other effects of neoliberalism that are worth moral concern. His stance is similar to Shaw’s argument that increased acceptance of neoliberal policy has “[demonized] anything that was publicly owned, [and instead encouraged] the privatization of anything it could” (Shaw 2010). Corporatization, commodification, and the privatization of public assets like water, health care, warfare, and education have had concerning results. “The escalating depletion of the global environmental commons (land, air, water) and proliferating habitat degradations that preclude anything but capital-intensive modes of agricultural production have likewise resulted from the wholesale commodification of nature in all its forms. The commodification (through tourism) of cultural forms, histories, and intellectual creativity entails wholesale dispossessions” (Harvey 2005: 160). The state becomes a redistributor, in the sense that it reverses the flow from upper to lower classes that policies previously supported. This occurs through privatization schemes, according to Harvey, which may appear beneficial to the lower classes initially, but ultimately benefit only the upper classes as capital gain becomes the main priority (Harvey 2005: 163). The neoliberal state further redistributes wealth and income through a tax system that benefits corporations and the upper class (Harvey 2005: 165). Not only does this hurt the people, but it hurts the entire world as natural resources are also exploited for short-term gain (Harvey 2005: 174). It also cuts deeper than economic status, as the effects neoliberalism trample upon human rights, making it difficult for individuals to have their own political voice as money takes the priority (Harvey 2005: 177). Each of the levels that Harvey points out are worth moral concern.

Like Harvey, Professor Sheri Berman of Columbia University recognizes the effects that capitalistic qualities, many of which constitute neoliberalism, can have a negative effect on democracy and moral institutions.

“Yes, capitalism is easily the best method ever discovered for producing growth. But that has never been, and is not today, the only issue. The real debate about markets has focused not simply, or even primarily, on their economic potential, but also on the broader impact they have on the lives of individuals and societies. Critics have worried, and still worry, not about whether unleashing markets will lead to economic growth, but about whether markets themselves will unleash morally and socially irresponsible behavior while eviscerating long-standing communities, traditions, and cultures.” (Berman 2007: 35)

Theorist Wendy Brown takes the fears expressed by Harvey and Berman to another level. Brown recognizes the ills that plague our world today as stemming from neoliberalism, as it assaults the rule of the people. This is highly problematic as this is what a liberal democracy is meant to protect. Brown argues that neoliberalism has done far more than destroy institutions of democracy; as a governing rationality, “neoliberalism transmogrifies every human domain and endeavor, along with humans themselves, according to a specific image of the economic” (Brown 2015: 10). Thus, everything that we do is done in economic terms, even the spheres that are not directly monetized.

Brown mentions four “deleterious effects” of neoliberalism. Looking at what she cites as an issue demonstrates how she sees neoliberalism as an all encompassing rationality, that extends an economic way of thinking into all aspects of life. The first deleterious effect of neoliberalism, she states, is intensified inequality. This effect results in the top strata of society accumulating and retaining wealth, the very bottom lives in depravity, while the middle strata works more for less and struggles to achieve any upward mobility whatsoever (Brown 2015: 28-29). The second

effect she recognizes is the unethical commercialization of activity outside of commonly marketized activity. This commercialization, it is argued, because it contributes to human exploitation as it “limits or stratifies access to what ought to be broadly accessible and shared (education, wilderness, infrastructure), or because it enables something intrinsically horrific or severely denigrating to the planet (organ trafficking, pollution rights, clear cutting, fracking)” (Brown 2015: 29). Third, Brown identifies that there is an ever-growing intimacy of corporate and finance capital within the state, which dominate political decisions and economic policy (Brown 2015: 29). Finally, Brown identifies economic havoc as the last disastrous effect of neoliberalism. This effect is concerned with the ascendance and liberty of financial capital as a destabilizer capable of dramatic economic fluctuations (Brown 2015: 30).

These four effects, while important, are not Brown’s major concern when thinking about the worst effects of neoliberalism. Instead, she focuses on how it operates “as an order of normative reason that... takes shape as a governing rationality extending a specific formulation of economic values, practices, and metrics to every dimension of human life” (Brown 2015: 30). I will delve into the importance of this notion, and the different deleterious effects it has, in the proceeding chapter.

CHAPTER TWO: WENDY BROWN'S ANALYSIS OF NEOLIBERAL RATIONALITY

Foucault's Influence on Wendy Brown's Conceptualization of Neoliberalism

Wendy Brown conceptualizes neoliberalism as “emerging as a governmentality- a mode of governance encompassing but not limited to the state, and one that produces subjects, forms of citizenship and behavior, and a new organization of the social” (Brown 2005: 37). In her view, as a governmentality, neoliberalism enacts, “social policies favorable to business and indifferent towards poverty, social deracination, cultural decimation, long-term resource depletion, and environmental destruction,” relates to third world countries as financial packages given for ‘restructuring’ that alters their ways of life completely” (Brown 2005: 38). In other words, neoliberalism as an all encompassing governmentality that reaches beyond governmental involvement and beyond the market, and thus has political and social implications. But, according to Brown, neoliberalism is more than a governmentality. It also acts as a rationality that causes economic calculations to spread beyond merely economic activities to all aspects of life. In Brown’s words, “when democratic principles of governance, civil codes, and even religious morality are submitted to economic calculation, when no value or good stands outside of this calculus, then sources of opposition to, and mere modulation of, capitalist rationality disappear” (Brown 2005: 46). In this way, the neoliberal rationality dominates today’s society in all aspects of life.

Foucault and the Neoliberal Divergence from Classical Liberalism

In order to fully grasp Wendy Brown’s arguments concerning neoliberal rationality, it is important to dive into the work of those who influenced her, namely French philosopher Michel Foucault. Brown builds her ideas by merging together previous aspects of neoliberalism as identified by Foucault in order to see it as a mode of reason, or rationality. Foucault’s

fundamental insight on neoliberalism as a governmentality and a rationality alters the way that Brown thinks about neoliberalism.

Brown identifies Foucault's interpretation of neoliberalism as a *clear* divergence from classical liberalism. This discontinuity from classical liberalism, which is how mainstream accounts typically frame neoliberalism's reemergence, is worth noting as it influences Brown's understanding of neoliberalism. As Brown notes, "where others saw only economic policy, Foucault discerned a revolutionary and comprehensive political rationality, one that drew on classical liberal language and concerns while inverting many of liberalism's purposes and channels of accountability" (2015: 69). Wendy Brown unpacks several neoliberal departures, modifications, and inversions of classical liberalism as identified by Foucault. These insights are important as they demonstrate Foucault's contribution to understanding neoliberalism and also provide a points from which Brown is able to build her understanding of neoliberalism. Foucault's most significant departures concerning the shift from classical liberalism to neoliberalism, as identified by Brown, are:

- Competition is not seen as natural, and must then be supported from the outside, through state functions.
- Neoliberalism departs through the economization of the state and of social policy, which work together to support economic growth.
- Competition replaces exchange; inequality replaces equality. Neoliberal rationality extends throughout society, legitimizing inequality in every sphere.
- Human capital replaces labor, rendering every subject as entrepreneurial.
- Entrepreneurship replaces production. This means that there is an increased prioritization on productivity over the product.
- The economization and tacticalization of law facilitates the economic game on behalf of an entrepreneurial society.
- The market is truth and thus becomes the site of verification for every type of human activity.
- Responsibilizing the state to support its economy. It acts on behalf of capital because economic growth is *raison d'état*.

- Political consensus replaces individuation and political contestation, and thus all accept the same economic game (2015: 63-69)

The context provided above sets the baseline for further understanding of Foucault's conception of neoliberalism and how, from this, Brown is able to look at neoliberalism as an all-encompassing rationality. In *Undoing the Demos*, Brown draws primarily on Foucault's notions of neoliberalism as she develops a new, systemic conceptualization of neoliberalism as a political rationality. An important takeaway is that Brown draws from and extends Foucault's emphasis on a micro-analysis, which places great importance on individuals. This is important to the argument moving forward because Brown extends much of her framework from Foucault's writing. It is from this base that she comes to clarify neoliberal rationality as its own concept.

Foucault's Conceptualization of Neoliberalism as Governmentality

Foucault conceptualized neoliberalism as a unique form of governmentality and, with significant development from Brown, it can be understood as a political rationality. Wendy Brown argues that Foucault provides essential insight into neoliberalism through an explanation of governmentality. The permeation of the neoliberal rationality becomes clearer as Foucault describes how neoliberalism *governs* as a normative form of reason that unquestionably reaches all governmental functions (Brown 2015: 115). In other words, it becomes clearer by unpacking Foucault's conception of governmentality.

It is important to now revisit governmentality and expand upon what Foucault means by this concept. Brown credits Foucault's *The Birth of Biopolitics* with arguing that neoliberalism a governmentality creates its distinction by "taking the formal principles of a market economy and referring and relating them to, projecting them onto to a general art of government" (2015: 61). Thus, neoliberal governmentality is not about leaving the economy free from governmental

regulation. Instead, the state acts on behalf of the economy and regulates society on behalf of the economy (Brown 2015: 62). In other words, as a means of governance, neoliberalism drives political actions, regimes, violence, and everyday practice of governments and is circulated by norms and thus influences all political action indirectly (Brown 2015: 116). As explained by Andrew Baerg, Foucault regards governmentality as “the conduct of conduct... [It] is not imposed from without, but rather exerts itself through the management of subjects’ freedom(s)” (2009: 117). Or as Rose, O’Malley, and Valverde characterize Foucault’s concept, “governmentality was understood in the broad sense of techniques and procedures for directing human behavior” (2009: 1). In other words, governmentality according to Foucault is the idea that aspects outside of the government function as extensions of the government. Governmentality can be brought to real terms by thinking about what types of areas it influences as a “political-administrative form... It is through governance practices that business models and metrics come to irrigate every crevice of society, circulating from investment banks to schools, from corporations to universities, from public agencies to the individual” (Shenk 2015, interviewing Brown). In order to understand the government’s role, neoliberal governmentality requires an examination of the complex networks that organize government activity, including businesses and other organizations.

Foucault’s Conceptualization of Neoliberalism as Rationality

Neoliberal governmentality results in the permeation of economics into all of economic and governmental matters, and all instruments that act as extensions of the government. The permeation of neoliberalism into daily life as made evident by Foucault’s concept of *homo oeconomicus*. The emergence of *homo oeconomicus* presents the start of the important shift that Foucault recognizes of neoliberalism acting as a rationality. Neoliberalism influences daily life

through what Foucault describes as the prominence of *homo oeconomicus* (Brown 2015: 108). In Foucault's 1978-79 Collège de France lectures, he examines *homo oeconomicus* as "the partner of exchange and the theory of utility based on a problematic of needs" (Brown 2015: 80). What this means is that in a neoliberal market, man becomes his own capital, his own producer, and his own source of earnings. He invests in himself the way people invest in an economy. "He describes a shift in *homo oeconomicus* from classical economic liberalism to neoliberalism wherein an image of man as a creature of needs satisfied through exchange gives way to an image of man as an entrepreneur of himself" (Brown 2015: 80).

The concept of *homo oeconomicus* provides an example of how neoliberalism as a governmentality begins the transition of neoliberalism to be understood as a rationality. As important as Foucault's notion of neoliberalism as governmentality is, Brown argues that Foucault provides a critical insight into neoliberalism through his treatment of neoliberalism as a form political rationality. The distinction between neoliberalism as a governmentality and as a rationality is important to make as the two terms are intertwined in complex ways. Foucault's concept of political rationality goes further than governmentality. While he only briefly touches upon this concept, it is worth examining his contribution as Wendy Brown sees this concept as the key to rethinking neoliberalism. Brown credits Foucault with describing neoliberalism as a "normative order of reason that would become a governing rationality," (Brown 2015: 50). In other words, neoliberalism extends to an individual level in which citizens rationalize their thoughts through a neoliberal lens, giving priority and importance to values of neoliberalism. Brown summarizes Foucault's understanding of neoliberalism as a political rationality by stating:

... The norms and principles of neoliberal rationality do not dictate precise economic policy, but rather set out novel ways of conceiving and relating state, society, economy, and subject and also inaugurate a new “economization” of heretofore noneconomic spheres and endeavors. This conceptualization of neoliberalism is what makes Foucault’s thinking a useful springboard...” (2015: 50)

The most important difference between Foucault’s conceptions of governmentality and political rationality is that governmentality exists as the state’s “power of conducting and compelling populations ‘at a distance,’” whereas political rationality *does not emanate from the state*. Instead, political rationality circulates through the state, organizing it, and influencing its actions (Brown 2015: 118). In other words, political rationality operates on an individual level, and the site of power is no longer the state, but the citizen. This is exactly what the concept of the homo economicus demonstrates. Actors reframe themselves with a neoliberal rationality in a more comprehensive way, as they come to view themselves not as a consumer, but as entrepreneurs. While operating on this individual level, neoliberal political rationality manifests itself “in everyday life as well as in institutions, in a more tangible and material manner” (Rose, O’Malley, and Valverde 2009: 4). In Brown’s words, neoliberalism “reaches the soul of the citizen-subject to education policy to practices of empire. Neoliberal rationality... is not only or even primarily focused on the economy, it involves the extending and disseminating market values to all institutions and social action” (2005: 39-40).

Ultimately, Brown’s conceptualization of the neoliberal rationality is the next step in developing an understanding neoliberalism. According to Brown, Foucault describes neoliberalism as “‘a new programming of liberal governmentality,’ a reformulation of the relations between state, economy, and subject posited and produced by liberalism” (2015: 121).

While governance is not, in essence, neoliberal, neoliberalism has influenced its formulation and development (Brown 2015: 122). In conclusion, Foucault's conceptualization of governmentality is that influence flows from the state to the people, whereas the political rationality derives its power by operating through individuals, influencing all aspects of life by creating norms that validate how the system exists and drives behavior, perception, and action. The control of individuals 'through their freedom' means the "withdrawal of the state from certain domains, followed by the privatization of certain state functions, does not amount to a dismantling of government but rather constitutes a technique of governing" (Brown 2005: 44).

Brown's Implications of Neoliberal Rationality

Understanding neoliberalism as a rationality brings with it various developments in what results from a neoliberal rationality. In her book *Undoing the Demos*, Brown focuses the hindering of democratic systems due to the dominance of neoliberal rationality. While this is her focus, I want to discuss the implications that would be most useful for rethinking the privatization of prisons in America. In my view, Brown's most important development is that neoliberalism creates as it becomes an all encompassing rationality are the eclipse of homo politicus by homo economicus, governance, devolution, responsabilization, benchmarking, and best practices. In combination, these concepts encompass both micro and macro forms of analysis that observe neoliberal rationality's transformation as important for individuals as well as for society at large.

In her book, Wendy Brown argues that our world is experiencing the total domination of neoliberal rationality, meaning that individual rationalities have radically transformed. Neoliberal rationality, she argues, is "converting the distinctly *political* character, meaning, and operation of democracy's constituent elements into *economic* ones" (Brown 2015: 17). Because

Foucault does not fully formulate the notion of neoliberalism as a political rationality as he uses the term infrequently, this leaves much room for Brown's extension (Brown 2015: 121). Brown recognizes neoliberalism as a mode of reason that operates as a Foucauldian 'conduct of conduct' and expands from here (Brown 2015: 21). In other words, neoliberalism produces a specific subject, *homo economicus*, and provides a scheme of valuations (Brown 2015: 48). These valuations advance neoliberalism from a governmentality to political rationality. Brown examines how neoliberalism as new mode of reason changes vocabularies, business practices, political cultures, work life, education, and every aspect of life, particularly focusing on how it influences the basic elements of democracy. Her argument goes beyond the claim that capitalism has corrupted the economy and created a society in which politics and political institutions are dominated by the rich and corporate capital interests through plutocratic means (Brown 2015: 17). It goes deeper, she argues, to the point where neoliberalism's "economization" reaches into noneconomic sphere, changes how individuals see themselves, and inhibits democracy (Brown 2015: 17). In this way, Brown takes an important step forward in rethinking neoliberalism as she extends Foucault's underdeveloped conception of neoliberalism as a political rationality and identify the implications of regarding neoliberalism as a pervasive rationality rather than a mere ideology.

While Foucault recognizes an increased prominence of *homo oeconomicus* in accordance with neoliberal reason, Brown argues that he fails to recognize its "specific eclipse of *homo politicus* in the contemporary era" (2015: 85). The dominance of neoliberal reason does not just increase economization, it makes *homo politicus*, the political conception of man, obsolete. In other words, this important shift is vital to understanding both the rise of neoliberalism, and the demise of democracy (Brown 2015: 107). Brown critiques Foucault's conception of the *homo*

oeconomicus, arguing that it focuses too much on the subject's interests. This is problematic because interests, she argues, may no longer be the drivers of action in a society dominated by neoliberal rationalism. Brown replaces Foucault's notion of interest as motivation with her concept of 'responsibilization.' Responsibilization is the forcing of "the subject to become a responsible self-investor and self-provider," or, in other words, the changing of individual's responsibilities. (Brown 2015: 84). This change happens because individuals realize they must adopt a rationality that meshes with the economy in order to survive and thrive (Brown 2015: 84).

The rise of this rationality, paired with *homo politicus*' disappearance, has important implications. Brown is most alarmed by the complete eclipse of *homo politicus* by the *homo economicus* because it deprives citizens of what could be a democratic weapon against neoliberalism as a governing rationality (Brown 2015: 87). This eclipse of the *homo politicus* presents an interesting paradox: "The neoliberal revolution takes place in the name of freedom - free markets, free countries, free men - but tears up freedom's grounding in sovereignty for states and subjects alike. States are subordinated to the market... Subjects... are inserted into the norms and imperatives of market conduct" (Brown 2015: 108). Through the ascendancy of neoliberal reason, the citizen-subject moves from a political to an economic being, and the state in which this being functions also operates increasingly on economic terms (Brown 2015: 108). Thus both beings are reoriented, both in identity and conduct, "from figures of political sovereignty to figures of financialized firms" (Brown 2015: 109).

Neoliberal rationality can be assumed to also influence the political sphere. Brown identifies Foucault's definition of political rationality as the "conditions, legitimacy, and dissemination of a particular regime of power-knowledge that centers on the truths organizing it

and the world it bring into being” (Brown 2015: 116). Foucault discusses political rationality rather infrequently, requiring Brown to explore the definition and implications of this rationality. To expand on the concept, Brown first explains that understanding governance is key to understanding how neoliberalism became a governing political rationality. Governance represents the transformation of command and control from a hierarchical structure to a complex pattern of networks and cooperation. Governance, Brown argues, is neoliberalism’s “primary administrative form, the political modality through which it creates, environments, structures constraints and incentives, and hence conducts subjects” (2015: 122). Governance has also spread neoliberal rationality throughout society by transforming the political sphere and political life. When governance displaces government in the classical liberal sense of minimal government, governance begins to carry “with it a specific model of public life and politics” (Brown 2015: 127). The transformation of neoliberalism from simply a mode of governance to a political rationality is, in essence, a shift of governing deriving from centralized corporations, states, and non-profits to a spread out structure (Brown 2015: 123). This system of neoliberal rationality governs without government, and thus replaces agents and institutions of government with a more pervasive, individual base of power dispersed throughout horizontal networks of actors (Brown 2015: 123-126).

Brown explains that there are several important societal implications of neoliberal rationality. For instance, neoliberal rationality reduces public capacity for problem solving and program implementation, eliminating politics and deliberation. Governance, however, still provides a useful way to understand neoliberalism’s influence. Devolution, decentralization, and public-private partnerships similarly transform political struggles into administrative practices. These transformations due to neoliberal rationality have important implications for the

individual. Individuals become responsible for themselves while simultaneously bound to the marketized process and projects of society as a whole (Brown 2015: 129). Thus, neoliberal rationality dominates both the economic and political sphere, “backgrounding (at best) the classic principles of equality, political autonomy, universality, or even the paternalistic protectiveness proffered by the classical liberal or welfare state” (Brown 2015: 130).

Neoliberalism’s emphasis on the individual leads to the “responsibilization” policies that make self-reliance necessary for survival in our world today. Responsibilization, a concept that relates directly to the individual, is similar to, but importantly differs from, devolution, which relates more to how government functions are carried out. Devolution is stressed by neoliberal governance “as part of its formal antipathy to centralized state power” (Brown 2015: 131). This means that as issues arise and states seek to solve problems, they are sent down the pipeline to smaller units, devolving responsibilities to weaker units. This devolution creates competition aimed at entrepreneurialization for these smaller units, further shifting the incentives of these units to be in accordance with neoliberal rationalization (Brown 2015: 132). Responsibilization, on the other hand, is the moral burdening of the unit at the very end of the pipeline. This actor, which can be a worker, student, consumer, becomes tasked with “undertaking the correct strategies of self-investment and entrepreneurship for thriving and surviving; it is in this regard a manifestation of human capitalization” (Brown 2015: 133). Responsibilization puts accountability completely on the individual actor and is facilitated by neoliberal governance. In this way, devolution goes a step further to an individual level. Because this mentality forces individuals to fend for themselves and take responsibility for their individual successes and failures, as well as those of the market, it promotes the reasoning for the dismantling of welfare-

state logic and actually promotes implementation of a state that is the exact opposite (Brown 2015: 134).

Brown expands her analysis from devolution and responsabilization as effects of neoliberal rationality to explore benchmarking and best practices. Benchmarking and best practices, both identified by Brown as implications of neoliberal rationality, describe how businesses are increasingly run as a result of neoliberal governance. This language is familiar for a range of businesses, sites, and institutions, and it can concern everything from greening, downsizing, or outsourcing and operation (Brown 2015: 135). Benchmarking and best practices are important components of neoliberal rationale because they concepts fuse politics, business, and knowledge to spread governance techniques across various industries (Brown 2015: 136). Benchmarking “refers to the practice of a firm or agency undertaking internal reforms on the basis of studying and then importing the practices of other, more successful firms or agencies” (Brown, 136). Reforms of businesses and governmental institutions adapt practices of other fields, on the assumption that processes and practices are interchangeable. This interchangeability provides smooth movement for private-sector practices to move public, causing institutions of education and healthcare to be transformed by capitalist based industries (Brown 2015: 137).

Similar to benchmarking, best practices are also a feature of neoliberal governance. Best practices reconfigure how industries organize their business models. On the surface, they are non-normative, exemplary behaviors that become modelled as the best way to carry on processes (Brown, 136). They become standard modes of operation as the researchers spread information on what types of structures work best (Brown 2015: 135). The use of best practices implies that the ultimate end of every organization is to gain a competitive advantage in the marketplace

(Brown 2015: 137). Best practices are increasingly discussed as ethical guidelines that provide the most efficient courses of action.

Best practices and benchmarking drive all industries and sectors to improve practices by learning the most effective strategies from each other. Some of the most valuable reforms for neoliberal rationalization are identified when practices are creatively adapted from one field to another. It also, importantly, separates practices from the products as cost effectiveness and productivity become the bottom line, leaving little to no attention for what is produced (Brown 2015: 137). The end goal of every organization becomes competitive advantage, further separating practices and products. This importantly challenges, and potentially destroys, “other aims in nonprofit institutions by marketizing their cultures” as best practices bring with them market values to replace those that were originally held.

Implications for Democracy

While it may not be directly useful for understanding neoliberalism’s influence on the privatization of prisons, Brown highlights a major theme throughout *Undoing the Demos* that is worth brief examination as it is, in her view, the most important implication of the neoliberal rationality. According to Brown, neoliberalism “is quietly undoing basic elements of democracy” as the political character (*homo politicus*), operation, and meaning are increasingly overlapped by economic ones (Brown 2015: 17). According to Brown, neoliberalism “reconceptualizes democracy as distinct or divorced from politics and economics: democracy becomes purely procedural and is detached from... substance and meaning” (Brown 2015: 128). In other words, neoliberalism leads to the economizing of political life along with noneconomic spheres. According to Brown, this has serious implications for democracy. It also becomes reformulated in a way that disappears popular sovereignty (Brown 2015: 207). “Economization replaces a

political lexicon with a market lexicon. Governance replaces a political lexicon with a management lexicon. The combination transforms the democratic promise of shared rule into the promise of enterprise and portfolio management at the individual and collective level” (Brown 2015: 207). As the language changes, it becomes increasingly difficult to articulate critiques of the market as market values become the only values (Brown 2015: 208).

Conclusion

As demonstrated above, Foucault’s conception of neoliberalism, as a governmentality and rationality, has significantly influenced how Wendy Brown thinks about neoliberalism. As a rationality, in simple terms, Brown identifies neoliberalism as fostering the eclipse of homo politicus by homo economicus. This eclipse is part of the pervasiveness of neoliberal rationality, governing individuals and all of society as a form of reason. “There are many vehicles of this dissemination—law, culture, and above all, the novel political-administrative form we have come to call governance. It is through governance practices that business models and metrics come to irrigate every crevice of society... It is through the replacement of democratic terms of law, participation, and justice with idioms of benchmarks, objectives, and buy-ins that governance dismantles democratic life while appearing only to instill it with ‘best practices’” (Shenk 2015, interviewing Brown).

It is possible to summarize Brown’s definition of how neoliberal rationality manifests itself in three points: First, all dimensions of human life are cast in terms of a market rationality, every action and policy is submitted to questions of profitability, people use a “market rationale for decision making in all spheres.” Second, the market becomes regarded as something that be protected by law and policy and by the dissemination of social norms of free trade and rational economic action. The state itself “enfolded and animated by market rationality. So, the health

and growth of the economy is the basis of state legitimacy. Third, “the extension of economic rationality to formerly noneconomic domains and institutions reaches individual conduct, or, more precisely, prescribes the citizen-subject of a neoliberal order... It erases the discrepancy between economic and moral behavior by configuring morality entirely as a matter of rational deliberation about costs, benefits, and consequences.” Thus, individuals are seen as solely responsible, no matter if restrained by social circumstances. (Brown 2005: 43)

Neoliberalism as a rationality presents implications which Brown outlines in order to demonstrate her pervasive the effects of this rationality can be. As outlined above, the eclipse of homo politicus by homo economicus, governance, devolution, responsabilization, benchmarking, and best practices all exemplify how neoliberal rationality can change society on more than just economic terms. It is possible to see how these implications could have influenced the privatization of prisons in America. These implications allow us to see how, through neoliberal rationality, “practices can be separate from products” (Brown 2015: 138). In other words, the emphasis strays from creating the best product that most benefits people, and instead goes to emphasize economic maximization and stability. This makes it difficult for companies developing non-capital and non-market-based products, like education, safety, rehabilitation, justice, to resist creating a culture that prioritizes the market. Many public and non-profits may experience disorientation by economic the implementation of these neoliberal values, causing their missions to drift (Brown 2015: 139). When the ultimate end of every organization is capital gain and competitive advantage in the marketplace, it makes sense that this separation of products and practices could result.

Brown makes significant progress in conceptualizing neoliberalism as a rationality. In summary, as explained by Brown herself:

“neoliberalism...is best understood not simply as an economic policy, but as a governing rationality that disseminates market values and metrics to every sphere of life and construes the human itself exclusively as *homo oeconomicus*. Neoliberalism thus does not merely privatize - turn over to the market for individual production and consumption- what was formerly publicly supported and valued. Rather, it formulates everything, everywhere, in terms of capital investment and appreciation, including and especially humans themselves.” (2015: 176).

This dissemination of market values in the all spheres of society is important to recognize when thinking about privatization. Brown’s conceptualization of neoliberalism will prove useful for the analysis of the privatization of prisons in America, as it should be useful to consider how a neoliberal rationality could have influenced the privatization process, the policies enacted, and the perspectives of the private prisons in terms of their operation.

CHAPTER THREE: BACKGROUND ON PROFITIZATION FROM AND PRIVATIZATION OF PRISONS IN THE UNITED STATES

The privatization of American prisons in the 1970s and 1980s was not the first time in this country's history that profits were made through the exploitation of incarceration. In the span of two centuries, American prisons shifted from a public, state benefiting means of exploitation, to exploitation for the benefit of private corporations. The re-emergence of businesses benefitting from the prison system in the 1970s is notable as prison privatization coincides historically with the emergence of neoliberalism, which promotes privatization in general.

In order to grasp the implications and importance of the transition that American prisons underwent during the 1970s and 1980s, it is necessary to be aware of the historical context leading up to this shift. Context provides room for discussion about the issues that arose from this transition in the 70s and 80s, including the implications for the economy, social welfare, and state sovereignty. This chapter will first provide historical context of American prisons, and then build from this context to examine normative questions and critiques concerning the transition from public to private prisons.

Early Profitization from Prisons: The Convict- Lease System

While prisons for profit have existed for centuries, I will begin this narrative in the 1800s, as this time presented an important shift in America's incarceration system. At this point in history, slavery was outlawed and incarceration rapidly increased. The end of slavery in the 1800s left a huge gap in the labor force, thus significantly altering the economic landscape. The Thirteenth Amendment abolished slavery. It states: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted" (National

Archives). Slavery's disappearance brought a sudden end to cheap labor, specifically slave labor, which had been the economic bedrock of the South. While slavery was abolished under the Thirteenth Amendment of the U.S. Constitution, the phrasing of this amendment authorized and established in law the legality of involuntary servitude in cases of punishment for crime. This legitimization of forced labor as criminal punishment set the stage for an important shift in the role of the prison system in America: prisons businesses were now given the authority to replace slave labor in a post-slavery society, thus perpetuating the exploitation of African Americans for economic gain. Because of the amendment's phrasing, a system known as convict leasing, the act of selling prisoners' labor to private businesses was able to step in to provide white business with cheap labor.

Both states and industries sought a replacement to fill the economic void by utilizing convict labor. While convict leasing had sporadically taken place in the past, scholar David Shichor argues that the practice of leasing was expanded at this time because of two important socioeconomic changes: "(a) the tremendous burden of the war and the devastation following the defeat of the Confederacy, which necessitated a major effort for the fast rebuilding of the economy, and (b) the abolition of slavery, which significantly affected the plantation system of the Old South by depleting its cheap labor force, prompting the search for a replacement of the slaves for its labor-intensive economy" (1995: 35). These causes left a hole in the economy that the exploitation of prisoners and their labor would be able to fill. The convict leasing system retained its presence in American systems of incarceration until the 1920s (Hallett 2006: 1). During this time period, convict leasing presented an opportunity to restore social control over African Americans, while simultaneously making a profit. Prison labor had once been viewed as a means for discipline, but at this time it became an important source of income for state

governments. It served as a means to generate significant profit for a low cost while simultaneously providing a means of control over the prisoners (Shichor 1995: 30).

The exploitation of the convict leasing system helped the South regain its footing after the Civil War. In the aftermath, repairs needed to be done in the South, and this system served as an economic and social replacement for slavery. Blacks were brought back into the prison system through the law, as the large scale imprisonment of former slaves for petty crimes provided the labor for convict leasing. These criminal statutes, known collectively as the Black Codes, included crimes such as vagrancy and loitering that were essentially unavoidable and could be used as the basis for charges in nearly any situation. Once imprisoned, the inmates' labor built "the foundation of lucrative, profit-driven, white-owned businesses" in the South (Hallett 2006: 2). Convict leasing was mutually beneficial for states and businesses: Cheap lease rates made inmate labor attractive to private businesses, while also attractive to states as responsibility for housing, feeding, and discipline were turned over to the contractors. (Selman and Leighton 2010: 8) This new system for generating cheap labor kept alive the understanding of captives as legally exploitable commodities within a racially disproportionate system (Hallett 2006: 3). It also created an economic bedrock on which the South could rebuild itself.

The convict lease system was increasingly popular, especially in the expanding frontier areas because it provided the opportunity to develop economic and institutional framework of struggling states. However, even in the years leading up to the 1900s, the system faced criticism. While this system proved beneficial for states, "there was mounting criticism of this practice from free labor because of unfair competition, from citizens because of large numbers of escapes, and from some politicians because they felt that this practice was morally wrong" (Shichor 1995: 37). During the 1870s and 1880s, three governors expressed concerns with the

convict leasing system, but reluctantly continued the use of the system because that it was necessary for the financial security of the state (Shichor 1995: 37).

The convict leasing system was ultimately phased out for economic reasons, because convicts to shift from simply being a source of capital to being direct economic competition with the labor market. It is important to note that “leasing only ended when it became economically necessary: the bottom dropped out of the labor market and low-paid, free workers who could be fired rather than maintained at company expense became more desirable than leased convicts” (Selman and Leighton 2010: 9). In the early 1900s, organized labor had issue with the cheap rival labor provided by convicts, so the convict lease system transitioned into a “strictly public works ‘chain gang’” (Hallett 2006: 3). Economic conditions, rather than humanitarian concerns about the poor treatment of inmates, were the reason for this transition. Because convicts, specifically black convicts, were seen as expendable raw materials for profit making, labor unions complained that it was impossible to compete with cheap, convict labor. As convict leasing phased out, it was replaced with a state system “in which the prisoners were working either on plantations to raise crops for the state, or in public works (e.g., road chain gangs). However, that this change did not improve the prisoners’ lot considerably” as they were still exploited and abused (Shichor 1995: 42).

While the discontinuation of the convict lease system created incredible financial problems for states because they no longer had the profits from selling labor to companies and no longer shared administrative costs with contractors (Shichor 1995: 42). Prisons had a difficult time keeping up to standards necessary for the incarcerated population. The situation that arose in these interim years created a situation that would eventually lead to privatization of prisons. Selman and Leighton argue that there are two main factors that contributed to prison

privatization in the 1980s. First, ideological ideals played an important role as elected leaders held anti-government ideologies that justified smaller government and the outsourcing of many services to for-profit businesses. Second is the explosive growth of prisoners in the US through the war on crime and tough on crime rhetoric (Selman and Leighton 2010: 18). In these next sections, I will analyze the rise of two factors as contributing to the privatization of prisons.

Increased Ideological Support for Privatization of Prisons

The 1970s were characterized by an increasing acceptance of privatization of previously public institutions. Historically, Americans have had a love-hate relationship with government and with business, and this is clear when examining support for privatization (Selman and Leighton 2010: 47). As discussed in Chapter 1, there was an important shift in values towards accepting increased privatization in America during the 1970s. Spending on federal contracts has now reached over \$381 billion annually, which means that forty percent of every discretionary dollar is spent on private companies (Verkuil 2007: 23). Public utilities, social welfare provisions, warfare, and public institutions have all been privatized to some degree throughout the capitalist world (Harvey 2005: 160). The increased importance of privatization has brought several important questions into public view, as this shift directly influences perceptions of state sovereignty over certain activities, including the administration of justice and order. Scholars argue that privatization “requires both a strong antigovernment sentiment and a simultaneous pro-business bias. In the case of private prisons, this combination must be strong enough to overcome concerns about contracting out what many consider to be a core government function” (Selman and Leighton 2010: 48). The shift towards these attitudes in combination with situational factors created an important historical moment in the 70s and 80s that fostered the growth of prison privatization.

Building up to the 1970s, there was growing ideological support for the anti-government and pro-business stances that are both necessary for the promotion of privatization. Reagan and other Republican leaders maintained that big government was the reason for widespread problems, and that free market competition would reduce costs and improve services (Selman and Leighton 2010: 18). Over time, privatization of prisons transcended its right-wing foundations and gained acceptance of many liberal democrats (Selman and Leighton 2010: 56). Private prisons could not have been created if not for an ideological push in favor of free market forces against big government. To understand how the process of accepting and promoting the privatization of prisons came to be mainstream, it is necessary to briefly revisit the ideological shift towards neoliberal ideals. This is part of the same history of transition towards neoliberalism – a transition that also encompasses a shift towards privatization.

After the Great Depression of the 1930s, the people turned to the government for relief through The New Deal, which significantly expanded the government and had positive effects on many American citizens (Selman and Leighton 2010: 49). In response, “New Deal style institutions of social protection and regulation were expanded” during 1945-1970 (Palley 2004: 20-21). Following World War II, however, this system began to decline and Keynesianism was gradually replaced as the dominant theory in American politics as mainstream ideology. Economists and conservatives began to question Keynesian-type policy as stagflation hit and unemployment rose to its highest percentage since the Great Depression. The anti-government push was so strong because it was a response against the dominant Keynesian system, which was blamed by conservatives for all economic woes. This blame led to an aversion for big government, excessive spending, social welfare programs, and a system, which lacked incentives for investors (Selman and Leighton 2010: 50). This presented a situational position for neoliberal

rationality to grow during the 1970s and 1980s, turning ideological favorability towards neoliberalism and privatization.

The 1970s underwent a shift in public opinion towards regarding privatization favorably as a means for economic improvement. This shift ultimately became part of the political discussion, and resulting policy, due to the leadership of President Ronald Reagan. Reagan's policy platform rejected Keynesian policies. This was reflected in the dispersion of Reaganomics as a mainstream mode of economic thought: Reaganomics. Reaganomics, code for the economic policies of President Ronald Reagan, held that "giving tax cuts to the wealthy would result in their spending and investing more, with benefits that would 'trickle down' through the rest of society. Included in this package were large-scale tax cuts for corporations and decreased regulation. Spending cuts affected federally funded [programs, such as,] ... alternative criminal justice practices, like rehabilitation programs" (Selman and Leighton 2010: 51). The shift in Reagan's approach to policy had important implications for how Americans regarded privatization, and furthered the acceptance of neoliberal ideals. First, his beliefs promoted an anti-government position that advocated for smaller government. "Tax cuts, combined with increased spending for military and criminal justice, would create deficits of crisis proportions that would fuel a 'need' to cut spending" (Selman and Leighton 2010: 52.) Second, Reagan embraced the free market as the solution for all of America's problems. These important shifts in ideology set the stage for the acceptance of privatization of prisons in America.

The War on Drugs and the Exploding Prison Population

As many scholars have argued, the ideological shift was significantly important for the privatization of prisons, but the rapid increase in prisoners at this time also played an important role. Relentless overpopulation of the prisons posed a huge issue, as it was extremely

burdensome on the government at every level of administration. From the early 1900s through the 1970s the incarceration rate had been stable (Selman and Leighton 2010: 3). Yet, Nixon's law and order campaign ushered in "tough on crime" policy stances that has lasted for decades, and began a shocking trend towards mass incarceration. By enacting numerous laws that increased sentences and incarcerated more people, the number of those in prisons flew through the roof (Selman and Leighton 2010: 3).

The rapid increase in prisoners that America sees today was set into motion by policies during the late 1960s and 1970s. In 1971, President Richard Nixon declared a "war on drugs," thus beginning an era of hyper-incarceration, specifically for black males, which set the stage for a resurrection for-profit prisons (Hallett 2006: 5). Policies enacted during the 70s focused on the criminalization of marijuana and mandatory sentencing, but these were not extreme, but they did set the stage for even more significant policy changes to come. (Drug Policy Alliance 2016a). Scholars argue that the beginning of the War on Drugs played a central role in beginning mass incarceration, and constituted a continuation of the oppression expressed through slavery and then the convict lease system. Historian Michael Hallett describes this shift to mass incarceration as "the latest chapter in a larger historical pattern of oppressive and legal discrimination aimed primarily at African American men" (2006: 9). Based on the history of the prison system in America, it is easy to see how this racialized 'war' could add fuel to the incarceration binge (Selman and Leighton 2010: 9).

The Drug War created new policies that skyrocketed the number of people in jail for nonviolent drug related crimes. Between 1980 and 1997, the number of people incarcerated for nonviolent drug related crimes jumped from 50,000 to 400,000 people. "Misguided drug laws and draconian sentencing requirements have produced profoundly unequal outcomes for

communities of color. Although rates of drug use and selling are comparable across racial and ethnic lines, blacks and Latinos are far more likely to be criminalized for drug law violations than whites” (Drug Policy Alliance 2016b). The specific policies that had the greatest influence on increasing incarceration rates were:

- “Mandatory minimum sentencing laws: Such laws impose long sentences and prevent judges from exercising discretion to impose more lenient punishments, where appropriate, based on the circumstances of the crime and the defendant’s individual characteristics.
- Truth in sentencing laws: Such laws sharply curtail probation and parole eligibility, requiring inmates to remain in prison long after they have been rehabilitated.
- Three strikes laws: Such laws subject defendants convicted of three crimes to extremely long sentences. In one case heard by the U.S. Supreme Court, a man charged with stealing golf clubs received a sentence of 25 years to life under a three strikes law.”

(ACLU 2015b: 9-10)

Long prison sentences for offenders of drug war policies significantly increased the levels of incarceration, leading to a cumulative effect, which increased levels of incarceration despite crime rates staying about the same.

Drug War rhetoric and policy resulted in both an increase in the number of people incarcerated or on probation for drug related crimes and also a change in public opinion. The percentage of Americans who saw this as a significant problem grew: “In 1985, the proportion of Americans polled who saw drug abuse as the nation's "number one problem" was just 2% -6%. The figure grew through the remainder of the 1980s until, in September 1989, it reached a remarkable 64 percent – one of the most intense fixations by the American public on any issue in polling history” (Hallett 2006: 5). This resulting political hysteria about drugs led to the passage of even more severe penalties that continued to increase the prison population. In the span of a year, however, support for dealing with the drug war as a number one priority dropped to just 10 percent, and yet the “policies enacted during the hysteria remained, however, and continued to result in escalating levels of arrests and incarceration” (Drug Policy Alliance 2016a).

Policies and rhetoric of the War on Drugs increased the incarceration rate in America while simultaneously fostering a belief that government was unable to deal with the issue of increasing incarceration on its own. This added to existing notions that privatization was a beneficial means for solving governmental problems. As Selman and Leighton note, “the ideology that business is more efficient than government led to easy and widespread acceptance of the claim that government mismanagement was generating inmate lawsuits rather than to an investigation into the effectiveness of harsher sentencing policies... The country continued to endorse tough-on-crime slogans, keeping the money coming to prison construction, payroll, and supplies” (Selman and Leighton 2010: 3). These sentiments furthered advocacy and acceptance of shifting prison operations into the hands of private companies.

Similar to the rise of convict leasing, economic incentives served as a contributing factor for the growth of prisons systems, specifically the growth in the direction of privatization. Selman and Leighton argue that there is a parallel between the convict lease and contemporary war on drugs, as both culminate in black imprisonment while serving the capitalist system (Selman and Leighton 2010: 10). In both circumstances, the systems of punishment act as a means of growth in economic development. In the situation of privatization and mass incarceration, the system simultaneously addresses the issue of needing more space to house convicts. “The harsh laws and demand for prison economies produced a demand for prison beds that outstripped government’s ability to supply them” (Selman and Leighton 2010: 9).

An important aspect of the War on Drugs was that it transformed attitudes about criminal justice policy towards accepting the overthrow of rehabilitation and indeterminate sentences that continued after release. Both the political Right and Left found issues with these sorts of programs that encouraged open-ended commitments for rehabilitation, even if for different

reasons. The bipartisan agreement that there was a problem with rehabilitation “precipitated the shift to both the era of the prison warehouse and ever-increasing fixed sentences as Republicans gained power with their ‘tough-on crime’ rhetoric” (Selman and Leighton 2010: 33). Because liberals were the typical defenders of rehabilitation programs, and because they were also critiquing the system, “few voices spoke out against widespread political agreement that discretionary practices like indeterminate sentences should be abolished along with parole boards” (Selman and Leighton 2010: 34). This further promoted a shift to fixed sentences through the War on Drugs.

The Institutionalization of Mass Incarceration

This history demonstrates the build up to privatization and the resulting expansion of the prison system. During the late 1970s and early 1980s, private industry made minor inroads into the prison business through less visible regions of the penal systems. For example, 70% of all federal contracts to place inmates in community treatment centers were with private providers. Drug treatment, rehabilitation, and juvenile offender programs are examples of areas that were first privatized, without any thought of how this change could be problematic. These relatively unnoticed and unquestioned expansions of punishment into private industry provided an important foundation “upon which later claims could piggyback and [were] the principal financial seedbed for the wave of private companies that would become involved in the imprisonment of adult inmates” (Selman and Leighton 2010: 61). This set the stage for companies to specialize in the prison business through the 1980s, and now raises some serious questions about the effects of privatization of prisons.

Efforts to maintain a “law and order” response to crime issues continued through the 1980s and 1990s. Selman and Leighton argue that in order to keep the public attention focused

on crime issues, dramatic political stunts were necessary. Media outlets generally gave preference to those who could bring in viewers, thus the politicians who used strong and exciting rhetoric, calling for more and harsher penalties received this coverage (Selman and Leighton 2010: 37). In September 1989, President George Bush gave a speech about the drug problem in which he showed a bag of crack cocaine that he said was purchased across the street from the White House (Selman and Leighton 2010: 36). Media coverage like this drove public concern about drugs to skyrocket, yet again. The 1990s television coverage of crime continued to foster the same reaction. Drug related crime occurring anywhere in the country became seen as worth reporting. Selman and Leighton describe the effects of the process of media covering certain stories over others:

The media do not directly determine people's beliefs, but they do help focus their attention on one issue (like crime) over others (like unemployment, poverty, and inequality). Further, the media provide 'frames' for coverage, and crime fits into a 'fear frame; that plays to sensationalize conflict, which attracts more viewers and advertising revenue – but also sends a message about the dangerousness of contemporary society, especially by implying that the violence is random in nature (Selman and Leighton 2010: 39).

The process of conjuring up images of violent offenders, while downplaying the influences of their social conditions, overwhelmingly criminalized poor, black males as criminals. This process, combined with a law and order ideology, helped create a sense that crime was getting worse and that these criminals were spiraling out of control (Selman and Leighton 2010: 40).

The acceleration of this problem caused overcrowding in prisons, furthering the foundation for a shift to privatization. Through the 70s and 80s, inmates increasingly filed and won lawsuits for better prison conditions. But through the Drug War policies, overcrowding continued and conditions worsened. As federal orders to make prison conditions better increased, the situation became extremely pressing, leading state and local governments to seek more

immediate answers for how to deal with this issue. As Selman and Leighton explain, this created “a conundrum: political livelihoods and re-elections were won on get-tough campaign promises, but there was no space to house criminal offenders. The easy answer at the time was to increase funding for prison building and facility renovation” (Selman and Leighton 2010: 42). Rapid expansion of prisons was extremely costly, especially for states and localities, as there were nationwide economic difficulties throughout the 1980s. The 1990s brought an extended period of economic prosperity, which alleviated this issue. Selman and Leighton argue that it also provided fertile ground for privatization (Selman and Leighton 2010: 43). At the end of the 1980s, private prisons stepped into the scene. Before this time, private prisons hardly existed, “but that decade would witness the founding of the two companies that dominate the industry today—Corrections Corporation of America (CCA) and the GEO Group (then called Wackenhut Corrections Corporation)” (ACLU 2015b: 13). The Corrections Corporation of America (CCA) was created to design, build, and manage prisons for all levels of government (Selman and Leighton 2010: 56). The rise of privatization was fostered by the belief that businesses could run prisons more efficiently than the state.

Ideological support of privatization coincided with policies that created a surge in incarceration, creating the perfect opportunity for private prisons to grow. Innovators, like those at CCA, took this window of opportunity to create businesses that would ultimately give them incredible profits. Today, businesses like CCA continue to make profits because of the astonishing number of people incarcerated in the United States. 2.2 million individuals are incarcerated in the United States, while 7 million are under correctional control (King et. al. 2015). This system requires in an annual \$80 billion in order to finance corrections (King et. al 2015). These astonishing numbers have resulted from the policies created in the last 40 years.

While today private prisons house only 6% of the state prisoners and 16% of federal prisoners, “private prisons for adults were virtually non-existent until the early 1980s, [and now] the number of prisoners in private prisons [has] increased by approximately 1600% between 1990 and 2009” (ALCU 2015b).

This has left the door open for private companies to bring in significant profits. Today, private prison companies rake in an incredible amount of money. By 2010, annual revenues for the GEO Group and CCA alone had grown to nearly \$3 billion. “Their top executives, according to one source, each received annual compensation packages worth well over \$3 million” (ACLU 2015b: 5). These two companies have contracted with state, local, and federal governments, and these contracts came to provide a dominant source of private prison revenue (ACLU 2015b: 13). “These astronomical revenue figures demonstrate that private prison companies receive massive amounts of taxpayer dollars. The ability of private prison companies to capture taxpayer dollars results in handsome rewards for their top executives. According to one source, in 2010, CCA’s President and CEO received more than \$3.2 million in executive compensation, and GEO’s Chairman and CEO received nearly \$3.5 million” (ACLU 2015b: 13).

The overcrowding of prisons that resulted from the War on Drugs and the focus on “law and order” tactics created a need for “efficiency,” and the dominant ideology of the time held that private prisons could step in to provide these services. This desire for “efficiency” in the face of mass incarceration continues into the modern era. American policies continue to increase the size of criminal-justice system, consuming large shares of most states’ budgets. The current system can lead to increased arrest and incarceration in order to collect fines, fees, tickets, and the like. As the Department of Justice found in its report following the Michael Brown shooting in Missouri, “Ferguson’s law enforcement practices are shaped by the City’s focus on revenue

rather than by public safety needs” (Bibas 2015). This undermines the legitimacy of law enforcement, especially for poor and minority communities. While privatization may not have driven up a rise in incarceration initially, it has clearly changed the incentives from reducing recidivism to increasing profits. The condition that has resulted from the privatization of prisons is extremely problematic, and has generated criticism from various perspectives.

Neoliberalism and The Prison Industrial Complex

Various scholars discuss the effects of the privatization of prisons through the analysis of a concept called “the prison industrial complex,” which acts as an economic cycle that encourages increased spending on imprisonment, even if there is no real demand for increased imprisonment. As Philip Wood defines the term, the prison industrial complex “refers to an American criminal justice system that has been substantially transformed by almost three decades of rapid growth and by the increasing importance of private interests in criminal justice policy” (2003: 16). The prison industrial complex includes all levels of the privatization process, which has turned imprisonment into a profitable business, and can be visualized as a system of contracts that have led to profits for multiple levels of business involvement. This system includes various levels of involvement from both businesses and the government. Some scholars, such as Selman and Leighton, include politicians as part of the prison-industrial complex because they receive campaign contributions from businesses that are part of the system and influence policies on behalf of the company's interests (2010: 80). These relationships that support the prison industry can be thought of as a triangle of actors including governmental bureaucracy, politicians, and industry (Logan 1990: 40; Selman and Leighton 2010: 80). Each of these actors plays an important role in promoting efficiency and increased profits.

This extensive, triangular network shares interest in keeping private prisons up and running. Selman and Leighton summarize the network in this way: “The criminal justice system and prisons have contracted with private businesses to provide guns, handcuffs, bars, alarms, and many other goods. Prisons have frequently contracted out food services, alarms, and many other goods. Thus we see private prisons as an important actor within the context of a prison industrial complex that itself is situated within a criminal justice-industrial complex... Between the 1970s and 1990s, the modest number of smaller businesses serving the criminal justice system morphed into a criminal justice-industrial complex” (Selman and Leighton 2010: 5).

Thus, prison businesses benefit from increasing prison populations as this grows their profit. The large network of other businesses involved in running prisons (food services, for example) also benefit because larger incarceration rates mean that their services will continue to be needed. Politicians benefit from keeping prisons up and running because prisons create jobs for their constituents, and their campaigns could receive financial backing from the companies that they hire. Governmental bureaucracy benefits from contracting out prisons because it relieves them of financial costs and administrative obligations. The incentives for the triangle of actors are dependent upon each other.

The creation and maintenance of this triangle of economic interest has significant influence on policy. This is because there is a relationship of mutual dependence between private prisons and governments. This relationship is maintained because these private prisons receive money from the government as a stipend through the contract. This leads to a focus on criminal justice policies that benefit corporations by maintaining their profits. Governments rely on the assistance from private companies to deal with incarceration issues, and because of this investment, companies have an influence on the policies that governments create. “To stay in

business, these prisons need a constant stream of inmates coming in to replace those that have served their sentence. This means that laws have to be enforced, contracts renewed, and in some cases, laws more strictly enforced. To do so they have to buy politicians. This process is called lobbying and is often frowned upon” (Bryant 2015). Because profits are the number one priority of private prisons, there is significant incentive for companies to lobby the government to create and sustain policies that create a steady influx of criminals for these companies to incarcerate.

This neoliberal tendency to skew priorities towards market incentives can be extremely problematic. The actors involved thus each have an incentive not to lower incarceration rates. The interests of investors also share a strong commitment of continuous expansion of private prisons. Their investments further the need for private prisons to keep growing profits. The triangle of interests ultimately gives wealthy individuals vast political power because their resources can extend beyond promoting private prisons through investments, to lobbying politicians by financially supporting state and local bureaucrats. This triangular system creates ‘revolving door’ between government service and individuals from the private sector where the wealthy investors support politicians in exchange their support of policies that benefit their investments in private prisons. This relationship allows for the domination of electoral politics by corporate money and contributes to the immunity that private prisons receive from democratic accountability and recent attempts at ‘downsizing’ (Wood 2003: 16). This aspect of the prison industrial complex sees public funds diverted to activities that increase corporate income at the cost of taxpayers. This scenario contributes to criticism of the prison industrial complex and the outcomes it creates.

Concerns with Privatization of Prisons and the Prison Industrial Complex

The current American prison system poses several important philosophical, empirical and policy questions about the effects of privatization. Charles Logan's book *Private Prisons: Pros and Cons*, discusses the importance of the questions of propriety, cost, quality, quantity, flexibility, security, liability, accountability, corruption and dependence (1990: 38). While all of these dimensions of the prison system are important, in this study I will focus on three critiques including the issue of state sovereignty, the prioritization of profits and efficiency, and the quality of services provided. It is important to note that these three critiques are holistic, and thus cannot be separated into neat categories. Each critique is closely related to the others, and so they overlap extensively. Exploring these topics can bring to light important controversies surrounding the private prisons debate.

The Issue with Giving Up Sovereignty

Since the 1970s, many public institutions have transitioned from state control to the private, corporate sphere, generating important questions about sovereignty. One of the central concerns regarding the shift to private operations for corporate interest is that sovereign governmental responsibilities are given up. When this governmental sovereignty, which is derived from its citizens, is delegated to corporations outside of the government, it undermines the government's capacity to govern (Verkuil 2007: 1). Outsourcing responsibility "pushes [the] government to justify delegations of public power to private hands" (Verkuil 2007: 1). In giving up power, the state gives up a level of accountability over the service, and this can result in major concerns as the government serves its citizens while businesses main interest is making profits. In many cases, justification for devolving these powers is done in the name of efficiency and in the hopes of cutting costs. "In an era of national and global privatization, the temptations are

great to expand [privatization] to include governmental functions inherent in sovereignty” (Verkuil 2007: 3). This raises concern because if penal functions can be privatized, it would set a standard that other sovereign functions could also be moved out of governmental control to private sector (Logan 1990: 237).

In regards to the privatization of prisons, the shift of sovereignty to corporations can be very concerning. While not all governmental functions are inherently sovereign, the right to punish has historically been solely a governmental function. Punishment had been regarded as a unique power for the government because the government has the authority to carry out tasks, such as forcing the containment of criminals against their will, in hopes of maintaining order for the greater good of society. By transferring this authority to oversee punishment to businesses, order is difficult to maintain in a regulated manner. Scholar David Shichor makes the case that because violations of criminal law are against the state, laws of the state have the authority to inflict punishment for these violations (Shichor 1995: 256). Transferring sovereignty over this system to corporations will thus weaken accountability for these services to be provided.

As the corporations are transferred the sovereignty of imprisonment, accountability changes dramatically. Verkuil argues there are increased pressures to outsource more and more governmental functions. “In these circumstances, the number of private contractors doing the work of government will inevitably accelerate to the limits of federal employees available to supervise them; and beyond” (2007: 6). What this means that as government functions outsource both services and responsibility, private businesses will increasingly grow, and this will gradually become too much for the government bureaucracy to give sufficient oversight. With a lack of oversight, businesses can operate with profits solely in mind. Delegating punishment to private hands weakens the authority of the state and also the integrity of the system of justice. If

a private group is doing the punishment, prisoners see the institutions as the punishers, not the state. This change completely undermines the authority of the state transforms criminal corrections from a public service a means of profitization (Shichor 1995: 260).

Trading Accountability for Profits and Efficiency: Worth it?

Giving up sovereignty over imprisonment destroys the accountability that the prison systems have to the government. This is done, hypothetically, in exchange for efficiency. This shift from public to private control causes profits and efficiency to become the most important factors in deciding how to run the prisons. Outsourcing public services can be tempting for governments because privatization is meant to increase efficiency. However, critics argue that delegating sovereign responsibilities can be problematic because unlike public institutions, private companies are not accountable to the people. When efficiency becomes the most important aspect of decision-making, accountability is undermined (Verkuil 2007: 4). By outsourcing decisions, governmental accountability to the people, as ensured by its sovereignty over maintaining order, becomes frustrated (Verkuil 2007: 6). Corporations can run institutions that were previously public without taking into account the wellbeing of the people and can instead focus on efficiency and creating a profit. Focusing on profit rather than people has serious implications for how these institutions are run and how people are affected.

The sacrifice of accountability for efficiency may not be worthwhile, even from an economic standpoint, as many scholars criticize that the prison industrial complex constructed by private prisons does not fulfill its promise of cutting governmental costs. As incarceration rates in the United States have gone through the roof, so has the system's economic cost. "Despite extreme pressure on public expenditure, America currently spends an overwhelming \$68 billion each year on its penal-industrial complex which includes local, state, and federal correctional

systems. The United States' second-largest employer is the prisons industry," exemplifying the economic importance this industry has for the American economy (Teague 2012: 50). While some may argue that neoliberalism has led to cost effective justice rather than an expansion for economic imperatives (Teague 2012: 47), the cost effective argument falls short, as there is much evidence that the system does not actually save any money.

Many scholars have taken the time to compare the costs of private prisons versus public prisons to study economic efficiency. Recent research from Arizona Department of Corrections finds that private prisons do not save money, and can actually cost more per prisoner (Opiel 2011). This means that it may not be financially worthwhile to privatize prisons. Shichor studied the hidden costs of private incarceration services and ultimately did not find sufficient evidence that privatization of prisons would cut governmental budgets support (Shichor 1995: 186). Even if privatization could get the job done better, faster, and cheaper than governmental proceedings ever could, scholars including Selman and Leighton argue that the capitalist interests of these businesses ultimate do not end up saving money, and has also imposed a large financial cost on all taxpayers (Selman and Leighton 2010: 6). While freedom from governmental red tape may create a situation that could save money, the executives of businesses of incarceration make a significant amount of money, far more than any governmental equivalent would make (Selman and Leighton 2010: 157).

Funds may not be saved through privatizing prisons because of "an inflated pay scale for private prison executives [which] is inefficient and generates more overhead costs than the state prison systems... So, in exchange for whatever benefits private prisons allegedly provide, one cost is increased inequality in society as private prisons make up for paying those at the top more than states do by paying those at the bottom" (Selman and Leighton 2010: 158). For example, the

president of Corrections Corporations of America, David Hininger, was believed to make \$3 million a year (Benson 2015). Important investors in private prisons also made millions of dollars off of these businesses. So, even if private prisons could save money by having a more streamlined process, because their executives are paid so highly, no significant amount of money is actually saved by the government, or by the taxpayer, because the taxpayer became a source of funds for private prisons and of these large pay checks. While the prison industrial complex may create a system that promises to save money, many find issue that people make money off of incarceration and the shift of interests to increasing profits has significant consequences.

Poor Quality of Services

As discussed above, private companies are not accountable to the same degree that their public equivalents would be, so companies may cut costs at the expense of quality. Because the focus on profits takes priority, many scholars such as Michael Teague argue that neoliberal goals have undermined liberal and rehabilitative approaches to incarceration (2012: 45). He argues that this ideological shift has “prioritized punitiveness, de-prioritized rehabilitation, fostered a growing incarcerated population, and engaged in the pursuit of private profit at the expense of social justice” (Teague 2012: 45). This change towards prioritizing profits and decreasing accountability can lead private prisons to cut costs in unacceptable ways. Cutting costs can exploit lower level staff and prisoners in effort to generate greater profit. When cutting corners in human-oriented services, like incarceration, individuals can be exploited and there can be terrible results. These results can get ignored or downplayed, however, because economic efficiency and increasing profits are regarded as most important.

Scholars critique private prisons for reducing the quality of services in order to cut costs. Phillip Wood describes this tendency to cut costs as a pattern of penal regression (2003: 19).

This regression has lowered quality of services and made prisons more crude and cynical.

Regression can lead to abuses for both prisoners and staff. In terms of the staff, low pay, high turnover rates, and under-qualifications are a norm at many private institutions (Siden 2003: 40).

While low pay for these workers is problematic, there is also the dramatic effect of having inexperienced staff. Inexperienced staff resulting from high turn over rates of prison employees has lead to increased prisoner abuse by the staff, as the staff tends to be unqualified for dealing with prisoners (Siden 2003: 40). As quality decreases, research suggests there is a growing tolerance for violence as a means of social control within prisons and the replacement of rehabilitation with punishment (Wood 2013: 19). Private prisons, also suffer in quality, according to a study by Shichor, because there is a “lack of effective government control [and] increased opportunities for corruption” (1995: 163). He says that operating for giving a priority to profits motive in hopes of financial savings can cause businesses to sacrifice prison conditions in ways that may not happen under public management (Shichor 1995: 186).

Placing priority on profits creates a system where businesses involved with the criminal justice system have no incentive to cut incarceration rates, and no incentive to rehabilitate those that they are meant to care for. There is no incentive for these companies to promote a change in policies that would help the convicted get out of prison and parole cycles. Because companies generate revenue from corrections, there is increasing concern the prison industrial complex distorts sentencing policy. This keeps convicts within the prison and parole system, thus deprioritizing accountability of private prisons to actually rehabilitate the convicts (Selman and Leighton 2010: 19). Supposedly, the goal of the prison system is to rehabilitate socially convicted individuals. Since American prisons have over a 75% recidivism rate, the goal of rehabilitation has been increasingly doubted. If prison were 100% effective, private prisons

would be working themselves out of business. If prisons are supposed to rehab individuals, this goal that directly conflicts with earning profits. When profits take priority over rehabilitation, then a high prison population is ultimately the goal (Bryant 2015).

Incarceration is fueled by a drive for profit and thus a drive for increasing numbers of convicted criminals. This alters the policies that are lobbied for as many companies have incentives to maintain and increase incarceration rates, creating a system that takes advantage of individuals, especially those who become trapped in the probation system. American prison policy has seen increased support for offender funded probation and rehabilitation services, in hopes of creating significant savings for both taxpayers and the courts while simultaneously creating responsibility for convicts (Teague 2012: 59). “The inevitable outcome is that individuals stay enmeshed in the criminal justice system for longer and face a risk of incarceration for longer - not for new crimes, but for technical violations of probation condition, including payment conditions” (Teague 2012: 62). This system does not help the individuals at all, and instead presents them with a system from which it is extremely difficult to escape. Placing lower value on safety and rehabilitation than on profits is extremely problematic because it creates a system that does not give any power to the convicted to change the situations that led to their conviction in the first place. Slashing rehabilitation programs can make it difficult for convicts to escape cycles of crime, and leads to high rates of recidivism, which is not ideal for convicts or their families, but is desirable for the businesses that seek profits.

Recidivism tends to affect marginalized groups more drastically. One of the other affects of regressive tendencies of prisons is that there is a “massively disproportionate [increase in] incarceration rates among communities of marginalized peoples” (Side 2003: 40). As Teague argues, many offenders within the prison system are already experiencing racial discrimination

and social deprivation (2012: 71). Upon release, it is even harder for them to stay out of the system, as they must fund their own supervision from their limited personal resources. If they cannot, they face additional incarceration (Teague 2012: 71). In this sort of system, it is extremely difficult to escape the criminal justice system, demonstrating a key issue for why the system is within itself extending social injustice that negatively affects the poor and, in particular, poor minorities.

When efficiency becomes the underlying goal for public services, and when individuals have the opportunity to profit from these services, the purpose of the institutions transforms toward market-oriented goals. Focusing on these goals commodifies individuals and creates businesses out of services that had not been seen as economic ventures. In other words, prisons adopt neoliberal values that regard services that may have once been meant to help people as an economic venture. This has transformed convicts into a means to a profit. This transformation towards profitization contains elements that extend neoliberal rationality throughout society. As Harvey notes, “to presume that markets and market signals can best determine all allocative decisions is to presume that everything can in principle be treated as a commodity. Commodification presumes the existence of property rights over processes, things, and social relations, that a price can be put on them, and that they can be traded subject to legal contract. The market is presumed to work as an appropriate guide—an ethic—for all human action” (Harvey 2005: 165). This can be problematic because this application of these neoliberal ideals might do more harm than good, in hopes of drawing economic benefits. While neoliberal policies and modes of operation may not be problematic in all cases, there are times when they create terrible, morally unacceptable circumstances. Harvey argues, “every society sets some bounds on where commodification begins and ends. Where the boundaries lie is a matter of contention.”

(2005: 165) Today, the question is whether in relation to the privatization of prisons, is the boundary beyond acceptable moral limits.

Concluding Overview of Transformation from Public to Private Prisons

The transition of prisons from public to private throughout the 1970s and 1980s was a clear turning point in the operation of the American prison system, but there are still clear continuities from past forms of exploitation. Since the 1800s, prisons have functioned as a system of oppression. Slavery, the convict lease system, and mass incarceration have each served as a form of oppression for means of economic profit. The important difference is that today, the government has given up its sovereign right to running its justice system, and has turned over criminal justice matters to the hands of private companies. As explained through the prison industrial complex, this economic system includes more than just the private prisons alone because there are many companies that supply goods and services to these prisons.

There have been significant problems with this capitalist-based prison system that focuses on profits, but these issues have been largely ignored because of the acceptance of neoliberal ideals. It is possible to see this connected by examining arguments made by scholar Michael Teague. Teague argues that neoliberal governments have driven US economic and social policies to emphasize the centrality of market processes, and that this emphasis is apparent in the Americas aspirations for cost-effective justice (2012: 46). He says that neoliberal culture blames individual offenders for their offending instead of understanding that their offenses are tied to neoliberal social and economic structures that have a strong tendency to punish, as increased punishment means increased profits (Teague 2012: 47). The tendency to over-punish and over utilize the penal system goes hand in hand with the downsizing of the social welfare sector, as punishment provides a solution to issues that are socioeconomic, instead of criminal, in

nature (Teague 2012: 46). As typical of neoliberal influence, the policies of a neoliberal America have led to the expansion of private incarceration as driven by the imperative to cut costs, shareholders demand for profits, and the prioritization of efficiency (Teague 2012: 56). Teague argues that the recent surge of advocacy for reducing the prison population has been “driven by the pressures of deep financial crisis, rather than prompted by a profound reassessment of the futility of ever-rising incarceration, or the realities of life behind bars or subject to community supervision” (2012: 71).

It is possible to see on an even more detailed level the influences of neoliberalism when looking at individual cases. In the next chapter, I will study Tennessee prisons as a means to highlight prison transformation from public to private. By examining this transformation, it will be possible to observe how neoliberalism as a rationality has influenced how private prisons are run. By analyzing this applicability of neoliberal rationality, it will also be possible to see if American policy’s attachment to neoliberal theory is functional or destructive in its real world application.

***CHAPTER FOUR: CASE STUDY
NEOLIBERAL RATIONALITY AND CORRECTIONS CORPORATION OF AMERICA***

Incarceration services in the United States are a thriving sector in today's economy (Harvey 2005: 165), even though responsibility for justice tends to be thought of as a sovereign right of the government. Privatizing prisons delegates this responsibility from governmental authority through contractual agreements with corporations. Private prisons "are by definition contracted for by governments, who delegate the authority to incarcerate persons convicted by the criminal justice system" (Verkuil 2007: 38). This delegation of responsibility over prisons has coincided with America's turn to neoliberal economics across all industries from the 1970s onward. Private prison companies have taken over public institutions in hopes of streamlining the process, creating a more efficient incarceration system, and making a profit. The transformation entailed a significant change from outsourcing a few services to private companies to running every part of the incarceration process for governmental prisons. During this time of neoliberal transformation, companies such as Corrections Corporation of America, the largest American private prison company, entered into contracts with the government to provide these services. What makes CCA worth studying is that the company's influence was extensive and reached far beyond any previous private interactions with public prisons. CCA took privatization to the next level as it began to build, run, and maintain many prison services across the United States.

Both neoliberal ideology and the privatization of prisons became unquestionably influential in the 1970s and 1980s. I will use this chapter as a case study to observe this transformation in order to see if the neoliberal rationality as conceptualized by Wendy Brown is evident in the privatization of prisons. While multiple companies were created in efforts to seize

this opportunity, I will focus on the development of the Corrections Corporation of America (CCA) in order to observe the details of transformations of the privatization of prisons through neoliberal rationality. I will begin by studying its beginnings as a company and then look into the various aspects of the prison systems transformation from publicly to privately run by CCA. In this way, I will be performing a selective case study on CCA's rise throughout the 1980s and 1990s to determine whether or not the initial prison privatization process for the Corrections Corporation of America mirrors the conceptualization of neoliberal rationalities presented by Wendy Brown.

While the transformation from public to private operations contains inherently economic component as mainstream neoliberal theories argue, I hope to examine whether more fundamental transformations were going on besides economic privatization. This difference will be key in this study. Such transformations, if present, have serious consequences, particularly for individuals. By utilizing case study research, I hope to examine if Brown's formulation of neoliberal rationality highlights fundamental transformations that are useful for understanding the privatization of prisons and its complex effects.

Neoliberal Rationality in Relation to Privatization of Prisons

Before diving into the rise of CCA, it is necessary to outline to components I will use to apply Wendy Brown's framework to understand CCA's privatization of prisons. Brown's framework goes beyond standard accounts of neoliberalism, which focus on economics, and are focused on macro-analysis. Currently, privatization that focuses on efficiency and amassing profits could be categorized as neoliberal. I believe that there are requirements beyond a macro-analytical level, however, for actions to be categorized as governed by Wendy Brown's conception of neoliberal rationality. To be clear, I am striving to bring more to the foreground

than questions surrounding the effectiveness of privatization of prisons. As suggested above, Brown's analysis of neoliberal influence would suggest deeper changes and transformation that influence more than the administration of prisons. These transformations, Brown would argue, reach an individual level. While economic transformations are important, it is these individual transformations that I am interested in, as they are typically overlooked and may bring up other questions about privatization of prisons and its legitimacy.

Wendy Brown's conception of neoliberal rationality provides the framework and standard of analysis in this case study. If neoliberal rationality influenced the privatization process through the 1970s and 1990s, I argue that six components will be visible in the process, of motivations, and outcomes of privatization. These components reflect Wendy Brown's own theory and are as follows:

- 1) Devolution of responsibility to create competition, thus incentivizing entrepreneurialization in response to an antipathy of centralized state power;
- 2) Change in governance as demonstrated in a transformation of command and control from a hierarchical structure to a complex pattern of networks and cooperation;
- 3) The dissemination of best practices which on the surface are non-normative, exemplary behaviors that become modeled as the best way to carry on processes. These practices become standard modes of operation and result in complex changes affecting the administration processes, which asserts the importance of gaining a competitive advantage in the marketplace.
- 4) Organizations engage in benchmarking as they implement internal reforms on the basis of studying and then importing the practices of other, more successful organizations, which can be completely different field;

- 5) Responsibilization focuses on the impact of devolution on the individual, as accountability increasingly falls on them. This forces individuals to fend for themselves and take responsibility for their individual successes and failures, as well as those of the market. Responsibilization thus increases individual responsibility;
 - 6) An eclipse of homo politicus by homo economicus, where individuals experience an “economization” that changes how individuals orient themselves, their vocabularies, business practices, political cultures, work life, education, and every aspect of social understanding
- (2015)

If neoliberal rationality is at work in the privatization of prisons, these factors should be present when observing the privatization process in arguments on behalf of CCA and the procedures that CCA followed during their initial successes. I will unpack these six points as I examine the rise of CCA and their attempt to take over the governmental incarceration services across America.

Devolution Incentivizing Entrepreneurialism

The 1970s presented a historical moment that allowed the CCA to begin and grow. At this time, Ronald Reagan was President and entrepreneurs in the United States had great opportunity as privatization was regarded as a panacea for a public sector that was regarded as inefficient and incompetent (Mattera et al. 2003: 11). Reagan Era ideology, categorized as neoliberal, presented political arguments for various industries on behalf of privatization. As prison overpopulation soared in the 1970s and 1980s, a window of opportunity was opened for company involvement and privatization. This window was recognized by the founders of Corrections Corporation of America. By ‘following the money’ from where money was needed, who could provide it, and who would ultimately reap profits, it is possible to see the infinite

opportunities to make money off the shortcomings of public prison (Selman and Leighton 2010: 4). These shortcomings opened opportunities to make money, and a select few jumped at the opportunity to expand prisons as a resource for profit. Centralized state powers were devolved on the grounds that the government was unable to effectively provide these services. This move towards privatization increased business opportunities for individuals. This combination of governmental failure and entrepreneurial vision directly corresponds with one aspect of Wendy Brown's neoliberal rationality: devolution incentivizing entrepreneurialism.

The antipathy for centralized state power of the 1970s combined with inefficient prison facilities in the 1980s created an ideal opportunity for entrepreneurs who had the vision to see the potential profits of incarceration as a business. In 1983, Nashville businessmen Thomas W. Beasley, former chair of the Tennessee Republican Party, and Doctor R. Crants revolutionized incarceration in America through their business, the Corrections Corporation of America (CCA). Beasley and Crants envisioned a private prison business that could solve the overcrowding problem that many legislators were struggling to solve, while simultaneously making a significant profit for themselves. The two businessmen teamed up with Don Hutto, the newly elected president of American Correctional Association (ACA), in an effort to make their entrepreneurial vision a success. This connection to Hutto and the ACA was extremely important because the lobby ACA was the standard-setter for prison-related policy at this time. With Hutto's support, CCA legitimized their proposal and received significant backing to gain support on a policy level (Selman and Leighton 2010: 56).

These entrepreneurs had experience running businesses, and used this experience to shape CCA from the beginning as a business that would maximize profits. The entrepreneurs used their previous experiences to demonstrate their capability of applying their experience in

order to increase profits. They were aided by venture capitalist Jack Massey, a key investor in CCA, who used his experience with fast-food chain Kentucky Fried Chicken (KFC) and the Hospital Corporation of America (HCA), the controversial business of privatizing healthcare facilities (Mattera et al. 2003: 11), to build CCA. Beasley told a reporter, “CCA will be to jails and prisons that are owned and managed by local, state, and federal governments what Hospital Corporation of America has become to medical facilities nationwide” (Mattera et al. 2003: 11). At the time when CCA was starting up, HCA was regarded as an exemplary success of for-profit healthcare, and thus served as a model of how CCA could work. This initial comparison furthered the argument on behalf of the privatization of prisons as it demonstrated that CCA could be as successful as other companies providing “public” services. Through these initial steps, CCA’s entrepreneurs positioned themselves as an ideal alternative to handle the serious problems facing prisons in Tennessee and throughout the United States.

This entrepreneurial beginning of CCA embodies one of Brown’s components for neoliberal rationality as it demonstrates that the devolution of governmental power goes hand in hand with an increase in entrepreneurialism. In response to the ideological-based antipathy of centralized state power and its inefficiency and lack of funds, entrepreneurs Beasley and Crants saw the opportunity to create a business. CCA was created with the purpose of designing, building, and managing prisons for all levels of government, but was also created to make a profit. Beasley and Crants centered their vision of CCA around economics with the specific goals of cost savings and efficiency. In describing their aims, CCA emphasized the positive aspects of prison privatization while attempting to deemphasize the negative. They promoted volunteerism and professionalism while avoiding any association with old practices of prison labor and convict leasing (Selman and Leighton 2010: 60). “Private corrections thus became

redefined in a way that aligned with many of the dominant cultural values, such as entrepreneurialism, innovation, and the get-tough mentality” (Selman and Leighton 2010: 60). The privatization of punishment, through the building and management of prisons, became an opportunity for Beasley and Crants to make money and begin a business. In this way, we see the first component of Brown’s conception of neoliberal rationality.

A concrete example of CCA’s entrepreneurial response to the struggle that many public prisons were facing can be found in their 1985 proposal to the state of Tennessee. In 1985, CCA proposed a deal in which they would take over the operations of Tennessee’s entire correctional system (Selman and Leighton 2010: 54). Like many other states in the 1970s, Tennessee enacted a tough on crime crusade in an attempt to lower crime rates, creating intense overcrowding. Eventually, as state prisons struggled to resolve the effects of overcrowding, Federal court demanded Tennessee create better conditions to deal with this issue. Thus, Tennessee found itself needing to provide new facilities for at least 7,000 prisoners. This presented an opportunity for CCA to attempt a state-wide takeover. Regarding the proposal, CCA’s CEO, Tom Beasley, stated,

Our proposal is simple - we will pay the State for the right to manage the system under the state’s supervision; we will spend private capital to improve the operating budget. That’s a \$250 million - one quarter of a billion- turnaround in the state budget- without a tax increase! We believe this is absolutely a win/win situation and an unprecedented opportunity to make Tennessee a leader in this most difficult area. (Selman and Leighton 2010: 62).

The aim of the proposal was for CCA to take over the state of Tennessee’s prison system for 99 years. The deal would provide the state \$50 million in cash and \$50 million in notes for the exclusive right to manage Tennessee's prison system, while additionally offering to spend \$150 million, without government assistance, to build new prisons and upgrade existing facilities. In

return for all of this investment, CCA would be paid for operating the prisons (Vise 1985). Even though the deal would help Tennessee by bringing their prisons to adequate standards, ultimately, CCA would be walking away with a profit. While this proposal failed due to lobbying from advocacy groups (I will return to this point later), the controversy of this proposal provided a significant amount of data in the form of newspaper articles, documentation by these lobbyists, and statements by CCA. For this reason, this controversy serves as a useful example to demonstrate entrepreneurialism and several other components that I will draw out later.

Governance and Complexity in Decision-Making

Brown's conception of governance as a component of neoliberal rationality posits that there will be a transformation in the command structure of organizations from hierarchical to looser, but expanded, networks. These increasingly complex networks require cooperation of decentralized power centers. If a neoliberal transformation did take place, we would expect to see certain effects as prisons become privatized by CCA. These effects would include the decentralization of governmental power over punishment into multiple sources of control, leading to an increasingly complex system of decision making. To observe if a neoliberal transformation in governance took place, I will analyze the results of successful CCA takeovers and how they influenced decision-making. Ideally, to study the results of a transformation, I would have first hand accounts of prison procedures and decision-making tactics to demonstrate increased complexity resulting from decentralization. However, documentation of procedures has proven difficult to find, and my research on governance within CCA has resulted in far less than I initially hoped. Through the information I did have access to, I examine whether or not CCA has undergone a neoliberal transformation that has created a more complex pattern of decision-making networks through governance.

CCA's out-of-state imprisonment policies, specifically those which relocate inmates to other states, provide an example of increasing complexity of the prison systems (Clarke 2005). In an incarceration system designed to rehabilitate prisoners, inmates would be held in facilities near their homes in hopes of allowing family connections to last and in hopes of motivating rehabilitation to rejoin the outside world. But once incarceration rates grew too large to hold inmates in close proximity to their homes, it became easier to transport inmates to other facilities that have the space instead of building new facilities nearby. When businesses like CCA are used for their services, it is even easier to relocate inmates because they would be staying within the control of the organization, rather than jumping around to different state institutions. This activity demonstrates how governance has transformed the prison system into a more complex network as coordination must take place across state lines and across organizations.

The particular example of out-of-state imprisonment policies further demonstrates how this network has its shortcomings, despite claims that this strategy is worthwhile because it cut costs and reduces overcrowding by relocating convicts to prisons where there are open beds. According to Prison Legal News, transferring convicts out of state has the ability to save up to \$10,000 per prisoner (Clarke 2005). This cuts costs in locations short of space, relieving them from having to build new facilities. However, this approach complicates processes and increases complexity in terms of reintegration and family support because there are extreme distances between convicts and their communities (Kirby 2013). Efficiency is regarded as more important than finding a way to connect prisoners with their families, making it even more difficult for convicts to seek rehabilitation and reintegration. The approaches thus are not centered on the rehabilitation of inmates, and are instead focused on profit savings.

In addition to the complications of inmates' living situations, there are structural features that make decision making within private prisons more complex. Out-of-state policies complicate the system because decisions have to be coordinated by various CCA prisons in conjunction with the multiple state agencies. Steve Owens, senior director of public affairs for Corrections Corp. of America, was quoted saying, "CCA's government partners determine which inmates are sent to our facilities; our company has no role in their selection... The contracts we have with our government partners are mutually agreed upon, and as the customer, our government partners have significant leverage regarding provisions." (America Magazine 2013). Thus the governmental contracting agency has leverage in decision making on how to distribute inmates and manage other costs. Because of this relationship, decision making becomes more complicated as both CCA and the multiple state agencies have a say in prison operation policies. When prisons do not have the space for their prisoners, decision making must be negotiated by various institutions (Clarke 2005).

CCA and the governmental agencies share power over some issues, but CCA does retain significant autonomy from governmental decisions on certain areas. While monitoring of facility standards is done through governmental organizations, CCA has their own method of auditing. Accountability through facility audits is meant to ensure that prisons are operating at established standards. Interestingly, CCA has their own method of accountability which replaces governmental auditing procedures (Verkuil 2007: 40). The American Correctional Association (ACA), the association which accredits prisons that Don Hutto worked for, sets the standards for penal facilities and provides monitoring services (Verkuil 2007: 40). While the courts do act as an additional form of accountability, the monitoring by ACA is the main institution which oversees prison facility accountability through their audit and accreditation services.

Accreditation is meant to guarantee that a prison meets sufficient standards and is meant to decide if a facility requires changes in order to meet these standards. ACA's accreditation is questionable though because of the close relationship it shares with CCA. The accountability process creates a more complex pattern of interaction designed to ensure institutional accountability, another a neoliberal transformation leading to increased complexity and decentralization.

CCA also has some autonomy over which inmates they keep in their facilities, but because this is a power shared with multiple governmental agencies through contracts, it further complicates organizations of prisons. As a private business, CCA has significant control over the population of inmates they house. In *America Magazine's* study of nine states, private prison facilities were found to sign contracts with states that resulted in housing higher percentages of people of color, as compared to public facilities. The reasoning behind this racial disparity, *American Magazine* argues, is that private prisons have the ability to exclude people with high medical care costs from their contracts. "Younger, healthier inmates ... who've come into the system since the war on drugs went into effect are disproportionately people of color. Older inmates, who generally come with a slew of health problems, skew more white" (2013). In short, these decisions are driven by prioritizing low costs. CCA has to come to an agreement with the government on which types of prisoners will be held in their facilities, and focusing on low maintenance inmates is something that both members of the contract can agree to. This would suggest that even deciding which inmates goes where actually becomes an increasingly complicated decision-making process after privatization as both groups must come to an agreement about which inmates they will house.

Complexity and decentralization are evident in the structure of governance that emerged during CCA's privatization process. CCA and its supporters stressed the benefits of decentralizing organization for prisons, claiming it would increase efficiency and provide better services. Decision makers for prison issues have expanded from governmental control to include CCA and other organizations like The Geo Group and Community Education Centers, which also are companies that run private prisons. Because there are multiple private prison companies that work alongside the government to operate prisons, organization becomes increasingly complex. This is because power is spread through various private organizations, in addition to governmental facilities, in hopes of cutting costs and economic efficiency. It is clear from these various examples that the organization of prisons have become increasingly complex as privatization has occurred. Within CCA's structure, it is possible to see that a more complex, decentralized form of prison governance has resulted from this neoliberal transformation.

Widespread Best Practices

Best practices are standard modes of operation that are widely distributed for the purpose of creating competitive advantages in the marketplace. CCA's use of best practices can be observed by analyzing their widely circulated document describing the best practices of unit management, entitled, *Efficient, Effective, and Evidence-Based: Unit Management with Corrections Corporation of America*. This document describes a new model by which CCA's units should be operated throughout CCA's prison system. "Guided by industry best practices and high standards, CCA decided to begin standardizing unit management system-wide in 2005. To help ensure consistency and uniformity..." (CCA 2016b: 4). This model, as described in the document encourages offenders to "live among and participate in activities with inmates housed within the same unit. Together, they function in a micro community" (CCA 2016b: 3). This

document is a prime example of how CCA has developed best practices to standardize its procedures.

Within the manual, CCA defines unit management as a “a company wide approach to inmate and institutional administration designed to improve security, control relationships by dividing a large institution into smaller, more manageable groups in order to improve the delivery of correctional services” (CCA 2016b: 4). Unit management is a way to divide prisons into smaller segments so that staff can focus on getting to know certain groups of inmates within each prison. The manual outlines “core competencies, principles, best practices, and more” (CCA 2016b: 4). The core values of communication, responsiveness, teamwork, supervision, and access are meant to improve relations between staff and inmates, generate group identity, and enhance operational quality (CCA 2016b: 5). The document provides justification for why this type of model is beneficial for staff, inmates, and efficiency of the prisons. Reasons include enhancement of work life, building camaraderie for the staff, consistency in care, and clear expectations for conduct for the inmates (CCA 2016b: 6).

The manual describes initial steps necessary for the implementation of unit management. The first step is inmate assessment, which is a strategy that CCA has implemented that helps understand inmates on an individual basis by learning more about their situations and experiences through a rigorous assessment. These inmate assessments are done, according to the manual, with the goal of addressing health (mental and physical) and educational needs. They are conducted through a “multi-disciplinary” team analysis of the inmate, and are followed by a specific program plan designed to facilitate recovery and rehabilitation (CCA 2016b: 6).

Program opportunities as part of this first step include:

- Unit Admission
- Unit Orientation
- Classification/Re-Classification
- Group and Individual Counseling
- Education and Library Services
- Addictions Treatment
- Town Hall Unit Meetings
- Recreation

In other words, CCA has developed its own best practices for assessment, classification, counseling, and just about every procedure inmates experience within the prison. The manual includes “unit services, schedules, operations, programs, and expectations” (CCA 2016b: 7). In this way, CCA spreads particular best practices to all of their units. Furthermore, the manual also details the structure of the management team, explaining roles and hierarchy of authority. Starting from the role of greatest power, there is a chief of unit management, then beneath this position is a unit manager, followed by a case manager, a correctional counselor, and finally unit correctional officers (CCA 2016b: 8). The handbook has a few pages of visual representations of the command chain for the various positions. It defines these positions and identifies the roles for which these these positions are responsible.

The rest of the handbook identifies ways that this method of management can be successful. What I found most interesting and relevant to point out is its description of how to best write a unit plan, specifically how to decide unit objectives, the measurable outcomes that are expected to be achieved in the operation of the unit” (CCA 2016b: 10). These outcomes are meant to make goals of unit improvement tangible. The document provides examples of unit objects, including:

- *“Eighty percent of the unit population will complete a unit program during the next 12 months.*
- *The average reading level of inmates in the unit will increase by two grade levels over the next 12 months.*
- *The unit will reduce violent incidents by 10 percent over the next 12 months.”*

(CCA 2016b: 10)

The document goes on to provide more examples of situations where CCA units shifted towards unit management and achieved success. This document on creating “efficient, effective, and evidence-based” unit management shows what types of best practices CCA strives for and brings to light what types of ideals and structure were disseminated throughout their many facilities (CCA 2016b: 1).

This document demonstrates how best practices were evident after the transformation from public to private prisons under CCA. It speaks to the goals of creating a competitive advantage over other prisons as it emphasizes tangible measures to show that their prisons are doing good things for their prisoners, and are thus a good option to hire to conduct prison services. There is sufficient evidence that best practices drove units toward more profit-maximizing and cost-cutting practices. These are the same practices that other profit-making organizations utilize in a capitalistic environment. What is shocking is that these practices would be adapted to a service that is meant to help citizens. These practices break down the improvement of the well-being of individuals through economic and neoliberal measures.

Benchmarking Measures of Success

To better understand the efforts of best practices, we need to examine benchmarking and measures of success utilized by CCA. To expand off of Brown’s understanding of benchmarking as part of neoliberal rationality, benchmarking is a strategy used to measure success. These measures tend to be quantitative and economically focused, rather than qualitative and person-driven. To identify whether or not benchmarking was utilized by CCA, I would ideally have

documents that demonstrate the importation of standards from other businesses that have completely different purposes than CCA. I have been unable to find this kind of evidence, but there are indirect ways I can highlight potential effects of benchmarking, such as emphasis on measurements that one would think would not apply to a public service such as incarceration.

When CCA describes the success of their prisons, they focus on measures including profits and amount of money saved. This suggests that overall success is defined by cost efficiency rather than helping criminals use their prison time productively in order to better themselves. If the helping criminals was the actual goal, then paying close attention to reducing recidivism rates, lowering numbers of people incarcerated, and rates of successful rehabilitation might serve as measures of success. However, in the case of CCA, success is measured in economic terms, no matter the cost that inmates might have to endure (Wray 1986: 5). In *The New Republic*, reporters made observations of CCA, and concluded that the influence of profits created an incentive system for cutting corners and poor decision-making (Wray 1986: 5).

The measuring of success in economic terms is reflected when looking at a 1985 meeting of county representatives at the National Assembly on the Jail Crisis (Selman and Leighton 2010: 62). At this convention, 800 county commissioners responsible for the operation of jails met to discuss benefits of privatization. In arguments for privatization, the emphasis repeatedly was on profits and savings, rather than individual-focused measures of success. Commissioner John Hutt of Bay County, Florida was particularly pro-privatization, and used his experience with CCA to promote the benefits of privatization. Hutt turned to economic arguments to demonstrate these benefits, namely the \$700,000 in savings thanks to CCA and the buffer from lawsuits created by corporation involvement because any suits from inmates, would be against the company instead of the government (Selman and Leighton 2010: 62). As observed through

this example, benchmarking on a general level was utilized as a strategy to measure success, as these economic means of measurement are typically employed by other businesses, but not necessary public services which are meant to focus on the individual.

As CCA was first growing, its entrepreneurs shaped the company with economic success in mind. There is an interesting connection between Hospital Corporation of America (HCA) and CCA, as both were begun thanks to major investments from Jack Massey. Both institutions began by acquiring existing institutions that were struggling because of financial shortcomings (Selman and Leighton 2010: 58-59). Similar to prisons, hospitals provide services which are meant to help people. Motivations to help are complicated, however, because running them as a business places emphasis on profit-making. For HCA and CCA, the companies bring in their money by provided services to the sick and to criminals. This has resulted in similar strategies of operation. For instance, HCA and CCA utilized similar strategies in their attempts for efficiency by cutting back staffing levels and by cherry-picking those whom they serve in hopes of cutting down costs by only providing services to those whom it would be easy to service (Selman and Leighton 2010: 59). CCA built off of the groundbreaking techniques of HCA that convinced leaders that for-profit services had much to offer society as a private, and thus efficient, organization (Selman and Leighton 2010: 60). While it is not clear if HCA served as an intentional benchmark for CCA, there are some interesting similarities between the two that suggest mentalities and practices used by HCA would also be used by CCA.

If anything, this example demonstrates how public services meant to help people must alter their measures of success if helping people becomes less of a priority than making profits. While benchmarking is difficult to identify in more specific terms as it cannot be said with certainty that particular benchmarking reforms, I believe there is sufficient evidence to say that

CCA does use strategies in their operations that are not typically thought of being used in public services.

Responsibilization Forcing Individual Accountability

A neoliberal transformation as posited by Brown would see individuals being forced to fend for themselves, taking responsibility for their individual successes and failures, and acting as accountable for their own needs. In the context of CCA, responsibilization would be seen as an increase in inmates' individual responsibility, both in how they are viewed and how they are expected to act. Simultaneously, responsibilization would be used as a way to cut costs by devolving responsibility from the organization to the inmates themselves. From a wide perspective of society, increases in incarceration reflect a departure from policies that support struggling individuals towards individual responsibility and accountability for their own situations. As we saw from a historical perspective, the rise of CCA and the privatization of prisons coincided with the dismantling of the welfare state. Individuals are then forced to fend for themselves without reliance on governmental safety nets. This same mentality has translated into how CCA runs its programs. 'Pay to stay' programs in conjunction with work programs in which inmates provide services such as food and sanitation services for themselves demonstrate an increase in individual accountability (CCA 2011). From a general perspective, there are clearly strong societal attitudes that regard inmates as responsible for their actions. In the everyday lives of inmates, responsibilization is reflected in a much more tangible way.

At the micro-level, responsibilization of CCA's inmates mirrors a societal perspective towards prisoners that has developed since the 1970s. Prisoners are subject to responsibilization as a result of neoliberal rationality and the underlying social structure created in American culture which emphasizes individual responsibility. The American culture of individualism

creates a focus on individual accountability for their successes and failures (Teague 2012: 48). When characterizing this mentality in relation to incarceration, Teague describes a “neoliberal culture” that “depicts individual offenders as ultimately personally culpable for their offending rather than understanding offending as related to neoliberal social and economic structures” (Teague 2012: 47). Prisoners, then, are seen as responsible for their own behavior, instead of subject to policies and structural realities that play a role in their incarceration (Teague 2010: 47). These structural realities resulting from neoliberal policies, may force people to turn to crime. This means that the need for mental healthcare, addiction support, and training or support for economic stability become less supported as potential policy solutions. Individuals are seen as fully responsible, thus deserving of punishment instead of assistance. Further, the Reagan era ushered in a deprioritization of funding rehabilitation and welfare, making it even more likely for those in need of these services to be shuffled into the the penal system (Teague 2010: 49). Justification of this sort of incarceration has long been part of the responsabilization of neoliberal rationality. The system is then not thought to be at fault when individuals are seen as fully accountable for their actions, and their crimes.

Responsibilization can also be seen at the micro-level when looking at the lives of inmates within CCA. CCA’s inmates have been given on increased responsibility in comparison to previous years and to other institutions. Inmates are assigned work, and while CCA says this is good for the inmates, it also benefits of the corporation. According to CCA’s website describing work assignments, inmates benefit from these work programs because they “instill a sense of pride and purpose” (CCA 2016a). CCA also stresses that work assignments provide the inmates with opportunities to earn money and gain job skills while still in prison. According to their website, CCA.com, work assignments vary based on need and location, but can be anything from

building or manufacturing goods to serving in a routine role at the facility, such as a custodian or food service attendant. As an example, CCA highlights a story on their website about how one of their facilities is using kitchen work assignments to help with rehabilitation. Through this assignment, inmates cook meals for themselves and all the other inmates. This program, according to CCA, provides “ownership” and rehabilitation for inmates, while simultaneously relieving CCA from hiring and paying cooks from the outside (CCA 2011).

Examples such as these show how CCA wants to frame the work being done by their inmates as for the benefit of the inmates. By looking from a micro-perspective, however, CCA is the main beneficiary of their profitization. In some circumstances, inmates have been taken advantage through work assignments. For example, former inmates of a CCA prison in Nashville reveal their experiences with work assignments and identify key issues with this process of responsabilization. From a legal standpoint, inmates can be forced to labor without pay, as long as employees do not benefit. At this particular prison, inmates are given opportunities to participate in work assignments, including building trades classes. CCA argues that “Providing inmates with voluntary, high-quality and impactful re-entry programs that help prepare them for success upon release is one of CCA's top priorities," and these programs include the building trade classes (Times Free Press 2015). At this Nashville prison, however, the work being done at these classes ended up being for a CCA employee business that sells bird houses, corn hole games, and other wooden crafts. While these classes are meant to be voluntary, inmates were too scared to drop out once they discovered they were being taken advantage of, for fear that their parole could be compromised. This demonstrates responsabilization in CCA facilities at the micro-level.

Even if prison labor does not directly line the pockets of CCA employees, it can benefit CCA as an organization and whatever other companies with which CCA may have relationships. For instance, prisoners may be paid just a few cents an hour for shoveling snow off of railways in cities (Pyke 2015). This, I believe, clearly benefits the cities (and presumably the prisons who take a cut of the payment). While CCA's main argument is that doing hard work is beneficial for inmates, there is little reason to believe that work assignments like this could improve the likelihood of economic independence for inmates after release, especially it is difficult for previously incarcerated people to get jobs. Many job applications require revealing their record, and this greatly contributes to the ex-inmate unemployment rate of over 50% (Pyke, 2015). Clearly, the benefit of working is not entirely for the inmates themselves as inmates are given increased responsibility.

In addition to the scandal above, CCA has also been reported for forcing their immigrant inmates to do work for the benefit of the company. Immigration and Customs Enforcement (ICE) has an agreement with CCA where they pay the organization to detain illegal immigrants. These immigrant detainees experience conditions in which their labor is taken advantage of. At a CCA-run Georgia prison, immigrant inmates clean the communal areas, cook, paint walls, run paperwork and buff floors through a 'voluntary' work program (Kunichoff 2012). In exchange, inmates are paid \$1-\$3 for working their own prisons. While CCA stresses that this is a voluntary program, ACLU reports that it is actually forced labor: inmates have been "subjected to disciplinary action for refusing to work and for organizing a work strike in 2010. He was in the segregation unit for a week before he had his disciplinary review hearing. Another detainee was threatened with segregation if he refused to work less than eight hours per day. This is not atypical" (Kunichoff 2012). This exemplifies how inmates are given increased responsibility for

their everyday lives as they operate many of the prison's services. It also demonstrates how this benefits CCA as they no longer have to pay for these services, and if they do, they pay an exploitative rate which saves their company money.

From all of these examples it is clear that a neoliberal transformation of prisons has resulted in a situation where inmates experience responsabilization. Responsibilization has led to inmates taking responsibility for their own services, responsibility to work on behalf of company needs, and responsibility for their circumstance which has led them to crime.

Eclipse of the Homo Politicus by the Homo Economicus

Finally, a neoliberal transformation of prison services under CCA would result in an economization to reshape both business practices and social understanding. The eclipse of the homo politicus by the homo economicus would result in a push and pull of CCA and governmental economic interests against the voices of lobbyists, who hope to give political voices to the individual inmates who are negatively affected by a prison system that is focused on profits rather than rehabilitation. If such an eclipse as Brown would expect is present, then the economic argument will ultimately win out. This eclipse would also transform individual perspectives through an "economization" that changes how individuals orient themselves, their vocabularies, business practices, political cultures, work life, education, and every aspect of social understanding. In terms of CCA, this would mean that even lobbyists would utilize economically-based arguments. While I believe there is evidence of economization in previous sections of this chapter, here I will specifically look for lobbyist actions rooted in economic interests to examine neoliberal rationality's transformation of prisons on a macro-level. This is important because CCA alone has invested over \$19.3 million through lobbying efforts and campaigning for candidates who favor stricter sentencing laws which would contribute to a

steady inflow of inmates (America Magazine 2013). These laws, including mandatory minimum sentences and harsher enforcement of immigration laws contribute to increase incarceration rates, and sustain them over long periods of time. CCA's lobbying has been challenged time and time again by The American Civil Liberties Union, or ACLU.

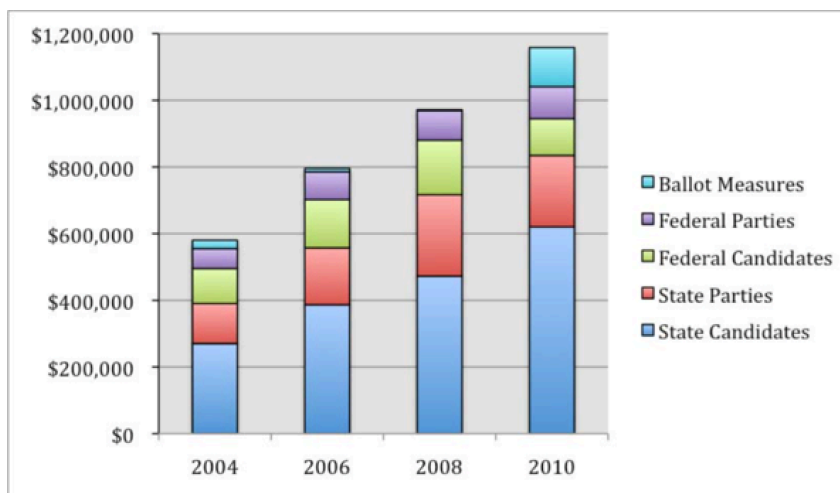
To see if this eclipse takes place, I will look specifically for economically oriented language used by CCA the government, and their advocates, and see if CCA's argument on behalf of privatization leads to an expansion of their business. In the case of CCA, the eclipse of the homo politicus is recognizable in the individual arguments made on behalf of privatization. We can see these arguments in CCA's 1985 proposal to take over all of Tennessee's prisons can bring to attention the use of neoliberal rationality. The 1985 proposal was backed by economic arguments from governmental officials and CCA representatives. The proposal was denied through strategic lobbying by groups including ACLU. These lobbying efforts focused on the well-being of those incarcerated. lobbying groups, which acted as a collective homo politicus. The American Civil Liberties Union, for example, fought against this proposal by focusing on the lack of accountability privatization would allow, and how this would affect convicts negatively as conditions may not remain optimal (Joel 1988). The driving arguments that ACLU assets are centered around individual experiences and the issues with CCA using economic measures of success, including building a "business model depends on keeping prison beds filled" (ACLU 2014). While CCA promises to run better and cheaper prisons, ACLU has argued they have failed and has launched a campaign to dismantle CCA which "has broken these promises [to run better and cheaper prisons] time and again, using our tax dollars to fund facilities where corporate profit trumps accountability" (ACLU 2014). The ACLU's campaign against CCA rests on six principles:

- CCA’S business is imprisoning people for profit.
- CCA has a vested interest in making sure too many people are behind bars for too long.
- CCA’S dedication to the bottom line encourages cutting corners.
- CCA lobbies and litigates against transparency.
- CCA spends heavily on lobbying and campaign contributions.
- CCA’S business model— and that of all for-profit prison corporations — has been condemned by numerous religious groups.

(ACLU 2014)

ACLU still lobbies against CCA today from a national perspective, focusing on the ever increasing incarceration rates and the ways in which the organization cuts corners to keep profits high (ACLU 2014).

Despite efforts by lobbyists such as ACLU, CCA has made significant strides since the 1985 proposal, both in Tennessee and across America. By the end of 1987, CCA had gained even more contracts in Texas, Tennessee, and Kentucky (Mason 2012: 4). Today, CCA is the largest private prison corporation in America, resulting in revenue around \$3 billion in 2010 alone. It manages over 75,000 inmates in 66 different facilities (Mason 2012: 4). CCA continues to maintain its hold over lobbyist groups such as the ACLU by doing lobbying of their own. According to ACLU, “CCA spent more than \$18 million on federal lobbying between 1999 and 2009. And between 2003 and 2011, CCA hired 199 lobbyists in 32 states, and contributed money to over 600 candidates for state office” (ACLU 2014). While many companies use their power to influence policy, it is especially concerning to see just how much CCA pumped into their lobbying efforts and it continues to grow. The graph below taken from The Sentencing Project’s research on CCA’s spending, and reveals an increasing trend in their investment in influencing policy (Mason 2012: 16).

FIGURE 1: CCA Contributions by Election Cycle

(Mason 2010: 16)

This table demonstrates what type of investments CCA makes and what systems they target. Clearly, the focus on state level elections for their lobbying efforts. This makes sense since most of their success has come through state contracts. Lobbying efforts demonstrate how economic frameworks overpower the political as CCA's economic interests have come to have clear political value, but have value for purely economic reasons. This demonstrates a reorientation of political practice to surround the economic. This aligns with the eclipse of the homo politicus by the homo economicus that is experienced after a neoliberal transformation.

The completion of this eclipse is reflected in the dominance of economic values in CCA's rise to power, as symbolized through the creation of CCA's first Initial Public Offering. CCA's operation for financial gain was epitomized when the company went public and opened up for trade on the stock exchange. In 1986, CCA had its first Initial Public Offering, or IPO. "Before the IPO, the company may have shares owned by the founders and key employees. The company can also raise money by issuing shares to venture capitalists or private financiers. For example, before its IPS, CCA had 6.6 million shares outstanding... The IPO allows a company to raise

significant sums of money by selling partial ownership (a ‘share’)” (Selman and Leighton 2010: 82). Going public was a symbolic move that radically altered the prison business because this shift brings in a significant amount of money and clearly suggests that profitization is an important feature of how CCA does business.

The association of IPOs with private prisons transforms increases in incarceration to be viewed as a business opportunity instead of a social problem (Selman and Leighton 2010: 91). This move tied CCA to a consistent need for rising incarceration rates in order to retain their profits, and this need has lasted even into present day. In CCA’s 2008 annual report, which states,

“growth depends on a number of factors we cannot control, including crime rates and sentencing patterns in various jurisdictions and acceptance of privatization. The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction or parole standards and sentencing practices or through the decriminalization of certain activities that are currently proscribed by our criminal laws... Any changes [to criminal laws] could affect the number of persons arrested, convicted, and sentences, thereby potentially reducing demand for correctional facilities to house them” (Selman and Leighton 2010: 92, as quoting CCA Annual Report 2008).

This quote demonstrates the pervasiveness of economics in how the CCA’s workers understand their business. Because the focus clearly has shifted to economic actions, values, and goals, all viewed through an entirely economic lens, it is possible to see the homo economicus win out over the homo politicus.

After the initial failure of the 1985 proposal, CCA continued to grow in Tennessee and across the country. This can be interpreted as a double eclipse of the homo politicus by the homo economicus. In other words, first there is CCA’s attempt to take over Tennessee’s prisons. This is the first attempt of the homo economicus to eclipse the homo politicus, which is represented by

efforts of the ACLU. This attempt, however, is defeated by the lobbyists who focus on both the perspectives prisoners as individuals and also on economic shortcomings of CCA. Despite this failed attempt, CCA ultimately buys up multiple prisons in Tennessee and across the United States, demonstrating that ultimately the homo economicus wins out and fully eclipses the homo politicus in terms of power.

For all of these reasons, there is enough evidence to support that the homo economicus eclipsed the homo politicus in regards to CCA's privatization of prisons. I argue that this eclipse occurs on more than just the macro-level. Groups like ACLU utilize economic arguments against CCA, asserting that they are not as efficient. They make these arguments more generally about private prisons in general. The fact that they make these arguments at all, I argue, is further evidence that rationality about privatization of prisons is undergoing a neoliberal transformation, where even lobbyists against business like CCA utilize an economic perspective. I will discuss this more in the conclusion. Additionally, I believe there are other aspects of de-democratization occurring on a micro-level, such as felon disenfranchisement, but unfortunately evidence is difficult to gather for CCA in particular. Because privatization is tied to increased incarceration, specifically of African American populations, participation in elections would be affected. While this is not something I could study for CCA, I will expand on this question as well in the concluding chapter.

CHAPTER FIVE: CONCLUSIONS

Wendy Brown's conceptualization of neoliberal rationality and the resulting transformations help us understand Correction Corporation of America in important ways. It provides a useful guideline for examination of the United States' prison system that extends beyond perspectives of many other neoliberal scholars. As mentioned in the first chapter of this study, neoliberalism can be conceptualized in several ways, and thus far, each conceptualization has its own peculiarities. Because of this incongruence, when neoliberalism has been discussed as a theory it tends to be broken down into simple terms. In chapter two, I examined Brown's analysis as a means to understand neoliberalism beyond the simplification of market rule and privatization. Because the system is privatized and there is no clear hierarchy for decision-making, understanding the rationality of the network can be complicated. Brown's framework, however, gives us the opportunity to break down its organization to see beyond the simple relationship between corporations and government to get to the core of neoliberalism's influence on the prison business. Her analysis provides a lens under which we can unpack the transformations of services that arise when neoliberal rationality dominates how society is understood and interpreted.

Brown's conception of neoliberal rationality does draw from previous scholarship, but also makes important extensions that help identify important transformations of America's prisons. Brown's work can be seen an extension of Foucault's conceptualization of neoliberalism; Brown's main divergence is that, unlike Foucault, she recognizes a specific eclipse of homo politicus in the contemporary era. She focuses on multiple transformations of both the macro and micro levels that are driven by market-oriented economic rationality (Brown 2005: 43). Brown's analysis brings to light specific neoliberal transformations of the prison

system, which go beyond merely operating for a profit. Importantly, she centers the importance of a micro-analysis of neoliberal transformation, beyond a macro-scale analysis that focuses on economics and efficiency. This is done, specifically, with her concept of the eclipse of the homo politicus by the homo economicus. The approach brings an interesting and important perspective to understanding privatization of prisons in the United States. As discussed in chapter three, for profit prisons have been part of the organization of American prisons since the end of slavery in the late 1880s. Brown makes it possible to see additional dimensions of the results of neoliberal rationality through six components that result from a neoliberal transformation. Her analysis can be a useful tool in understanding neoliberal transformations, as demonstrated in my case study on the rise of CCA. Profitization had been a component of prison operation before the 1970s. But as changes resulted from neoliberal rationality, Brown's analysis provides a useful tool with which to study these transformation, specifically by examining the rise of CCA in conjunction with neoliberalism.

Brown's conception of neoliberal rationality is useful for understanding CCA and prison privatization. The framework I utilized for the case study on CCA demonstrated that it can be used to observe the transformation of prisons in a way that highlights other important questions through. However, since Brown's framework is geared towards understanding changes in American democracy, there are a few shortcomings that arise when using her analysis to understand neoliberal transformations of the American prison system. In this conclusion, I will highlight the usefulness and limits of Brown's framework, describe some of the implications, and then discuss which directions future analyses should go in order to gain as much understanding as possible of neoliberal rationality and its influence on American prisons.

Moving from the Macro-level towards a Micro-level of Analysis

One of the most important insights that Brown's conception of neoliberal rationality brings to view is the importance of micro-analysis in conjunction with macro-analysis when observing neoliberal transformations. As examined in chapter one, neoliberalism has historically been viewed through a macro-lens which emphasizes transformations on an economic level. Discussions of privatization measure success of neoliberal transformation by economic terms of profits and efficiency. While this macro-analysis is important, Brown centers her conversation around details, based on a micro-analytical level, to understand neoliberalism as a rationality that influences individuals and local level organization.

Historically, arguments for and against the results of neoliberalism for prisons utilize macro-analysis to focus on effects such as efficiency and profitization, but these results have had mixed outcomes. Arguments against CCA, in particular, stress that even though CCA and its policies are geared toward economic efficiency, there is little evidence that privatization actually lowers costs. An audit of a Tennessee prison focused on a macro-analysis of economic based measures of success. This 1986-1987 audit identified the costs for the county to operate the Hamilton County facility versus the estimated cost for it to be run by CCA, and found it would cost \$3,413,741 versus \$3,312,428, respectively (Logan 1990: 110-115). Initially, the CCA operated prison was observed as doing a better job than the county in terms of meeting prison standards, as evidenced by the reductions in quality violations. In terms of money, in this particular situation, CCA only was slightly more efficient. But what must be taken into consideration is *how* costs were cut as this brings focus back to the micro-level. CCA has failed to meet minimum state standards on several occasions as their facilities have been overcrowded and have had insufficient staffing. According to state inspections, "jail average daily populations

for the past three months consistently exceeded certified capacity. Staffing levels are low and security for staff and inmates could be compromised” (Kennedy 2015). As seen throughout the case study, even if costs are cut, the minimization of costs can have negative repercussions.

Arguments against privatization of prisons, on the other hand, also have looked to these same measures of macro-analysis that focus on economic efficiency. The ACLU rests part of their argument against privatization by CCA on the evidence they have that private prisons cannot live up to their financial promises. Private prisons, they argue, have been turned to in hopes of providing budgetary solutions to governmental crises. “The view that private prisons save taxpayer money, fuel local economies, and adequately protect the safety of prisoners helps to feed mass incarceration by making privatization appear to be an attractive alternative to reducing prison populations. But the evidence for such benefits is mixed at best” (ACLU 2015b: 18). ACLU’s report spends several pages providing examples from all over the country of CCA’s economic shortcomings, despite their promises of saving tax dollars. Within this report ACLU then turns to emphasize the economic struggles that prison privatization can bring to a community. What is clear is that even an advocate for justice such as ACLU can get wrapped up in the macro-analysis of the neoliberal transformation of prisons, demonstrating that Brown’s emphasis on micro-analysis is even more important when thinking about future lobbying practices against CCA.

Utilization of a micro-analysis of neoliberalism gives us a way to think about neoliberal rationality in ways that other conceptualizations may have ignored. By thinking about micro-perspectives, we can see the results of neoliberalism in a way that does not place economics at the center. For example, in my case study of CCA, Brown’s framework presents a different perspective when observing best practices of CCA. Analyzing best practices brings

questions of standardization to the front of the discussion. As observed in the case study, CCA utilizes best practices on a wide scale to standardize their operations all over the country in all of their facilities. The practices that they standardize encompass every aspect of organization of each unit. As discussed in the previous chapter, these practices range from addictions treatment, to inmate classification, to recreation activities. In general, this demonstrates that neoliberal rationality has permeated every feature of the daily lives of CCA inmates. Furthermore, Brown's framework also presents a new way to think about the competing homo politicus and homo economicus. Most the most concrete sense, how CCA and lobbies are still competing, despite the fact that CCA's economic approach organization of prisons has currently won out over many governmental bodies. These are important components of understanding the implications of a neoliberal transformation of America's prisons. It is important to note that these components are not as central to the private-versus-public debate of most scholars. This is what makes Brown's contribution to the discussion so important, as her conception of neoliberal rationality, brings a uniquely micro-analytic perspective to the foreground of understanding the privatization of American prisons.

Debates Over Accountability

Increasing the importance of micro-analysis highlights specific questions about the implications of the neoliberal transformation of prisons. America has had prisons that operate for profits since before the 1980s, while not privatized as they are today. The acceleration of privatization is important in analyzing our current system, which makes Brown's conception of neoliberal rationality useful for understanding these changes. My case study of the neoliberal transformation of CCA has revealed important changes to the system, and has resulted in new questions about prison privatization. The issue of accountability, for example, can be approached

from a different perspective if done so through a micro-analytical lens. Some scholars who focus on macro-analysis do not find accountability to be an issue for prisons. For example, Verkuil does not find accountability to be an issue with private prisons, stating that,

“private prisons may pose additional risks caused by the presence of private rather than public governance, but public control can reduce them. Experimenting with a private market seems a sensible risk for state legislatures to take. The benefit of benchmarking performances that might otherwise be hidden on the public prison side is a valuable byproduct. Monopoly, whether public or private, tends to be self-serving, costly, and unimaginatively. Thus, competition with oversight by public authorities over inadequate entities has its merits” (Verkuil 2007: 41).

Verkuil values deregulation and the values of efficiency, arguing that deregulation and privatization have developed hand in hand, thus rendering many government roles unnecessary (Verkuil 2007: 6). “Deregulation challenges the economic role of government over the economy.

It seeks to end programs that are inefficient or counterproductive” (Verkuil 2007: 7).

Privatization accepts the need for governmental activity, but asserts that private actors will increase the efficiency of the activity. Furthermore, Verkuil posits that privatization does not focus on where responsibility for the activity should be placed, and instead highlights governmental expenditures, as both privatization and deregulation will permit the market to naturally improve services (Verkuil 2007: 7). This focus on economics and means of macro-analysis stand in direct contrast to Brown’s conception of neoliberal rationality.

While these perspectives are important, they present a specifically macro-analytical perspective on the public-versus-private debate. Brown’s emphasis on micro-analysis would approach the issue of accountability from a perspective that centralizes the individual experience. Specifically, for private prisons, micro-centered accountability would focus on whether or not private prisons adhere to regulations that protect the inmates so that they are not

exposed to poor conditions in attempt to cut costs. This micro-level approach, in my opinion, is extremely valuable from a moral standpoint. This is because it raises questions about keeping prisons accountable for the daily experiences of the inmates. A micro-level focus for accountability would detail policies that affect prisoners' treatment and chances for rehabilitation. Brown's perspective is thus highly valuable in its reevaluation of importance of micro-analysis in addition to macro-analysis.

Reexamining the Purposes of Punishment

Using Brown's focus on micro-analysis brings up important questions about the purposes of punishment. Emphasizing smaller scale issues would push the discussion of economic efficiency from an abstract level to a focus on its consequences in the experiences of inmates themselves. This micro-level approach leads to a change in measures of success, that focus on individuals. These measures would highlight improvements for inmates that would make it more likely for them to stay out of prison and more likely to return to life as law-abiding citizens. By focusing more on creating effective rehabilitation services or job training services, people would hypothetically be more likely to stay out of prison so that they could contribute to their communities while making these communities safer places to live.

There are various dimensions of micro-analysis that are usually overlooked, such as increased access education and career opportunities, support for mental health issues, and recidivism rates. I would recommend that future studies of CCA and privatization of prisons to look at these micro-level measures. By placing emphasis on levels of micro-analysis, important questions about privatization of prisons, which are buried in the macro-level discussions of neoliberalism, are brought to the foreground. The biggest question, I think, is if reducing recidivism and encouraging rehabilitation are not central in measuring success of prisons, can

rehabilitation be the purpose of incarceration? If they are not, is economic gain the purpose; if it is, is this problematic?

While Brown does not specifically address the question of the purposes of punishment, her approach to understanding neoliberal rationality reveals in the CCA case study that economics is central to the arguments on behalf of privatization. It seems that the focus is taken off of recidivism rates and instead placed on keeping a steady inflow of inmates in order to sustain profits. This calls to question whether or not our system works on behalf of the inmates and their communities, which would both be made better if focus was placed on the effects of privatization on the micro-level. I believe that this is an important question because incarceration does not necessarily have an obligation to rehabilitate its inmates. It could have the primary purpose of safety and social control. But as a culture, many Americans see incarceration as a means of rehabilitation and incentivization to gain better lives that are free of crime. Clearly, this has been a challenging feat for many inmates. While I do not have a conclusive answer for what the purpose of punishment is today in American society, Brown's conception of neoliberal rationality would suggest that the purpose is actually profitization. However, since asserting this purpose would incite moral concern, prisons send out a message that asserts the importance of rehabilitation, while they push the realities of recidivism from view so that citizens do not have to confront the reality that prisons, such as CCA, are not successful at the micro level of individuals and communities. If economic profits are the purpose of incarceration, Brown's focus on micro-analysis opens up space for a conversation about the consequences of this focus and how we can begin to change.

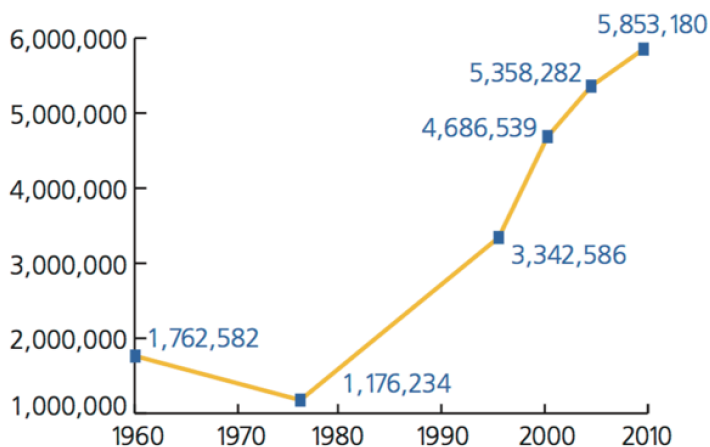
The Question of Democracy

Brown's conception of neoliberal rationality also raises critical questions about democracy, as *Undoing the Demos* centers around the effects of neoliberal transformations on democratic institutions and practices. Brown's book highlights the eclipse of the homo politicus by the homo economicus. For Brown, this has clear democratic implications as citizens become disengaged from the political process. This occurs as economics become central to the organization of all aspects of society. Democracy, then, becomes purely procedural and secondary to the pursuit of economic success or survival. It then has no deep meaning for those within the democracy. The biggest issue with this change, Brown argues, is that market values become the only values (Brown 2015: 208).

Policies surrounding incarceration raise interesting questions about the decline of democracy. For example, the eclipse of the homo economicus is reflected in felony disenfranchisement. In the United States, the issue of felon disenfranchisement is fundamental to the nature of our democracy. Depending on the state, many felons are not given the right to vote, even after release, and thus cannot participate in any democratic activity. The Sentencing Project estimates that, nationally, 5.85 million Americans are denied the right to vote because of felon disenfranchisement. Policies vary state by state, ranging from no restrictions to lifetime bans from voting (

2015). Disenfranchisement influences elections as those who are unable to vote constitute a large group of people. Unsurprisingly, disenfranchisement has rapidly grown since the 1980s. The figure below, taken from The Sentencing Project, shows how rapidly disenfranchisement has grown in conjunction with increasing incarceration rates.

Number of Disenfranchised Felons between 1960-2010



(The Sentencing Project 2015)

This is an important micro-level issue regarding democracy that has not received adequate attention and continues to grow at astonishing rates.

Beyond the dramatic increase of felony disenfranchisement, this issue is important to look at because these policies disproportionately affect people of color. Race has significant influence on felon disenfranchisement, particularly for male minorities. As of 2015, 1 in 13 African American men are denied the right to vote: “Black Americans of voting age are four times more likely to lose their voting rights than the rest of the adult population, with one of every 13 black adults disenfranchised nationally. In three states – Florida (23 percent), Kentucky (22 percent), and Virginia (20 percent) – more than one in five black adults is disenfranchised. In total, 2.2 million black citizens are banned from voting” (The Sentencing Project 2015: 2). 3 out of every 10 black men will experience disenfranchisement at some point in their lifetime (The Sentencing Project 2015: 1). Clearly, there is an important phenomenon surrounding the access of the right to vote, a central democratic practice, to convicts, especially those of color. Revoking the ability for felons to participate has significant repercussions as they are unable to vote on

policies that may affect them. Felon disenfranchisement is thus an incredibly important micro-level issue that deserves more attention for future studies.

While I was unable to study disenfranchisement in the CCA case study, I believe that this issue deserves increased research. Recent attention has turned toward this issue due to movements such as Black Lives Matter, who have started to bring attention to this issue and others surrounding mass incarceration. Certainly, CCA does not bring up attempts to increase political action at all as part of their best practices. This issue has been buried as unimportant, and instead focus on macro-level issues of economic efficiency rather than on micro-level issues of the effects of imprisonment on the lives of individuals after prison. While I could not draw out this numbers for the case study, I do believe that Brown's framework points towards this sort of analysis, and thus believe the issue is worth future research.

Limits of Brown and Suggested Extensions

While there are striking benefits to Brown's approach to the analysis of neoliberal rationality, there are clear limits. Brown's framework is limited for use in studying privatization of prisons because it is not geared towards addressing this particular neoliberal transformation. The largest issue I ran into for the case study was that there are restrictions in the collection of data, and I suppose that this issue is one that would most likely be difficult in all studies of neoliberal rationality. In addition, her framework could be expanded to specifically draw out the examples of how neoliberal transformations tend to overlook micro-analyses. Highlighting these shortcomings is necessary in order to discuss potential routes of extension for future research.

Utilizing Brown's framework of neoliberal rationality has its limits in data collection, specifically for privatization of prisons. Much of this difficulty, in general, stems from the near impossibility of examining the motivations of individuals and companies to see if they are

rationalizing in neoliberal terms. Additionally, it is difficult to know the reasoning and motivation of governmental actors as they shift policies. It is difficult to gain a full picture of the actual rationalities without more evidence than documents on best practices. In the case study of CCA, I found it particularly difficult to collect data as much information is unavailable to the public. This is because it would, of course, be bad publicity for CCA to say outright that they prioritize profits over their inmates well being. CCA's website uses language, stories, and pictures that demonstrates a positive image of how inmates are treated. It would be morally abhorrent if they did not, as a negative image would potentially attract criticism. But by looking at how they actually run their business, economics is arguably more important to CCA. Hypothetically, I would like to find internal documents that highlight discussions and orders within CCA that specifically demonstrate the rationality that well being of inmates is put second to profits. But, CCA would not want to put this information out in the open because even if economic efficiency is regarded as more important, there could be an uproar as many might want to nullify contracts with an institution that disregards inmates' quality of life.

Additional limitations of Brown's framework are found in applying it specifically to prison privatization, as her conception of neoliberal rationality did not address prison privatization. Accountability, disenfranchisement, race, and power are all issues that deserve additional analysis when thinking about privatization of prisons. By incorporating components specific to prisons, her conceptualization could increasingly become useful for understanding private prisons such as CCA. As discussed above, Brown does bring questions of accountability to the front even though she does not specifically address this issue in her conceptualization. There are other components, however, that are completely left out of the discussion. In general, Brown does not bring up power dynamics that could influence or result from neoliberal

rationality and its resulting transformations. Specifically, for prisons, Brown's conceptualization of neoliberal rationality does not raise questions regarding influence of race and power on the prison system, which are inherently important to understanding America's prisons and mass incarceration. Highlighting questions such as this would foreground issues such as felony disenfranchisement and other racial issues. This is extremely important to think about as American prisons have historically been tied to race issues and even today with mass incarceration, there are significant considerations that must be taken as race does play a role when looking at incarceration rates.

Brown analysis is shaped to demonstrate factors resulting from transformations resulting from neoliberal rationality. Her framework does not provide specific measures to observe a decline in terms of micro-analysis, other than the decline of the homo politicus, after neoliberal transformation. Adding components to her framework that would place attention to the shift away from micro-level analysis would be extremely useful because it would demonstrate if issues like recidivism rates and mental health services, along with other micro-level measures, decrease in importance after neoliberal rationality transforms most approaches to issues into macro-analyses.

Where Do We Go from Here?

By turning the focus of arguments against the privatization of prisons away from economic efficiency, many other critical questions may be asked to further examine the moral issues surrounding businesses like CCA. Using Brown's conceptualization of neoliberal rationality allows us to see the importance of the macro-analytical factors that are normally discussed. It also brings up questions on a micro-level which are equally important, if not more so. As discussed in this chapter, accountability, race, and the true purpose of imprisonment are

some of the issues worth researching further, as they are central to an adequate understanding of the effects of privatization of prisons.

This project has demonstrated the important transformation of America's CCA prisons resulting from the domination of neoliberal rationality. Neoliberalism as a general theory highlights the economic issues that come with the privatization of prisons. This can be extended even further, however, as neoliberal rationality has increasingly dominated how our institutions operate and how we rationalize these operations. A focus on economic efficiency, while important, does not take into account the effects on the inmates, their families, and their communities. Brown's conception of neoliberal rationality raises questions such as these about the experiences of individuals within these macro-level institutions. While the shift from public to private prisons has led to many issues on a macro/societal level, specifically in terms of economic efficiency, asking unanswered and often neglected questions could refocus our approach to understanding the effects of the neoliberal transformation on individuals. A micro-analysis would account for the moral questions which are, in my opinion, incredibly important when assessing the criminal justice system. In order to deal with mass incarceration, recidivism rates, and racial disparities within the criminal justice system, focusing on individuals instead of profits would be useful to taking steps to create more effective and just American prisons.

These questions require attention, not only to learn more about individual experience within the criminal justice system, but also ask us to think about how we can change our system to work better for these individuals. If profits and efficiency are always seen as the most important factor in decision-making, injustices done to inmates will continue. For this reason, I believe that further research on American prisons, with a focus on the inmates' experience, is necessary. Furthermore, I believe that this research should use this micro-level focus to

determine if private prisons are morally acceptable, and if they could actually help inmates and the community more than governmental institutions. If we acknowledge that our institutions, specifically the prison system, are dominated by a neoliberal rationality, we may be able to think of ways that we can break away from this mentality. Drawing our focus to a micro-analysis of everyday practices and individual perspectives may help us find answers to some of our questions, and may help us reach for change both in the prison system and other institutions that have undergone a transformation of neoliberal rationality.

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