

Stuck in the Cycle: The Exploitation and Perpetuation of Poverty in the Prison Industrial Complex

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Abstract

As the United States tops the charts with the highest incarceration rate in the world, it is crucial to determine what kind of a lasting impact this system has on offenders. The majority of those coming in and out of the criminal justice system are living in a state of poverty. From the initial intake to the process of release, the poor are targeted and exploited within the incarceration system. A violent cycle of poverty and stratified inequalities is perpetuated by the nation-wide Prison Industrial Complex. The fees, fines, and sanctions that add up throughout imprisonment transform the punishment of poor offenders from a limited experience to a lifelong sentence. This paper endeavors to examine how the poor are further indebted throughout the entire process of incarceration and offers recommendations to break the cycle of poverty within the penal system.

The United States' criminal justice system is unparalleled in its reach and impact as a nationwide institution. The U.S. incarceration rate is not only the highest in the world, but is actually up to 12 times higher than those found in similar Western European countries (Western, 2006). Yearly, there are over 12.5 million admissions to jails and prisons at the federal and state level (Minton & Golinelli, 2014). Criminal punishment and time spent in correctional facilities is overwhelmingly concentrated on the poor. Over half of the prison population comes from below the poverty line and an estimated 80-90% of individuals charged with a felony could be classified as indigent (New York State Bar Association, 2006).

It is crucial to examine the role of the criminal justice system in reproducing stratified inequalities for those individuals already at a social and economic disadvantage in society. Imprisonment of poor offenders leaves them particularly vulnerable upon their release, as incarceration can decrease their rates of employment and possible earnings, cause a decline in their mental and physical health, disrupt their connection to their community (including family, friends, and social services), and leave offenders with an insurmountable pile of legal debt.

Internationally recognized human rights documents emphasize several rights that are critically endangered by the cyclical involvement of the poor within the penal system. The Universal Declaration of Human Rights (UDHR) states that each individual has a right to “a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing, and medical care” (United Nations General Assembly, 1948). The fees, fines, and sanctions associated with incarceration leave poor offenders unable to achieve and secure an adequate standard of living for themselves and their familial dependents both while imprisoned and after their release. The International Covenant on Civil and Political Rights determines that all persons are equal in a court of law and that the determination of any criminal charges should be given out in such a way that everyone is penalized fairly (United Nations General Assembly, 1966). There are several laws and policing policies that specifically end up targeting the poor and many monetary penalties are given to poor offenders without consideration of their ability (or inability) to pay. It is imperative that the U.S. system of incarceration is reviewed to ensure that poor offenders are able to realize their basic human rights. The current criminal justice system commits violent reproductions of inequalities that often go unnoticed by the general populace because the system itself is deeply entrenched within the societal structure. Time spent behind bars for the poor is filled with unavoidable fees, fines, and sanctions that can transform punishment from a limited experience to a life-long sentence.

Constructing the Cycle

The perpetuation of poverty within the cycle of incarceration should be treated as a form of structural violence against a specific population of individuals. Traditional types of violence involve a clear actor and are direct and personal to a particular victim. In the case of structural violence, the actions are typically indirect and the source of harm does not come from an easily defined actor but instead manifests itself into an overarching structure of society. The “violence” in this case discretely shows up as an unequal distribution of power and resources, and subsequently, unequal life chances (Galtung, 1969). Furthermore, structural violence creates a certain type of stability in society by debilitating not only the victims’ formation of consciousness towards their exploitation, but also their mobility efforts to escape it. “A violent structure leaves marks not only on the human body but also on the mind and spirit” (Galtung, 1990, p. 294). Violence is seen in avoidable, socially sanctioned actions that violate human rights and/or prevent access to basic human needs (Allen, 2001). Through an evaluation of justice operations and mechanisms over the past three decades, it becomes increasingly clear that mass incarceration produces unequal opportunities for the impoverished who are trying to realize their human right to an adequate standard of living by contributing to their economic, social, and political instability.

It can be further argued that poverty itself is a form of structural violence. Mahatma Gandhi has often been quoted as saying, “poverty is the worst form of violence” (Dasgupta, 1968, p. 114). In the U.S., structural violence is most closely correlated with social class in that those living at a lower socio-economic level are significantly more likely to experience increased rates of disability and death than those citizens of a higher status (Gilligan, 1996). Structural violence most often occurs in three ways: through (1) omission, or the complete failure to provide adequate assistance to those in need, (2) repression, or the denial of civil, political, economic, or social rights for a specific population, and (3) alienation, or severely depriving people/groups of intellectual, emotional, or cultural growth (Dasgupta,

1968). By these constraints, insufficient education, unemployment, homelessness, inability to access mental and physical health care, and high incarceration rates are all violent acts that inform poverty. Poverty and violence are so structurally intertwined that the link between the two goes beyond mere causation and verges into a fundamental connection (Allen, 2001).

From the 1960s to the 2000s, the U.S. made dramatic transformations of their punitive policies. In the wake of the radical social movements of the Civil Rights Movement, the government began shifting their focus from welfare and state-sanctioned social protections to encouragement of a working class and corrective policies. Through a redistribution of budgets, personnel, and renewed priorities, the U.S. underwent a major “remasculinization of the state” during the 1970s and ‘80s, where there was a massive economic push to build prisons and put punitive policies on the docket. The year 1972 brought about the official beginning of the “War on Drugs” and federal drug policies drastically expanded to require longer sentences, mandatory minimums, the “Three Strikes You’re Out” policy (which consists of harsher punishments and heightened sentences for repeat offenders), and a re-labeling of many offenses as a felonies rather than misdemeanors (Smith & Hattery, 2007). By the year 2000, almost half of state and federal inmates were incarcerated for non-violent drug offenses (Schiraldi et al., 2000). In 1993, the Violent Crime Control and Law Enforcement Act was passed, which significantly extended penalties for crimes related to immigration law, hate crimes, sex crimes, gang-related crimes, drug trafficking, and firearm possession. The next year brought about the No Frills Prison Act, which prevented “luxurious” prison conditions and set the tone for the increasingly deprived living conditions documented in U.S. prisons. Outside of federal policies, prison policy reform found its way into state legislation as well. From 1980-90, California passed nearly 1,000 laws increasing the scope of prison sentences (Wacquant, 2010).

While estimates show that only one-tenth of the 1990s decline in crime can be attributed to the growth of incarceration rates, the U.S. continued to increase their tactics of mass incarceration

(Western, 2006). At the turn of the new millennium, the U.S. had increased its public funding for corrections, police, and criminal courts by 364% and added almost one million in justice staff (Wacquant, 2010). In 2008, over one in every 100 adults in the U.S. was spending time behind bars and one out of 31 adults were serving parole or on probation (PEW Center on the States, 2008). In just the last two decades, mass incarceration has been found to have unparalleled reach and implications that have already altered fundamental institutions nationwide. Penal expansion has shown to affect voter turnout (McDonald & Popkin, 2001), employment market (Western, 2006), and census taking (Lotke & Wagner, 2005).

One of the essential aspects of penal expansion to consider is the mass privatization of prisons and prison services. In 1998, Angela Davis used the term Prison Industrial Complex (PIC) to describe not only the federal institutions themselves, but also the private corporations and individuals that have formed a complex relationship based on a common investment in the growth of the penal industry. While states have hired private firms to provide maintenance, drug counseling, food preparation, and medical services for decades, only recently has there been a rising trend for federal and state governments to turn over prisons entirely to private enterprise or pay privately built correctional facilities to house excess inmates. These practices turn prisoners into commodities, where they are considered valuable sources of income for their ability to generate cheap labor and per diem payments (Schwartz & Nurge, 2004). Supporters of the privatization of the prison system claim that these institutions are cheaper to operate than publicly funded ones. In fact, among U.S. literature, this argument seems to be about the only justification for private prisons (Schwartz & Nurge, 2004). As more studies comparing private and public incarceration facilities appear, it has shown that this claim may not hold any ground and that both institutions are often equally as cost efficient (Austin & Coventry, 2001; Lundahl et al., 2009).

One of the largest concerns with the privatization of penal facilities is the issue of accountability and lack of government supervision. One of the sneakiest aspects of hiring private contractors is that it allows prisons to be built without public approval (Schwartz & Nurge, 2004). Private companies have begun to put more and more of their investments in “spec prisons,” or institutions built on speculation without a government contract, that accept prisoners from across the nation and at any security level for a daily fee. With no formal agreement involved, there often are no government agencies given access to monitor these facilities (Schwartz & Nurge, 2004). Furthermore, private prisons do not need to comply with the Freedom of Information Act and will typically refuse access to their records (Hallett & Lee, 2001). When spec prisons house out-of-state inmates, any protective statutes that their home state might have to protect prison conditions in private facilities will not apply. By shifting prisoners from state to state, private companies are able to circumvent laws that would ensure quality, standardized treatment (Schwartz & Nurge, 2004).

Not only do private prisons look for ways to cut legal corners to turn a profit, but they also have a heavy hand in lobbying for legislature that benefits them. The two largest companies providing correctional facilities are the Corrections Corporation of America (CCA) and The GEO Group. From 1999-2011, CCA and The GEO Group gave more than \$900,000 to federal lawmakers and over six million dollars to state-level politicians (Justice Policy Institute, 2011). Both companies also actively lobby at the state and federal level. CCA alone has spent about \$1 million each year, every year since 2003 on federal lobbying efforts (Justice Policy Institute, 2011). With private corporations pouring so much money into bills related to law enforcement and corrections, it is questionable as to whether expansive punishment policies are really aimed at eliminating crime and rehabilitating offenders or filling the pocketbooks of private investors in the penal industry.

There is a growing body of research that highlights the connection between mass incarceration, urban poverty, and access to welfare. “The penal system has emerged as a novel institution in a

uniquely American system of social inequality” (Western, 2006, p. 8). Studies implicate the prison system in contributing to extreme disadvantages for the poor by negatively impacting employment opportunities, mental and physical health, family and community structures, participation in the housing market, access to credit, and additional “invisible” stigma associated with having a criminal record (See Harris et al., 2010; Wacquant, 2009; Wacquant, 2010; Western & McLanahan, 2000; Western & Pettit, 2005; Western, 2006).

When drawing connections to the penal system and denial of welfare, there are two important legislative moves to discuss. First, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires that welfare recipients become employed after two years or they will be unable to obtain federal assistance. Second, a congressional amendment to the Personal Responsibility and Work Opportunity Reconciliation Act passed in the same year prohibits states from providing welfare benefits (including federally assisted housing, food stamps, Supplemental Security Income, and Temporary Assistance for Needy Families) to individuals that are in violation of probation/parole or are a “fugitive felon.” A fugitive felon encompasses anyone who is “fleeing to avoid prosecution, or custody or confinement” [42 U.S.C. § 608 (a)(9)(A)(ii)], which includes those with bench warrants for being unable to pay any outstanding tickets or legal financial obligations (LFOs). Since imprisonment diminishes employment opportunities and often results in a surplus of legal debt, it can be extremely difficult for those living in poverty to achieve the narrow status of economic stability to receive welfare assistance of any kind (Harris et al., 2010; Wacquant, 2010).

While research seems to reinforce the idea that mass incarceration deepens disadvantage for those in states of poverty, this reality is vastly hidden from mainstream America. The collective experience of urban poverty and incarceration is almost completely stratified and confined to this specific population of “social outliers” (Western & Pettit, 2010). “In the mainstream perspective, incarceration and its accompanying socioeconomic disadvantage stems more from the criminal conduct

of offenders than the policy choices of government officials. The institutions themselves are not questioned” (Western, 2014, p. 303). Furthermore, the effects of imprisonment are not isolated to the individual inmate, but also appear to be intergenerational. Over half of all prisoners are parents of children under the age of eighteen, and about 45% of those inmates were living with their children when they were incarcerated (Mumola, 2000). Imprisonment creates instability in the family structure and is strongly associated with separation and divorce. Additionally, the previously discussed decline in economic opportunities leave formerly incarcerated parents less able to financially provide for their children, which lays the foundation for a new generation to enter into the cycle of poverty (Western & Pettit, 2010).

While mass incarceration has succeeded in drastically increasing the number of inmates nationwide, it has not shown any ability in impeding offenders from returning to prison. Recent statistics show that within three years after their release, about two-thirds of former prisoners were rearrested. Within five years of release, the recidivism rate jumps to over 76% (Durose et al., 2014). While the Second Chance Act, passed in 2008, authorized federal grants to government institutions and nonprofit organizations to provide supportive services for people returning to their communities after incarceration in hopes of reducing recidivism rates, there has been little attention paid to the increasing civil penalties that released offenders face. Again, the public is quick to focus on “fixing broken people” and blaming the faults of ex-convicts for their inability to reintegrate into society rather than recognizing structural flaws and attempting to fix a broken system (Fraizer-Camara, 2013).

The Price of Arresting the Poor

Alongside the growth of the prison industry, major alterations in U.S. police strategy have contributed to the massive intake of the poor into the penal system. From the mid-1980s to present day, police forces have been adopting the “broken windows” policy of cracking down on low-level

offenses. The broken windows position stems from a metaphor posed by George Kelling and James Wilson (1982): “If a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken” (p.3). This theory suggests that quality-of-life offenses (such as graffiti, disorderly conduct, public intoxication, loitering, etc.) contribute to the image of a decaying neighborhood and an ineffective police force, which will cause an increase in serious crime. Despite the evidence that broken windows policing is ineffective at reducing overall crime, the past two decades have continued to see a huge jump in stop-and-frisk policies and zero-tolerance policing for misdemeanors (Subramanian et al., 2015). Misdemeanor cases have increased from five million to 10.5 million per year from 1972-2006 (Boruchowitz et al., 2009). In 2008, the largest group of offenders booked in Los Angeles jails consisted of vehicular and traffic offenses (Vera Institute of Justice, 2011). The growth of arrests for minor offenses allow for more and more people to get involved in a cycle of incarceration.

There are several other changes in policing that further involve impoverished people in the criminal justice system. As previously discussed, the rate of arrests for drug-related crimes has risen sharply, growing 160% from 1981-2006 (Subramanian et al., 2015). While involvement in the underground economy is not solely left for those living in poverty, it is more likely for people that are unable to participate in the traditional working class and/or are unable to access necessary resources for survival to participate in illegal means of acquiring finances. Many cities in the U.S. have also implemented strict laws targeting the homeless, such as the prohibition of loitering and panhandling. In 2014 alone, 100 cities have made it illegal to sit or lie down in public places (Dansky, 2014). Additionally, numerous law enforcement departments implement arrest quotas as a determinant of performance evaluations. These mandatory quotas drive officers to make more arrests, often for low-level crimes. Officers also receive political and community pressures to heavily police low-income neighborhoods (Subramanian et al., 2015).

When looking at a description of the history and characteristics of people in jail, it is very similar to a portrait of those living in poverty. Almost half of all inmates in 2013 had not graduated from high school (Subramanian et al., 2015), which is comparative to the approximate 40% of 25 to 34-year-olds living in poverty without a high school diploma (Gabe, 2015). It is four to six times more likely that someone incarcerated is suffering from a mental health disorder than in the general population (Subramanian et al., 2015). Similarly, about 40% of impoverished/homeless individuals report some form of mental health issues (National Center for Health Statistics, 2012). Although they only represent about 13% of the overall population, African Americans make up 36% of the jail population (Minton & Golinelli, 2014) and about 25% of the poor population (Gabe, 2015). While there is less prevalence of drug and alcohol addiction (estimated 9-16%) among the general low-income population (Substance Abuse and Mental Health Services Administration, 2012), there is a very high percent (68%) of inmates that reported having a history of abusing drugs and/or alcohol (Subramanian et al., 2015). From this information, it is clear that poverty and the institution of incarceration affect similar populations.

Starting from the initial arrest, poor individuals face heightened fees and fines. While different jurisdictions have varying laws on the pretrial process, most arrestees must post bail or agree to supervision before they are able to be released in order to ensure the defendant will show up for court. In 1992, "release by recognizance" (a written promise to attend all court proceedings) was the most common form of pretrial release. However, by 2006 the use of this method of release had declined by 33% and over 70% of individuals charged with a felony that year were assigned a monetary bail (Justice Policy Institute, 2012). Furthermore, the average bail amount has increased by over \$30,000 between 1992 and 2006 (Justice Policy Institute, 2012). People unable to pay a cash bond or even a percentage of the bond are left to remain in jail until their case is resolved. This time spent in jail even before they are sentenced can affect a person's ability to maintain a job, make payments on time, and could disrupt stability in medical care, family relations, and housing. In Los Angeles County, the average stay of

someone detained pretrial spent 53 days in jail, with more than 25% of arrestees staying longer than 80 days before their cases were resolved (Vera Institute of Justice, 2011).

It is not just the arrestees' lives outside of incarceration that suffer, but being held pre-trial also is found to have consequences within the criminal justice system itself. Those held in prison during pre-trial are more likely to receive a sentence of jail time, be convicted of a felony, and be sentenced for longer periods of time than those released pre-trial (Phillips, 2008). The inability to pay bail also can coerce people to accept plea bargains despite being innocent to get out of jail sooner. More than 95% of cases are settled by an admission of guilt through a plea bargain (Justice Policy Institute, 2012). In a 2012 study, over 50% of innocent defendants pled guilty to get a lower sentence rather than risking a conviction with a maximum penalty (Dervan & Edkins, 2012).

Once an offender is convicted (and sometimes even if they just go to trial), they enter into a drawn-out process of legal financial obligations (LFOs), which include fees, fines, restitution orders, and any other monetary sanctions placed on them by courts and the criminal justice institutions they interact with. While restitution charges have been historically placed on delinquents as a form of penalty and as compensation for the victim, modern-day LFOs go beyond retribution and act as enhanced "user fees" that intend to raise revenue for the state budgets (Bannon et al., 2010, p. 4). These fees can be applied throughout the process of conviction and offenders can be fined for anything from applying for and using a public defender, to simply being convicted of certain crimes and because of such, are given "surcharges" that go towards court administration or community funds (Bannon et al., 2010, p. 7). In California, there are more than 3,100 separate fees/surcharges that can be imposed upon criminal offenders (California Performance Review, 2005). One woman in Pennsylvania was convicted of a drug crime and faced 26 different fees that added up to \$2,464. Her fee amount was almost three times greater than her fine (\$500) and restitution charge (\$325) combined (Bannon et al., 2010).

The financial burden of LFOs does not stop after an individual has been charged. If an offender is unable to pay the fees all at once, they are entered into a payment plan that normally includes excessive yearly interest rates averaging around 12%. Some states even allow for LFOs to accrue interest while the prisoner is serving a sentence, even though the offender is unable to earn any significant income (American Civil Liberties Union of Washington & Columbia Legal Services, 2014). Furthermore, state courts are allowed to place additional collection fees simply for accepting payments for outstanding LFOs. In the state of Washington, court clerks are authorized to charge up to \$100 each year in collection fees (American Civil Liberties Union of Washington & Columbia Legal Services, 2014). When comparing expected earnings to average legal debt, it was found that formerly incarcerated men owed 35-60% of their annual incomes to legal debt (Harris et al., 2010). Assuming no additional fees are imposed and that the annual interest rate remains steady, a study shows that it would take over a decade for a Washington state offender who makes consistent payments of \$100 a month to fully pay off LFOs. Felons who pay \$50 a month will still have legal debt after 30 years of regular payments (Harris et al., 2010).

Legal debt creates an inescapable burden for poor individuals to carry out their daily lives. Unpaid LFOs are unable to be discharged when declaring bankruptcy and can also result in arrest warrants, arrests, and incarceration (American Civil Liberties Union of Washington & Columbia Legal Services, 2014). For this reason, legal debt often takes precedence over other necessary payments. Formerly incarcerated persons making regular payments towards their LFOs were less able to pay for rent, medicine/healthcare, food, toiletries, and child support (Harris et al., 2010). Other aspects of legal debt payment will be further discussed in the third section of this paper, after accessing some additional sanctions (monetary, and otherwise) that are placed upon offenders while in prison.

The Accumulation of Debt during Periods of Incarceration

Once a prisoner is incarcerated, the fees continue to add up regardless of whether the offender can afford them or not. Many criminal justice facilities charge inmates daily rates for room and board. “Pay-to-stay” fees differ from jail to prison and from state to state, but in general can range from as low as \$1 a day to over \$100 a day (Eisen, 2014; Harris et al., 2010). These daily rates often apply before an inmate is sentenced if they stay in jail pre-trial and many times are not waived if the defendant is not convicted (Harris et al., 2010). Outside of daily rates, jails and prisons also charge for services such as medical care (including separate charges for dental visits, sick calls, medication, prescriptions, and hospital treatment), laundry/clothing, rehabilitative programming, toiletries, and even the initial booking process. One visit to medical services may cost an inmate \$10-20 (Eisen, 2014). While each of these fees may not be staggering individually, they add up quickly over the length of a prisoner’s stay, particularly if an inmate is suffering from mental or physical illnesses that need regular treatment.

Similar to the court-ordered LFOs examined in the previous section, prisoners are given opportunities to enter into payment plans to expunge their debt over a period of time, but these plans typically include surcharges, additional fees, and/or accumulate interest (Subramanian et al., 2015). While some states have enacted laws that allow fees to be waived for inmates that cannot pay, there is no guarantee that these waivers will be fairly awarded. When prisoners do not have the ability to pay, their tabs are often left for their family to pick up. Depositing funds into inmate’s commissary accounts so they are able to pay for things like toilet paper and toothpaste do not come without a fee. Money transfers are often run through private companies, who charge service fees for each transaction. Prisoners will frequently go without medical treatment or hygiene items rather than have their families deposit money into their accounts that will be immediately seized to fulfill daily incarceration charges (National Prison Project, as cited in Eisen, 2014).

When inmates are unable to afford fees, they could pose serious risks to their health and the health of others. If a prisoner delays or forgoes medical treatment, he or she could end up contracting more serious illnesses or spreading their disease throughout the correctional facility. This behavior only increases for medical issues that are stigmatized or devalued in society, such as mental health. Approximately 83% of inmates with mental illness do not receive mental health care after being incarcerated. Of those inmates with a mental illness, 72% of them also have a substance use disorder (James & Glaze, 2006). If people imprisoned are unable to afford necessary health care and rehabilitation services, their stability will only decline over time throughout their stay and leave them in a worse state to handle the rest of their sentence as well as reentry after they are released.

Another detrimental charge for prisoners is the cost of staying in touch with their families and communities. The privatization of phone and video services has driven up the costs of keeping connected to exorbitant rates. In all but a few areas, telephone companies that have contracts with the criminal justice system are obligated to pay a sizable portion of the revenue collected back to each correctional facility. For example, Solano County jail's contract earns the facility 72% commission out of the phone company's revenue. This process drives up the per-minute calling rates and pushes companies to add on heightened charges and fees to each call. A 15-minute phone call can cost anywhere from \$15-20. Prison phone companies charge service fees for depositing money, holding money in an account, and closing accounts, as well as a surcharge per call that ranges from \$3 to \$5 in addition to the per-minute rate (Kukorowski et al., 2013). Video calling services run in the same way, charging upwards of \$1.50 per minute for a video visitation that oftentimes has poor quality visuals (Rabuy & Wagner, 2015). The availability of these services directly relates to the well-being of prisoners and their rate of recidivism. A single visit with a loved one reduced recidivism by 13% for committing new crimes and more than 25% for committing technical violations of parole (Minnesota Department of Corrections, 2011).

While imprisoned, it is crucial that offenders have the opportunity to develop skills that will help them re-enter society. Education is cited by formerly incarcerated people as their primary re-entry need (Visher & Lattimore, 2007). The prison population in the U.S. is called the “most educationally disadvantaged population in the United States” (Klein et al., 2004, p.1). While almost half of the states have adopted legislation requiring mandatory education for inmates with low-level skills, this does not necessarily mean that they are receiving quality learning opportunities or are able to complete the programs provided. Out of the 41% of prisoners eligible to enroll in the education programming, only 10% actually participate (Tewksbury et al., 2000). There is a severe lack of data missing pertaining to correctional education programs, so it is unclear whether this is due to insufficient opportunities or lack of desire to participate (Crayton & Neusteter, 2008).

While there is not enough data to prove a causal link, there is information that correctional education is being unequally offered throughout the criminal justice system and underfunded for the swelling prison population. From 2003-2004, postsecondary educational programming was offered to less than 5% of all U.S. prisoners. According to research, 15 prison systems accounted for 90% of the inmates enrolled in this programming (Erisman & Contardo, 2005). While it appears some criminal justice institutions make education a high priority, there are a vast majority of them that are lagging behind. The funding for these programs has only decreased in the last decade as the number of prisoners has increased. Of the funds distributed by the federal Adult Education and Family Literacy Act, only 5% went to correctional education programming in 2004, when 12% was allocated in 1998 (Crayton & Neuster, 2008). Another major reduction in funding occurred when Congress made prisoners ineligible to apply for Pell Grants, which provide federal student loans to individuals seeking postsecondary education, in 1994. The omission of Pell Grants for inmates resulted in the closure of almost half of the existing correctional education programs and terminated access to financial support for tuition and textbooks for over 25,000 prisoners (Taylor, 2005). Lack of funding minimizes the educational

opportunities for offenders by making penal institutions stretch their resources even thinner, which can result in the capability to take on fewer students, a lack of available and high-quality staff, and more expensive program fees that will be placed on inmates. A prime example of this occurred in 2003 when Maryland facilities reported having a waiting list of over 2,000 inmates for their education programming (Maryland General Assembly, 2003).

Without opportunities to gain useful skills that could help them find employment upon their release, impoverished prisoners are bound to fall straight back into a deepening cycle of debt. Re-entry programs usually focus on enhancing income by identifying the most gainful employment opportunities upon release, but the majority of these programs fail to provide information promoting financial literacy that could help enhance their ability to save money, build assets, maintain a good credit score, and accumulate wealth. Not only can an understanding of economics and personal financing help an impoverished ex-offender build long-term solutions to resolve their debt, but it is likely to improve the financial stability of their family and community as well (Martin, 2011). Without basic financial education, poor offenders will be less likely to successfully reenter society and survive in an economy where they are already at a disadvantage.

What Comes After: How Legal Debt is Reproduced Post-Incarceration

Individuals released from prison are faced with a variety of challenges, and those challenges only increase for ex-offenders that are returning to a life of poverty. One of the most crucial necessities that released prisoners have difficulties accessing is housing. It is estimated that 15-27% of prisoners expect to go to homeless shelters after their release (Bannon et al., 2010). If ex-convicts plan on returning to or staying with family in public housing, they run into barriers as many public housing authorities ban those with a criminal record. Furthermore, landlords are less likely to rent to someone

with a criminal record, even if they just have an arrest record and no formal convictions (Subramanian et al., 2015).

Indebted ex-offenders also run into barriers for accessing housing if they have ever been unable to make payments on legal debt while in prison or after released. Unpaid criminal justice debt impacts individuals' credit scores, which can halt their ability to get approved for housing, apply for a loan, or sign on a mortgage (Bannon et al., 2010). Many impoverished offenders rely on low-income housing and housing assistance through the government, but these public benefits can be taken away if they do not pay their LFOs. As previously discussed, federal and public assistance is barred for those who have violated their probation or parole, or to individuals who are "fleeing felons" (Harris et al., 2010, p. 1762). Many states make the payment of legal debt a condition of probation or parole, as well as allow for arrest warrants to be given for those that miss payments and/or don't show up for payment-related court appearances. Both of these situations can terminate an ex-offenders access to public/federal housing assistance, which are often the only available housing option for the poor, simply because they are unable to afford legal payments.

A steady income is necessary for ex-inmates to be able to pay off their debt, but suitable and stable employment is difficult for individuals to find after they are released from the criminal justice system. Up to 60% of formerly incarcerated persons remain unemployed one year after they are released (Bannon et al., 2010). Employers are less likely to hire someone with a criminal background and also often perform background checks of a potential employee's credit reports, which (as previously examined) can be damaged by legal debt (Bannon et al., 2010). These barriers to employment can result in ex-offenders using alternative, illegal means of making money to be able to not only survive, but also make payments on LFOs (Harris, 2010). Working in the underground economy can lead to re-arrests that will place poor offenders back at the beginning of the cycle of incarceration all over again. Although public assistance can sometimes supplement income, most formerly incarcerated men have not worked

enough to qualify for unemployment insurance (Western, 2006). Without skills, work experience, and education, offenders have few options for employment and are forced to look at positions in the secondary labor market, which contains low-skill jobs for low pay. For those that do happen to find employment after their release, their average hourly wages and annual earnings decreased by 11% and 40% respectively (Pew Charitable Trusts, 2010).

When offenders are released from prison they are normally not completely freed from the criminal justice system, and the fees that come with it. Once released, ex-convicts are fed through a system of probation or parole. These services often come with fees ranging from \$30-50 per month (Schloss & Alarid, 2007). Furthermore, there are additional fees for mandatory drug testing, treatment, therapy sessions, and classes. In the state of Pennsylvania, people cannot even be released on parole unless they pay a \$60 court fee that has no exceptions for the indigent (Bannon et al., 2010). Not only can parole/probation further indebt poor offenders, but also the practice of post-release supervision can increase the possibility of failure for low-risk offenders. Obligations of the supervision impede on positive activities that can reduce recidivism, such as employment, education, and community participation (Lowenkamp & Latessa, 2004).

The cycle of indebtedness and imprisonment is propelled by heightened LFOs that poor offenders cannot afford and they have limited options to lessen the amount owed. While some states offer community service options to pay off criminal justice debt, it often only applies to certain categories of LFOs. Furthermore, it takes offenders a long time to pay off their debt (in the majority of programs, a full year of service is converted to less than \$3,000 in debt), which can interfere with their ability to acquire employment and build an income to pay off other aspects of their daily lives. Moreover, some community service programs require participants to pay fees (upwards of \$200) to enter. Even when states have fee waivers, there is typically still at least one mandatory fee that courts are required to give defendants, regardless of their financial circumstances. Many states allow post-

sentencing evaluations to modify an individual's legal debt/payment plans, but these evaluations often come too late for offenders to avoid the harsh penalties of non-payment and are extremely subjective. For example, an Illinois judge evaluated ability to pay based on if an offender smoked cigarettes (Bannon et al., 2010). Another community corrections officer said that all nonpayment of legal debt could be considered willful because felons "can always go out and get a day job" (Harris et al., 2010, p. 1788). Despite the increase of the use of LFOs and the relatively limited options for a reduction in debt, a study conducted of 15 states concluded that none of them had any kind of process for measuring and tracking the impact of criminal justice debt on former offenders, their communities, and their families (Bannon et al., 2010).

When ex-convicts are unable to pay their legal fees and fines, they are faced with sanctions that make it even more difficult to dig themselves out of debt. Called "poverty penalties," many states impose late fees, increased interest, collection fees, and change in payment plan fees (Bannon et al., 2010, p. 1). While some states charge lower fees of \$10-20 for late payments, counties in California have a flat charge of \$300 for failure to make payments. Another common practice is the suspension of driver's licenses for missed payments or failure to appear at a court hearing. This can make finding employment and making parole/probation appointments almost impossible. If the ex-offender continues to drive on a suspended license, they can face high fines and arrest warrants (Bannon et al. 2010). As was already noted, all public benefits are also at risk for those that miss legal payments. If nonpayment results in a violation of an ex-offender's probation/parole or the offender is issued an arrest warrant, he or she becomes ineligible for programs such as Medicaid, Temporary Assistance to Needy Families, Food Stamps, and Supplemental Security Income for elderly/disabled (Subramanian et al., 2015).

Legal debt forms several pathways back to prison for poor arrestees. Failure to pay legal debt can result in a revocation of parole/probation terms, which puts individuals at risk of incarceration if

courts consider their missed payments willful. The majority of states also sanction arrest warrants if an arrestee misses payments or fails to appear in a debt-related court proceeding. Sometimes these arrests take place before a court has ever been able to assess whether an individual has the resources to make these payments. Even if an individual is assessed for their ability to pay, attorneys have observed judges ordering incarceration for non-payment when debtors were unemployed, homeless, had mental health/addiction issues, had difficulties paying child support, and/or reported public assistance as their only income. Furthermore, arrest warrants normally contain additional fees that are added onto preexisting LFOs and individuals that are arrested for non-payment do not earn any credit against their LFOs while imprisoned, and the interest rates on any payment plans still continue compounding (American Civil Liberties Union of Washington & Columbia Legal Services, 2014). One study found that nearly one in four legal debtors reported spending time in jail as a sanction for non-payment and that the majority of felony offenders make no LFO payments in 2-3 years after their release (Harris et al., 2010). Some states create another route to prison by offering ex-offenders the choice of spending time in jail as a way of fulfilling legal debt obligations. One report found that people who “sit out” their fines only earn about \$50 of credit per day spent in jail (American Civil Liberties Union of Washington & Columbia Legal Services, 2014), and another found that some jurisdictions allow for new daily rate bills to accrue during their stay (Bannon et al., 2010).

The cycle of incarceration reproduces inequalities at a disastrous rate for those that are already underprivileged in society. Mass incarceration of the poor contributes to a cumulative disadvantage that creates restrictions for those living in poverty to access conventional means of survival and reach a certain level of social inter-dependence. When asked how he managed to make legal payments, one ex-offender stated, “I rob Peter to pay Paul” (Harris et al., 2010, p. 1789). This expression, which refers to pre-Reformation era mandatory religious taxes that were paid to two separate churches (St. Paul’s and St. Peter’s), indicates that those suffering from LFO debt have to allocate resources intended for other

purposes to make legal payments, which only makes other issues worse. In order to pay off legal debt, the poor end up skirting other responsibilities (such as rent, car payments, insurance, and child support), which can result in further entanglement with the criminal justice system and therefore, further entanglement in criminal justice debt.

Recommendations to Break the Cycle

In order to put an end to the cyclical pattern of poverty and incarceration, policy changes need to be implemented and efforts need to be made through every stage of imprisonment. Police should go through training in how to respond to a suspect who appears to have a mental illness, is under the influence of drugs or alcohol, or appears to be homeless. Arresting these individuals is not the only option, and community-based treatment centers and shelters should be contacted for people that are at a low-risk of committing violence or crime. Police officers in Portland, Oregon receive basic training and also have a special team of officers that pair up with mental health professionals that focus on calls dealing with unstable people in order to connect them with appropriate services in lieu of detention. It's estimated that this team saved the state almost \$16 million in jail costs alone in the span of two years (Subramanian et al., 2015). State and federal funds should be allocated for community treatment centers in areas where options are limited or unavailable. Focusing on treatment over incarceration has a better chance of reducing recidivism and stabilizing at-risk individuals; additionally, it will stop the process of further indebting those already at a disadvantage in society and can save state funds that would otherwise be used in the criminal justice system. Police departments should shift their policies away from "zero-tolerance" for low-level offenses and focus on alternative methods to crime prevention that do not always involve detaining people. Furthermore, states should revisit laws that target the homeless and work towards decriminalizing the "offenses" in certain cases that the poor must commit to survive (non-payment of tickets, driving without insurance, etc.).

The burgeoning court fees need to be reassessed and LFOs should not be relied upon to balance or raise revenue for state budgets. Individuals should not have to pay for public defenders if they are unable to afford them. A nation-wide criteria needs to be established for determining an offender's ability to pay, so that legal debt payment plans are more fairly accessed for the poor. Alternative methods of payment (such as community service or work plans) should be considered for those that are struggling financially. Interest rates should not be as drastically steep for poor offenders and interest should not accrue while offenders are incarcerated. Interest and payment plans should also be delayed after a poor inmate's release to give him or her a chance to find stable employment without their legal debt piling up. Ability to pay assessments should also occur early in the legal process, so that poor offenders are not starting off their sentences further in debt.

Efforts to reduce recidivism and assist disadvantaged offenders in building skills to economically and socially stabilize themselves should be taken before the inmates are released. Education and literacy programs should be made a top priority and all inmates that want education should be given opportunities to participate, regardless of their ability to pay for materials. Financial education should also be emphasized alongside programs that focus on income and employment. Criminal justice systems should also look at starting employment initiatives and partner with local companies to connect low-risk offenders with non-biased employment opportunities. These partnerships can help ease the transition of arrestees back into their communities, remove the stigma surrounding people that have been incarcerated, and provide ex-inmates with a stable form of employment. By providing education, financial literacy, and connections to employment, former offenders will be less likely to get involved in the underground economy to make money.

The system of fees within jails and prisons should be completely revisited, particularly for poor offenders. Arrestees should be fairly assessed for their ability to pay daily fees for their incarceration, as well as any additional fees for necessities (toiletries, clothing, food, etc.). Health resources, particularly

those involving addiction treatment and mental health services, should be available for all inmates regardless of their ability to pay. An individual should not have to choose between visiting a doctor and buying toilet paper if they are unable to pay for both. Fees for phone calls and video services should be drastically reduced and private companies should not be forced to feed such high percentages of their profit back into the prison system. While a phone call might not seem like a “necessity” to everyone, maintaining connections with family, friends, and the community can improve recidivism rates and aid in an individual’s ability to transition back into society.

Once a poor offender has been released, the systems of legal debt collection should be carefully examined. Arrestees should be given a risk and needs assessment before their release to help guide their supervision. Parole and probationary periods that are too strict can prevent ex-inmates from finding employment and accessing services that could be paramount to a successful reentry. Legal debt payment should not be a stipulation of probation for former offenders that are truly unable to make payments. Poverty penalties should be immediately eliminated because piling on extra fines when someone cannot pay their original debt does absolutely nothing except further indebt those that are faced with societal disadvantages. These guidelines should also be applied to the private probation/parole services that criminal justice systems are increasingly using.

The harsh penalties for poor ex-offenders that are unable to pay legal debt should be revisited depending on individual situations. The prohibition of welfare services for those that cannot pay LFOs does nothing but worsen the ability for poor people to get out of debt. Furthermore, public services should not be included as income in an inmate’s assessment for payment plans, as the government has already allocated these benefits for specific purposes (such as living costs). The practice of suspending driver’s licenses for nonpayment of legal debt drastically reduces an ex-offender’s ability to meet requirements of supervision and secure employment, and should be eliminated for those that are already struggling to make payments. Furthermore, the practice of giving arrest warrants to those that

miss payments for LFOs should be eradicated, particularly if an offender's ability to make payments has not been formally and fairly assessed. Additionally, voting privileges should not be revoked for debt non-payment, for the poor should still be able to have their opinions count in policy decisions that affect them. In order to put an end to the devastating cycle of imprisonment and impoverishment, particular attention should be paid to how the criminal justice system is generationally affecting those living in poverty and applicable research should be utilized to develop policies and programs to promote and support the prevention of over-incarceration of the poor.

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