

Criminalizing Poverty: How Prison Expansion and Welfare Reform in the United States have Disproportionately Marginalized and Disenfranchised People Experiencing Poverty

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Since the 1970s, the trend of lawmakers in the United States to invest in the penal system and divest in welfare programs has produced penal and economic sanctions that have disproportionately targeted and criminalized people experiencing poverty. By the turn of the century, politicians seeking to be “tough on crime” garnered bipartisan support to fight the War on Drugs and significantly reduce social expenditure, resulting in policies that have exceedingly targeted people experiencing poverty by reducing welfare benefits and increasing the prison population. The implications of these policies have further targeted impoverished communities by increasing homelessness and housing insecurity, institutionalizing racial discrimination and political disenfranchisement, promoting LGBTQIA+ discrimination and reducing physical and mental health care access. The significant growth of the prison population since this era has instigated an increased dependence on private prisons at the state and local level. This problem is especially prominent in Kansas, where a growing wave of local activism for prison reformation is rooted in reversing the national effects of a prolonged history in the United States of prioritizing the penal system over welfare and rehabilitative services. Specifically, case-specific studies will be performed to analyze protests and organizations in Kansas for prison reformation, including a series of prison riots that occurred in April of 2020 in response to the state’s inability to adequately respond to the COVID-19 pandemic. This will illustrate how local efforts in Kansas for prison reformation are a microcosm of a growing movement across the United States

to address the disproportionate policing of people experiencing poverty that is enacted by the justice system.

The transition from investing in welfare programs to the penal system was a political operative that received bipartisan support throughout the decades following the 1970s. President Ronald Reagan began the War on Drugs in the early 1980s, which fueled the growth of mass incarceration until the end of the twentieth century. According to James Kilgore in his 2015 book, *Understanding Mass Incarceration*, “From 1980 to 2005, drug arrests tripled, leading to enormous increases in the prison population ... By 2000, about 500,000 people were behind bars for drug-related offenses, compared to 41,000 in 1980” (Kilgore 69). To account for this costly prison expansion, the Reagan administration divested in welfare programs to reduce social expenditure. As Kilgore demonstrates, “In Reagan’s first budget, Congress reduced funding for public housing and housing subsidies by 50 percent. By the mid-1980s, many people in impoverished urban communities of color were caught in the complex crossfire of the aggressive, racialized policing of the War on Drugs; the expansion of the drug trade; and the demise of jobs, social services and welfare support” (Kilgore 139). Reagan’s increased reliance on the penal system to wage the War on Drugs was juxtaposed with his enhanced interrogation of welfare fraud, which was intended to garner popular support for the reallocation of funds from welfare programs to an exacerbated penal and criminal justice system. Reagan used the racialized image of a Black woman named Linda Taylor, who allegedly received over \$150,000 per year from fraudulent welfare benefits and later became known as the iconic “welfare queen”, to fuel the growing disdain of the American middle class for welfare recipients. As Miranda Joseph illustrates in her 2014 book, *Debt to Society: Accounting for Life under Capitalism*, backlash for women like Linda Taylor was encouraged: “Even the so-called welfare queen, as

head of household, is in many ways portrayed as too powerful ... Clearly, the welfare queen had to be dethroned, normalized by being denied state support and instead made 'independent' through financial reliance on male partners and low-wage labor" (Joseph 102). Despite Taylor's case being atypical, politicians, like Reagan, used it as evidence for the suspect character of welfare's recipients among the system's broader insufficiencies. This resulted in a national crackdown on beneficiaries who were found supplementing their grants with outside income. In 1994, California's Democratic Governor Pete Wilson initiated the electronic fingerprinting of welfare recipients. As a result, states throughout the country adopted this model; therefore, anyone applying for welfare underwent a similar ritual, being photographed and fingerprinted, as someone who was being incarcerated (Gustafson 2009).

Reagan's targeting of the War on Drugs and the welfare queen eventually resulted in bipartisan support for President Bill Clinton's Omnibus Crime Bill of 1994 and the 1996 Personal Responsibility and Work Opportunity Reconciliation Act. The Omnibus Crime Bill of 1994 allocated \$9.7 billion to prison construction and promoted the participation of private corrections corporations. Kilgore asserts: "During the Clinton years, the nation's prison population increased by more than half a million and federal, state and local corrections expenditures had reached a total of \$57 billion a year, more than eight times the level of 1980" (Kilgore 32). The second piece of legislation, the 1996 Personal Responsibility Act, worked alongside the Omnibus Crime Bill to cut the rights and opportunities for people with felony convictions, including eliminating Pell Grants for people in prison. The bill facilitated lifetime bans on Temporary Assistance to Needy Families (TANF) and the Supplemental Nutrition Assistance Program (SNAP) for people with felony drug convictions, and it introduced a "one strike" policy for public housing, which allowed local authorities to evict or deny any tenant with

a drug offense. Joseph also points to how women, who disproportionately experience poverty, were specifically targeted by the 1996 Personal Responsibility Act because it “linked intervention in kinship and gender relations (by requiring women to identify the biological fathers of their children to qualify for benefits, limiting the number of children eligible for benefits, and funding various programs promoting marriage) to the coercive promotion of ‘responsibility’ through work” (Joseph 69). Together, Presidents Ronald Reagan and Bill Clinton constructed a bipartisan campaign to, as Christopher Petrella coined, transition our government’s investment from “welfare to cellfare” (Kilgore 109).

The transition of Presidents Reagan and Clinton from “welfare to cellfare” has lingered well into the twenty-first century. A 2010 report discovered that 48 states have reduced their welfare payment levels since 1996, and in more than thirty states, the value of TANF has declined by more than 20 percent since 1996 (Kilgore 140). Additionally, this decline in benefits has been accompanied by tighter restrictions on other sources of income, thereby making it “illegal activity” for people to supplement their income levels through side work, e.g. babysitting, to compensate for welfare’s inadequate funding. In some states, these “illegal activities” are punishable with felony convictions, which is a compounding punishment because, in many of those states, people with felony convictions are banned from voting (Kilgore 96). The political disenfranchisement of people with felony convictions disproportionately targets people who are low-income and/or of color, resulting in “one in thirteen African American men [being] banned from voting. In three states, Florida, Kentucky and Virginia, more than 20 percent of Black adults are disenfranchised. In many states, disenfranchisement includes exclusion from jury duty eligibility as well” (Kilgore 96). Without political representation, presidents like

Reagan and Clinton were allowed to perpetuate the marginalizing policies of prison expansion and heightened drug sentencing through a false claim of “popular voter support”.

The bipartisan support President Reagan garnered for fighting the War on Drugs, as evidenced by his Anti-Drug Abuse Act in 1986 whose vote tally was 346 in favor and only 11 against (Kilgore 31), also resulted in severe twenty-first century implications. In July 2011, Florida started forcing all recipients and applicants to undergo drug tests as a condition of receiving welfare. Despite this policy being ruled unconstitutional by a Florida judge in October 2011 for its violation of privacy rights, lawmakers in 26 other states mimicked the initiative and introduced similar legislation (Kohler-Hausmann 2015). Additionally, Reagan’s War on Drugs significantly contributed to the contemporary and inequitable policing of mental health and substance abuse disorders. As Craig Willse illustrates in his 2015 book, *Value of Homelessness: Managing Surplus Life in the United States*, “Many decades of formal and informal policy have made treatment for substance abuse and psychiatric disabilities a mandatory condition for entering and remaining in housing programs” (Willse 141). Willse argues that President Reagan’s War on Drugs and divestment in social welfare programs resulted in the prison system serving a predominantly warehousing function that “sanitizes” cities by imprisoning people experiencing housing insecurity for the benefit of tourist economics. Imprisoning individuals experiencing housing insecurity, who disproportionately have mental illnesses or substance abuse problems, relates to Kilgore’s argument that the penal system has transitioned away from providing rehabilitation services in favor of merely perpetuating the cycle of incarceration through enhanced criminal sentencing. As Willse argues, “As long as housing is not guaranteed to all people regardless of financial resources, psychiatric disabilities [further] contribute to individual experiences of housing insecurity ... Many would argue that jails and prisons are the

new mental health asylums, and the vast numbers of imprisoned people living with psychiatric disability confirms this” (Willse 100). Kilgore contributes to this understanding by citing a study in 2012 done by the Treatment Advocacy Center, a national advocacy group for mental health care, that reported there were more than 350,000 people with serious mental illness in prisons and jails, which is nearly ten times the number in state mental health facilities. Additionally, states have systematically cut back on mental health services in the past three decades, so when people experience a mental health crisis in public space, typically referred to as “acting out”, police often have nowhere to take them except jail (Kilgore 108). Because of this, people who are impoverished and experiencing housing insecurity are disproportionately incarcerated because they lack private space for managing their mental illness or substance abuse problems. Kilgore notes, “[They] often end up with minor charges, such as disturbing the peace or loitering, but even a short stay in jail can traumatize a person who already has mental health issues” (Kilgore 108).

Furthermore, Willse and Kilgore synergistically conclude that issues with housing insecurity and rampant policing disproportionately affect LGBTQIA+ youth. Kilgore cites statistics from a 2012 national survey that found that 40 percent of homeless youth identified themselves as LGBTQIA+ and that nearly 1 in 6 transgender people (nearly 1 in 2 if they are Black) have been incarcerated (Kilgore 148). Willse expands on this point by arguing that society began to conflate homelessness advocacy as a “gay rights” issue, which had very real political consequences for what needs would be addressed by society, such as protection from imprisonment and police harassment. A study conducted in 2013 by Dr. Sari Reisner found that police harassment of LGBTQIA+ communities disproportionately targets transgender women of color, especially women who are Black and/or Native American. This study also concluded that

19.3% of transgender women reported that they had been incarcerated, and, of those, 47% reported being assaulted while incarcerated, with rates of assault being disproportionately higher for Black, Latinx and mixed-race transgender women (Reisner 2014). The expansion of the penal system and reduction of welfare and rehabilitative services has resulted in a vicious cycle of incarceration that disproportionately targets people who are LGBTQIA+, especially if they are experiencing poverty or housing insecurity.

It is important to note that the rise of mass incarceration has had a disproportionate effect on Native American and indigenous populations who either live on reservations or in urban areas. Local courts in the 573 sovereign tribal nations that have a formal nation-to-nation relationship with the United States are responsible for the operation of a criminal justice system. While these courts may charge and convict people, they cannot sentence individuals to more than three years in prison; therefore, most serious cases are sent to federal courts. As a result, Native American and indigenous populations have still been subjected to the same negative effects of mass incarceration, resulting in stricter laws, more police and harsher sentencing. According to Kilgore, “Incarceration rates among Native Americans are much higher than among the general populations, especially in states with high concentrations. For example, in Minnesota, a state whose population is 1.3 percent Native American, 9 percent of those in prisons in 2010 were classified as ‘American Indian’” (Kilgore 148). Because Native Americans experience the lowest employment rate of any ethnic group in the United States, and, subsequently, one of the highest poverty rates, the disproportionate policing of Native American and indigenous communities represents an additional instance of prison expansion and welfare reform disproportionately marginalizing and disenfranchising people experiencing poverty.

As the prison system expanded and stripped away its rehabilitative services, private prisons grew significantly because state and federal systems could no longer cope with the rapid increase in prison populations. Kilgore notes, “Whereas in the 1960s and 70s the dominant thinking held that the state should control and operate social and security services, in the post-1980s era of conservatism and neoliberalism, the private sector became the preferred provider” (Kilgore 171). The rise in the use of private prisons is an issue that directly affects many Kansans’ lives. In August of 2019, a group of protestors from the Let My People Go Bill Campaign rallied at the Kansas Capitol Building in Topeka to fight for the eradication of homelessness and private prisons, the end of the Drug War, and the promotion of businesses hiring people with felony convictions after they serve their time (Lund and Gartner 2019). This protest came in response to a costly decision in Kansas to send 360 people, potentially up to 600, to a private prison in Arizona by the end of 2019 to deal with rampant overcrowding. Similar to Kilgore, protestors argued that displacing people who are imprisoned, thereby preventing regular in-person visits from occurring, has been proven to increase disciplinary infractions, assaults, and chances of being charged with another felony upon release (Shorman 2019). These protestors built upon previous momentum in Kansas when, in 2018, activists achieved the passage of legislation to “Ban the Box”. Kilgore explains “Ban the Box” protests by stating: “As part of screening for criminal background, many employees ask candidates to check ‘the box’ on job applications if they have ever been convicted of a crime. Activists around the country have argued that this box discriminates against people who admit to having a criminal record, often leading to their disqualification from the selection process. As a result of these concerns, campaigns against the box have resulted in a number of cities, counties and states passing ‘Ban the Box’ measures” (Kilgore 96). In May of 2018, the Kansas Governor announced that the

intention of local “Ban the Box” protests had been achieved and that public agencies in the state will no longer ask, upfront, whether someone has a criminal record. Kansas’ “Ban the Box” legislation marked one of the initial steps that is needed to be taken to reverse the nation’s previous trends of reallocating funds from “welfare to cellfare”.

Progress in Kansas for the dismantling of the prison system and the promotion of welfare and rehabilitative services has continued through the American Civil Liberties Union of Kansas’ Kansans for Smart Justice Coalition. Similar to the solutions Kilgore proposes, the Kansans for Smart Justice Coalition’s 2020 agenda included four tenets: “1. Expand the use of diversion. 2. Reduce sentences for non-violent drug crimes. 3. Improve reentry and recidivism prevention services. 4. Reform civil asset forfeiture laws” (Kansans for Smart Justice Coalition 2020). Together, these four tenets promote the immediate solutions for prison reformation that many activists, like Kilgore, recommend as initial steps. Additionally, to promote the refocusing of the Kansas Department of Corrections (KDOC) on rehabilitation, the Kansas Criminal Justice Reform Commission advocated for the following reformations to be made in their report to the 2020 Kansas Legislature: “Funding and authority for KDOC to build a substance abuse treatment center within the correctional facility system to provide approximately 240 male beds for substance abuse treatment should be authorized; and the recommendations of the Mental Health Task Force Reports to implement and fund a comprehensive plan to address voluntary and involuntary hospital inpatient capacity needs while providing all levels of care across all settings should be adopted” (Kansas Criminal Justice Reform Commission 2019). Together, the Kansans for Smart Justice Coalition and the Kansas Criminal Justice Reform Commission have progressed the local conversation regarding prison reform by proposing initial steps, in agreeance with Kilgore’s suggestions, to begin the process of repairing the state’s justice system.

Another significant event in Kansas that has occurred to progress national prison reform occurred during the COVID-19 pandemic. In April of 2020, a series of prison riots took place in response to the state's lack of preparedness to protect the health of its prison populations. The first demonstration took place at the Lansing Correctional Facility, where approximately 50 people rioted for better healthcare access after 14 prison staff and 12 incarcerated people tested positive for the disease (Helsel 2020). Days later, a second demonstration was organized at the Ellsworth Correctional Facility where approximately 150 people rioted to stand in solidarity with the healthcare demands of the protestors at the Lansing facility (Stavola 2020). In both cases, the participants refused to re-enter their cells to protest the overcrowding of Kansas' prison system that has resulted in their inability to receive proper medical care. This issue is not unique to Kansas; prison overcrowding has significantly contributed to the stratified health outcomes of low-income populations across the United States. As Kilgore notes, "The federal [prison] system has hovered around 130 percent capacity since the mid-2000s. By 2011, for example, California prisons were so overcrowded that a federal judge ordered their population reduced by 46,000 because the overcrowding made effective health care delivery impossible" (Kilgore 52). Because the federal prison system is overcrowded, the demands of these riots in Kansas were merely echoes of people in prison across the nation whose health outcomes are disproportionately stratified because of mass incarceration.

Local efforts in Kansas for prison reformation represent the beginning of a widespread movement that the United States must adopt to improve its justice system. Because the presidencies of Ronald Reagan and Bill Clinton ushered in a bipartisan era of relying on the penal system to fight the War on Drugs and curb the growing costs of welfare programs, the United States must adopt policies to combat decades of unprecedented growth in penal and

economic sanctions that have disproportionately targeted people experiencing poverty. If left unchecked, these harsh practices of the justice system will continue to marginalize and disenfranchise people on the basis of their socioeconomic status, race, gender, sexual orientation and mental health status.

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