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# The Commercialization of Incarceration in the Land of the Free

Christian Chaille  
*Parkland College*

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## **The Commercialization of Incarceration in the Land of the Free**

**By Christian Chaille**

How much money is a man's freedom worth? Some would say that such a thing is priceless, and they would be right, but in a world where profitability is the highest good, a thing without price is of little interest. Indeed, throughout history men with such a liberated mindset have found that their fellow human beings are much less valuable free, than they are in chains. This insight has spread its roots far and wide, sprouting some form of growth in every corner of the world. Many such crops have existed in the United States, the institution of slavery being the most fruitful, both in money and in blood. But though this crop is now outlawed, another garden still thrives within the confines of the law. The practice of prison privatization may not be as bloodstained as that of slavery, but it is based around the same founding principle: to make money off of those in captivity. Its corrupt influence can be seen in its history, its political sway, and in the unsatisfactory conditions of its facilities.

Private prisons have been a part of American history for as long as there have been prisoners to fill them, and though their trail is hard to see at times, it can be traced through the years. The first jails in the US were private enterprises which made their profit from charging the prisoners and their families for their own incarceration (Khey, 1). After this amoral market was shut down, the government took over the penal system and the concept of private prisons faded from popularity, those looking to profit off the backs of those in chains content to take advantage of the free labor available through "legal means". But when slavery was abolished on US soil in 1863, plantation owners throughout the south found the economic basis of their society shaken, and quickly turned to prisoners as a fresh source of unpaid workers. Throughout the 19<sup>th</sup> and into the early 20<sup>th</sup> century, plantation owners and railway barons would rent inmates from state run prisons to work for them. Together with "piece pricing", the practice of private companies providing the raw materials for state controlled prisoners to assemble into

a finished product, this practice effectively took a surrogate slavery into the 20<sup>th</sup> century (Schultz, 93). These tactics were eventually outlawed at differing times in the various states (not for the sake of human rights, but rather for workers' rights; apparently the newly founded labor unions did not appreciate employers with access to free labor), but the concept of privatization lived on, only to reemerge yet again in the 21<sup>st</sup> century.

This most recent resurgence into privatized corrections can be traced back to the end of the Vietnam War and the birth of the "tough on crime" movement championed by the Reagan administration (Schultz, 95-96). The resultant passage of stricter drug laws, truth in sentencing laws, and mandatory minimums for nonviolent crimes created an upsurge of individuals entering the correctional system, often for minor offenses (Hartman and Doty, 198). Prisoners require prisons, and since the current infrastructure proved insufficient to handle the increased numbers, more prisons had to be built, staffed, and maintained—so many, in fact, that from 1980-1984 spending on state prisons rose 74%, bringing the total spending to \$7.7 billion (Khey, 1). With such a large cost of incarceration and with the number of prisoners rising each day, federal and state penal systems found their budgets unsustainably strained. At this point private companies, which had long been contracted to run various services within the penal system (food, medical, parole, etc.), made their move for full operation of correctional facilities. Arguing that under private administration prisons could be constructed in less time and run at a lower cost than possible through public means, these companies offered themselves as a cost effective solution to the mass incarceration problem, and in 1983, Corrections Corporation of America won their bid for the first Privatization contract in the US (Khey, 2).

Since that date prison privatization has blossomed into a multi-million dollar enterprise known as the "Prison-Industrial-Complex". As David N. Khey informs us in his economically titled *Privatization of Prison*, "As of 2001, 21 private prison companies were located in the United States, with about 31 states having active contracts" (3). According to a 2003 article in *The Prison Journal* by Perrone and

Pratt, in 2000 the two largest companies, Wackenhut Corrections Corporation (WCC) and Corrections Corporation of America (CCA), reported their total revenue at \$135 million and \$238 million respectively (ref. Schultz, 103). In the course of ten years, these companies' income increased by 900% and 700%, landing them with a total revenue of \$1.27 billion (WCC) and \$1.7 billion (CCA) in 2010. These companies are businesses, and like any business, they take steps to ensure that their product remains in stock. Companies like CCA use a large portion of their revenue to lobby for more extreme sentencing for minor crimes:

CCA's influence in [political organization specializing in shaping state legislature] has been widespread and well documented. The company was a member of the Public Safety Task Force which developed model legislation such as mandatory minimum sentencing for nonviolent offences, 'three strike laws' that require repeat offenders to be sentenced to jail for a mandatory 25 years to life, and 'truth-in-sentencing' laws that require prisoners to serve most or all of their time without a chance for parole (Hartman and Doty, 199).

It is evident that these corporations have a vested interest in keeping as many individuals as possible in prison at any given time. But the arguments against privatization don't end there. Even more issues arise when you examine the internal workings of a private prison, beginning with why it's so difficult to get a good look. As the Freedom of Information Act (FOIA) does not extend to cover the private prison sector, private prisons cannot be made to release records of how prisoners are treated, as that would constitute releasing "trade secrets". This prevents families of inmates who have been assaulted or killed from seeking information needed to pursue what little legal recourse they have. In 2005 a bill called the Private Prison Information Act was introduced which would require private prisons to manage and release their records under the same stipulations given in FOIA, but thanks to millions spent by CCA and others lobbying against the bill, it was shut down. The bill has since been reintroduced numerous times and is currently sitting in committee for the fifth time (GovTrack.us).

What are these trade secrets which require such expensive guarding? In their attempts to “maximize profits,” many private prisons cut corners on essential prison services, including medical care and educational program, as well as fail to provide prisoners with suitable legal aid (Schultz, 104). In addition, private companies routinely hire under-qualified guards and staff, giving them on average 60% less training than employees of public prisons (Khey, 6). A high-pressure job such as the correctional system is no place for unqualified, under trained, high school dropouts (not all private prisons require a high school diploma) to be given authority. In fact, “many incidents of excessive force and even wrongful deaths have been documented, and they continue to occur at rates far greater than in public facilities” (Khey, 6). Private companies also have a history of ignoring prisoner categorizations (minimum, medium, and maximum security), mixing prisoners of different risk levels and placing inmates in facilities unsuited for their category. In one instance in the 1990’s, 1,700 maximum-security prisoners were transferred to a minimum-security prison, resulting in thirteen prisoners stabbed, two deaths, and six escapes (Khey, 7). These wrongs are hard to right, even when loved ones of inmates abused or killed in prison can get information about what happened; thanks to the Supreme Court case *Correctional Services Corporations v. Malesko*, private prison CEO’s are federally unaccountable for any offence or injustice which takes place in their prisons. (Khey, 4)

From its inception in the US to its modern-day flourishing, the market of incarceration has consistently placed monetary gain ahead of human freedom. Its captains of industry push for greater incarceration rates in the same way a farmer strives to increase the yield of his land. This treatment of prisoners as a tradable commodity manifests within the prisons themselves, where poor management and cut corners lead to poor conditions, injury, and death. These conditions do nothing to aid a convict back into civilian life, instead setting them on a course which ends up right back in the prison industrial machine. This injustice has not gone unnoticed. Last year the federal government agreed to begin phasing out the use of private prisons, and for the first time since 1972, prison populations have been

on the decline (USDoJ, 1). But though steps have been taken to remove it, the memetic weed of profiting from human captivity has its roots deeply seated in our country's economy and politics, and with each law or Proclamation designed to beat it back, it seems to simply shift itself to new and legal ground. Both CCA and WCC have recently rebranded, changing their respective public faces to CoreCivic and GeoGroup, and in the wake of the 2016 election both have seen their stocks skyrocket. State governments still rely heavily on private prisons, and private companies hold a monopoly in the border security business, providing their same trademark conditions to those suspected of being in the country illegally (Lee). This weed, which runs counter to our most eagerly claimed values, must not be allowed to flourish on American soil. It cannot, if we wish to call our country free.

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