

2015

## Denying Pell Grants to Prisoners: Race, Class, and the Philosophy of Mass Incarceration

Jason L. Mallory

*Polk State College - Lakeland*

Follow this and additional works at: <http://digitalcommons.northgeorgia.edu/issr>

 Part of the [Anthropology Commons](#), [Communication Commons](#), [Economics Commons](#), [Geography Commons](#), [International and Area Studies Commons](#), [Political Science Commons](#), and the [Public Affairs, Public Policy and Public Administration Commons](#)

---

### Recommended Citation

Mallory, Jason L. (2015) "Denying Pell Grants to Prisoners: Race, Class, and the Philosophy of Mass Incarceration," *International Social Science Review*: Vol. 90: Iss. 1, Article 2.

Available at: <http://digitalcommons.northgeorgia.edu/issr/vol90/iss1/2>

This Article is brought to you for free and open access by Nighthawks Open Institutional Repository. It has been accepted for inclusion in International Social Science Review by an authorized administrator of Nighthawks Open Institutional Repository.

---

# Denying Pell Grants to Prisoners: Race, Class, and the Philosophy of Mass Incarceration

## **Cover Page Footnote**

Jason L. Mallory is a Professor of Philosophy and Humanities at Polk State College-Lakeland.

## **Denying Pell Grants to Prisoners: Race, Class, and the Philosophy of Mass Incarceration**

As a result of the United States Congress passing the 1993 Violent Crime Control and Law Enforcement Act and the Higher Education Reauthorization Act of 1994, prisoners no longer became eligible to receive federal financial aid in the form of Pell Grants, ending a thirty year era of eligibility,<sup>1</sup> which had hitherto been available to qualifying low-income Americans to finance their higher education.<sup>2</sup> Even though only between .82 percent and 1.2 percent of all Pell Grants went to prisoners in the early 1990s, these resources were very significant for funding prisoner education.<sup>3</sup> “With the exclusion of prisoner-students from participating in the Pell Grant financial aid program, approximately half of the existing [Post-Secondary Correctional Education] opportunities ceased to function, with many of the remaining options undergoing reductions.”<sup>4</sup> Now that the U.S. prisoner population has surged to over 2 million,<sup>5</sup> and the tremendous need for higher education opportunities in penal institutions has far outpaced the meager supply, there have been a growing number of appeals among activists, such as the Education From the Inside Out Coalition,<sup>6</sup> and academics, such as John Garmon, Richard Tewksbury, David John Erickson, and Jon Marc Taylor,<sup>7</sup> to restore Pell Grant eligibility for incarcerated students.

The goal of this paper is to analyze this controversy as a distinctly philosophical problem while clarifying and assessing the arguments that can be put forward to support the present policy.<sup>8</sup> To that end, this analysis is divided into four sections. First, this paper will examine how Pell Grants for prisoners should be understood in terms of deterrence, rehabilitation, and retribution. Second, it will explore two arguments against ending the ban. Third, it will contextualize and broaden this analysis by examining

imprisonment in terms of race and class. Lastly, this paper will conclude with a critique of mass incarceration informed by the theories of Erich Fromm.

### Traditional Theories of Punishment

#### *Punishment as Deterrence*

One theory maintains that punishment is justified insofar as it prevents the offender from committing offenses in the future (primary deterrence) and prevents others from becoming offenders themselves (secondary deterrence).<sup>9</sup> Thus one could argue that “[i]f prison is too appetizing, with free education and the like, it may no longer serve as a deterrent to crime.”<sup>10</sup> For the vast majority of potential offenders, however, it seems unlikely that the denial of financial aid will be a decisive deterrent when they contemplate the advantages and disadvantages of committing a crime, especially when one considers the routine, and well-publicized, violence and suffering present within U.S. prisons.<sup>11</sup> Insofar as punishment has any deterrent effect, these features of prison life surely deter crime more than denied access to Pell Grants. It is possible but unlikely that there are some who are truly deterred by preserving the ban. If this is the case, then one should weigh the beneficial consequences that follow from preventing the crimes of a handful of individuals against the multitude of harms, including increased risk of recidivism, that are likely as a result of denying higher education grants to tens of thousands of inmates.

When considering the issue of deterrence, it is important to acknowledge that “research conducted to determine prison education’s effects continues to produce mixed results and on-going academic debate,”<sup>12</sup> and more generally, “extensive data are not available regarding the operation of the deterrent principle.”<sup>13</sup> Even with these caveats, however, it

is not difficult to imagine how deterrence works in many aspects of life, including how prison education possesses the potential to prevent future crime on the outside,<sup>14</sup> and encourage good behavior on the inside.<sup>15</sup> Another possibility is that continuing the ban possessed roughly equal deterrent value as restoring the grants. If this was true, then perhaps one should ask: Which option is the most cost effective? “Today it costs \$25,000 annually to incarcerate an individual,”<sup>16</sup> while “[u]sing the Pell Grant as a standard, it costs approximately \$4,000 to \$5,000 a year to deliver educational services to each inmate.”<sup>17</sup> The savings derived from choosing to restore the grants and discouraging future incarceration could then be employed in other ways to prevent future crime, such as creating living wage jobs and improving public education in poor and working class neighborhoods, thus providing an additional, deterrence-based reason to support the repeal.

Another aspect to consider is the *symbolic* deterrent effect of denying the grants. This, too, is a difficult claim to assess for similar reasons, yet according to Thomas Mathiesen, the entire prison itself should be understood as “a system which is symbolic of a way of thinking about people.”<sup>18</sup> Tom Wicker argues similarly, “[P]risons and the violence and despair they symbolize have been and are still a blot on American life and history.”<sup>19</sup> Allowing prisoners equal access to educational opportunities create unique symbolic effects, some of which may themselves effectively deter crime. But unlike more repressive measures, progressive prison reform that protects human rights broadcasts an affirming message that all human beings, regardless of their status or class, should be respected and valued. Current and potential offenders may be indirectly influenced by and even begin imitating social institutions and practices that symbolize the fair,

generous, and humane treatment of others, and thus to that extent be deterred from committing harmful or unlawful acts.

### *Punishment as Rehabilitation*

One could argue that penal practices can be justified insofar as successful rehabilitation occurs.<sup>20</sup> John Irwin and James Austin point out that: “Inmates enter prison poorly educated, vocationally unskilled, and often suffering from serious physical and psychological problems. Most, particularly at the beginning of their sentences, are desirous of bettering themselves while in prison. . . . But [the] resources for change are less available in today’s prisons.”<sup>21</sup> If the need is there, then the question must be asked: Does prisoner education rehabilitate? As with deterrence, it is difficult to demonstrate conclusively that it always does; nevertheless, Tewksbury and his co-authors write that:

[The] extant research suggests that prison education programs yield significant reductions in recidivism rates. . . . [Post-Secondary Correctional Education] programming reduces recidivism through a fundamental change in the cognitive processes of the inmate-student. Higher education serves as a catalyst to the maturation process for the maladaptive offender by providing organized exposure to, and development of, a more mature sense of values, improved self-esteem, and a more pro-social worldview. . . . Positive changes in the offender’s cognitive processes also lead to a more positive attitude, improved coping skills, and improved behavior. . .<sup>22</sup>

As Mary Wright and Charles Ubah argue,<sup>23</sup> denying eligibility for financial aid to prisoner-students was part of a larger societal shift in correctional philosophy away from rehabilitation. One prisoner describes these changed attitudes this way: “[W]hen Congress outlawed Pell [G]rants for prisoners. . . . the message became clear: We don’t really give a damn if you change or not.”<sup>24</sup> From a standpoint that takes rehabilitation to be the guiding rationale for institutionalized punishment, denying Pell Grants to eligible prisoners who wish to educate themselves is an unnecessary, and perhaps even tragic,

deprivation and missed opportunity. “In a place like this,” observed a prisoner-student who graduated in 1990, “we don’t have many opportunities for the positive application of our time, and the college program really was that.... You learn to take responsibility for your own actions.”<sup>25</sup> Also noting the reformatory effects of prisoner education, a twenty-one year old inmate asked: “Why stop me from becoming a better person?”<sup>26</sup> The positive, rehabilitative results of higher education also have the potential to uplift some of America’s poorest communities, since most of the 600,000 adults who are returning home from U.S. prisons each year are drawn from poor and working-class neighborhoods.<sup>27</sup>

### *Punishment as Retribution*

One definition of a retributivist is someone who “defends the desirability of a punitive response to the criminal by saying that the punitive reaction is the pain the criminal deserves, and that it is highly desirable to provide for an orderly, collective expression of society’s natural feeling of revulsion toward and disapproval of criminal acts.”<sup>28</sup> The issue of desert that is inherent to retributivism clearly presents the strongest philosophical and commonsensical reasons in defense of the current ban. Jeffrey Reiman articulates one problem with trying to justify retributivist arguments.<sup>29</sup> He argues that although rapists may deserve to be raped and torturers may deserve to be tortured, these punishments still should not be carried out. If society is not made more dangerous, then refusing to do horrible things to those who deserve them signals the level of one’s civilization and advances the civilizing work of morally improving humanity.<sup>30</sup> An expression that is popular with prison reformers, attributed to Winston Churchill (and in a shortened form to Fyodor Dostoyevsky, as well), that “[t]he mood and temper of the

public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country,"<sup>31</sup> captures a great deal of the meaning behind Reiman's objection.

This reasoning affects the retributivist case for denying Pell Grants to prisoners in the following way. Although those convicted of crimes, especially those related to teaching and learning may deserve to be denied equal access to prisoner education, one must weigh the good of actualizing retributive justice against the substantive social and economic benefits likely to accrue as a consequence of expanding educational opportunities. More importantly, ending a gratuitous form of discrimination against people in prison demonstrates the level of society's moral development. If it becomes evident that denying financial aid to prisoners was necessary to prevent something as bad or worse from happening, then, if one follows Reiman's logic, the ban should remain. As the data and arguments presented in this paper suggest, however, there is much to indicate that the harms from the present exclusionary policy far outweigh any possible benefits.<sup>32</sup>

In response, a retributivist may argue that depriving all prisoners of the right to Pell Grants is no more punitive than other standard deprivations prisoners suffer for the duration of their sentences, and these punishments, insofar as they are motivated by retributivist principles, are necessary to respect the free will and agency of offenders.<sup>33</sup> There are three reasons why this retributivist rejoinder is not convincing. First, by focusing entirely on paying back what was taken from others theories of retribution ignore the welfare of potential future victims. Depriving aspiring prisoner-students of the opportunity to improve themselves educationally, preventing them from having a reliable

means to fight the psychologically deleterious effects of incarceration,<sup>34</sup> and forcing them to reenter a hostile-free society with little chance to succeed in the face of high recidivism rates, all promote future crime and subsequent victimization.<sup>35</sup>

Second, the retributivist should not confuse punishment proper with the indirect consequences that may follow punishment. All prisoners are necessarily denied liberty of movement, but any deprivations beyond this are open to moral evaluation and contestation; indeed, this distinction is the basis upon which prison reform is made intelligible. (Of course, one could also ask whether imprisonment itself is philosophically justified.<sup>36</sup>) J.D. Mabbott writes: “[A] prisoners’ aid society is said to lighten [a prisoner’s] punishment, because otherwise he would suffer not merely imprisonment but also unemployment on release. But he was sentenced to imprisonment, not imprisonment *plus* unemployment.”<sup>37</sup> The discriminatory policy regarding Pell Grants is a consequence of imprisonment as it currently exists but in no obvious way essential to ensure retributivist justice.

Third, following Jeffrie G. Murphy,<sup>38</sup> retributivist arguments presuppose a mistaken view of the position of the poor and working class in modern capitalist society.

According to Murphy:

[M]uch criminality is motivated by greed, selfishness, and indifference to one’s fellows; but does not the whole [capitalist] society encourage motives of greed and selfishness (“making it,” “getting ahead”), and does not the competitive nature of the society alienate men from each other and thereby encourage indifference—even, perhaps, what psychiatrists call psychopathy?... For the psychological trait you have conditioned him to have, like greed, is not one that invites fine moral and legal distinctions. There is something perverse in applying principles that presuppose a sense of community in a society which is structured to destroy genuine community.<sup>39</sup>

It would be too hasty to reject all retributivist arguments on these grounds, since socio-economic conditioning, regardless of its strength, can always be resisted.<sup>40</sup> Recognizing, however, how relations determined by capitalism produce powerful incentives and pressures to engage in crime ought to decrease, though not eliminate, the culpability of the majority of the U.S. prison population, which is, after all, coming from a background that is disadvantaged in terms of class and race.<sup>41</sup> Willem Adrian Bonger further elaborates:

[The] egoistic tendencies of the present economic system. . . . are very strong. Because of these tendencies the social instinct of man is not greatly developed; they have weakened the moral force in man which combats the inclination towards egoistic acts, and hence towards the crimes which are the one form of these acts. . . . [In] a society in which, as in ours, the economic interests of all are in eternal conflict among themselves, compassion for the misfortune of others inevitably becomes blunted, and a great part of morality consequently disappears.<sup>42</sup>

Any argument that would ban Pell Grants to prisoners as a way to give offenders what they deserve is therefore morally problematic, at least until U.S. society institutes worker-ownership and democratic control of production or at least becomes much more egalitarian in a way that weakens the rampant egoism inevitably produced by capitalism itself. The only responsible way to apply retributivist principles, in other words, is to guarantee that the material conditions satisfy the empirical prerequisites that make retributivism a compelling theory of punishment.

#### Additional Objections

A defender of the current policy might argue that government subsidized higher education for prisoners should remain unfunded because one should discourage offenders from becoming more intelligent law-breakers. The central problem with this argument is

that it rests upon false assumptions about conditions within U.S. prisons. First and foremost, the criminogenic nature of the American prison experience is not easily overstated. For much of the incarcerated population, life is saturated with boredom, anxiety, racial tensions, threatened or actual violence, and very close associations with others who are also demoralized, alienated, and, in most cases, suffering from mental problems.<sup>43</sup> “Although today’s prisons rarely resemble the dungeons of the past, they are characterized by extreme overcrowding, shrinking educational and rehabilitative programs, and the pervasive threat of violence.”<sup>44</sup> The present ban on Pell Grants for prisoners is doing nothing to discourage offenders from becoming hardened, angry, resentful, mentally unbalanced, and anti-social—in short, suffering even more extreme forms of “prisonization.”<sup>45</sup> Indeed, many are leaving prison with a justifiable claim that their “ex-con” status makes them a second, third, fourth, fifth, or sixth class citizen (another subjugated identity compounded by their class-, race-, gender-, ability-, sexuality- and/or other structurally-based disadvantages). As a result of prohibiting substantive rehabilitative programs such as Pell Grants, prisoners, who will be facing what Jeremy Travis has called “invisible punishment”<sup>46</sup> - life-long employment, housing, voting, and other likely forms of legal, political, and social discrimination – upon release they may have even *greater* motivation to see crime as the only viable option for economic survival.<sup>47</sup>

During the early 1990s, another objection to an inclusive Pell Grant program was voiced in debates. Prisoners, it was argued, should not be given financial aid for college when those who are law-abiding must assume debts to finance their children’s college education.<sup>48</sup> Senator Claiborne Pell responded well to this argument: “The Pell Grant

program functions as a quasi-entitlement: A student qualifies for a grant, and the size of the grant depends on the availability of appropriations. Thus, the child of a police officer (to cite an oft-used example) would not be denied a grant in favor of a prisoner. If both are eligible, both receive grants.”<sup>49</sup> By eliminating prisoners from eligibility, non-imprisoned Pell Grant recipients are only receiving \$4.25 more per semester.<sup>50</sup> These concerns about the growing expenses associated with funding college education, as valid and realistic as they are, are not good reasons to restrict even further the class of individuals eligible to receive a government subsidized higher education. Instead, one should begin analyzing this issue from a position of inclusion and demand that higher education be accessible and affordable for *everyone*. The real moral and social question is why anyone, on the inside *or* the outside, should have to struggle or go into debt to finance their post-secondary education.<sup>51</sup>

#### Race, Class, and Mass Incarceration<sup>52</sup>

This essay would be incomplete without further consideration of how race and class make this a particularly urgent issue. “The consequences of our current policies are that *one in three black boys* and *one in six Latino boys* born today are destined to spend time in [U.S.] prison[s] during their lifetimes.”<sup>53</sup> It is no exaggeration to call the American prison system an “ethnoracial ghetto;”<sup>54</sup> “Blacks, who make up less than 13 percent of the [U.S.] population, now comprise more than half of all people in prison. . . . The number of black men in prison or jail has grown so rapidly over the past quarter-century that today more black men are behind bars than are enrolled in colleges and universities.”<sup>55</sup> One university administrator candidly recommends: “If you want to educate black men, if you want to reclaim the talent out there, you have to go into the

prison.”<sup>56</sup> Given the “extreme social reluctance to hire black ex-convicts,”<sup>57</sup> leaving a prison term with some earned college credits, and perhaps even a complete college degree, may be one of the very few remaining means of breaking free from what Loïc Wacquant labels a “closed opportunity structure”<sup>58</sup> that exists for urban African Americans in impoverished communities. Furthermore, for African-American children born in 1990 to parents without high school diplomas, more than one in two had a parent imprisoned.<sup>59</sup> The shame and pervasive stigma associated with incarceration are regularly imposed upon the offenders’ loved ones,<sup>60</sup> including the more than 1.5 million children who currently have a parent behind bars.<sup>61</sup> The denial of educational opportunities to prisoners not only has wide ranging and potentially life altering repercussions for a generation of individual children and young adults of color, but also contributes to embedded patterns of racialized disadvantage and class inequalities that have impaired the lives of millions.

Aid for economically oppressed people, as Reiman argues,<sup>62</sup> should not be conceived exclusively as individual charity but rather reframed as a matter of justice. Devastating changes have taken place in the previous three to four decades that make prisoner issues as much a matter of social and political justice as the previous American carceral formations, such as the American Indian reservation system, the chattel slavery of Africans, and the Japanese internment system.<sup>63</sup> Consider, for example, the trend toward eliminating domestic unionized jobs in favor of using highly exploited labor abroad, thus transforming prosperous manufacturing towns into high crime areas with few legal economic opportunities;<sup>64</sup> underfunding government aid programs essential for the well-being of poor and working class people;<sup>65</sup> replacing overt racist language used against

civil rights and black power movements with a heightened attack against “criminals,” often code for black and brown bodies in urban areas;<sup>66</sup> normalizing dehumanizing prison conditions that are conducive to developing or exacerbating mental illness;<sup>67</sup> sanctioning new forms of post-prison discrimination;<sup>68</sup> and relentlessly continuing a failed “war” on drugs that has had disastrous effects, especially on communities of color.<sup>69</sup> These developments have engendered poverty, intensified racism, and at the same time built a thriving prison-industrial complex, which not only seeks to make a short-term profit from imprisonment, either through, for example, privatization, prisoner labor, or selling prison-related products and services, but also would preserve mass incarceration as a permanent business opportunity and career field, regardless of the human and social costs.<sup>70</sup>

“Ultimately, we must decide what kind of society we want to live in,”<sup>71</sup> succinctly concludes Marc Mauer at the end of his classic work, *Race to Incarcerate*. This is very prudent advice, but in the dominant American culture, putting someone behind bars is almost always perceived to be a self-evident, all-purpose, and, most of all, necessary solution to what are, in essence, a multitude of socio-economic problems. Locking someone up treats the symptoms, but leaves untouched the underlying diseases that systematically cultivate destructive attitudes and behavior. This overemphasis upon the individual’s wrongdoing also serves the interests of the affluent elite because it diverts attention away from those who benefit from a society that permits immense disparities of wealth and concentrates power in the hands of an unelected, privileged minority.<sup>72</sup>

It is critical to recognize and confront the profound structural problems posed, first, by a capitalist society that, on the one hand, fosters egoistic character traits, alienating relationships in the workplace, and widening class-based inequalities and, on the other

hand, is very reluctant to provide sufficient means and opportunities to those who are most disadvantaged by such an unequal, exploitative socio-economic system.<sup>73</sup> Second, there is almost a total absence of motivation to repair the injuries caused from centuries of exploitation, marginalization, and degradation of African-American, indigenous, and other peoples of color. The legacy of racial domination is strikingly visible in high poverty urban spaces that are predominantly of color and largely abandoned by the dominant society; these are areas where low self-regard, destructive behavior against self and others, and imprisonment are a way of life. Nell Irvin Painter characterizes the oppression that slaves and their descendants experienced as “soul murder,” claiming that they are “more at risk for the development of an array of psychological problems that include depression, anxiety, self-mutilation, suicide attempts, sexual problems, and drug and alcohol abuse.”<sup>74</sup> After appreciating the significance of these intergenerational wounds that continue to produce adverse psycho-social consequences for many communities of color,<sup>75</sup> it becomes readily apparent that policies relying solely upon punitive responses to individual criminal actions are inadequate. Moreover, they are unjust insofar as they aggravate the original problems that began with white supremacist laws enforced by the U.S. government and perpetuated by the unpaid reparations that are due to those racial groups harmed by America’s racist past. Only by interrogating the complex issues of class and race will philosophers of punishment be able to offer a relevant criticism of the present while theorizing about more liberatory alternatives beyond the carceral state. The magnitude of U.S.-led imprisonment is historically unprecedented; it is now part of a globalizing pattern of incarceration,<sup>76</sup> increasingly used to advance business and political interests,<sup>77</sup> and it has succeeded in putting behind bars

or placing on parole or probation one in every thirty-two U.S. adults.<sup>78</sup> As such, a system that seeks ever-increasing numbers of people to imprison for its own purposes, apart from the concerns of justice, dispels any notion that there is a seamless link between sound ethical arguments that might in theory legitimate punishment in some form, and the systematic abuses carried out in the “great American experiment with mass incarceration.”<sup>79</sup>

In an academic discipline, moreover, that has not done enough to deconstruct its own unconscious racism – “Philosophy. . . .,” writes Charles W. Mills, “is one of the ‘whitest’ of the humanities”<sup>80</sup> – it is imperative that philosophers understand how mass imprisonment is, in certain crucial respects, an extension of both chattel slavery and the brutal convict lease system.<sup>81</sup> Viewed from this perspective, it is relevant to acknowledge the historical continuum between the current Pell Grant ban for prisoners and antebellum laws criminalizing the education of African Americans. In response to David Garland’s claim that a state inflicting punishment upon its members is “a civil war in miniature,”<sup>82</sup> Marie Gottschalk concludes, “If this is so, then the United States is currently engaged in a massive war with itself.”<sup>83</sup> The contemporary social movements for prisoner rights and against mass incarceration can be viewed in this racially conscious context as the most recent chapter in the five century long anti-racist, abolitionist project.<sup>84</sup> By theorizing about punishment in a color- and class-blind, ahistorical fashion, philosophers cannot help but ignore these associations both with the past and to present-day social reality and thus further obscure the workings of and lend support to institutionalized race and class oppression.

Restoring prisoners' eligibility for Pell Grants will not, of course, end widespread imprisonment or even eliminate the very worst of its cruelties, but it is, potentially, one of the "non-reformist reforms" that Ruth Wilson Gilmore argues are "changes that, at the end of the day, unravel rather than widen the net of social control through criminalization."<sup>85</sup> Although he did not take formal college courses in prison, Malcolm X became literate while incarcerated and "did his time" very productively, becoming exceptionally studious and well-read. "I knew right there in prison," he remarked, "that reading had changed forever the course of my life."<sup>86</sup> Post-secondary prisoner education, especially in the social sciences and humanities, changes lives by fostering reflection on self and society, developing one's analytical skills, and, at times, even serving as a catalyst for spiritual and political transformation. Apart from the useful employment-related credentials that accompany a college degree, higher education at its best teaches one to think critically, develop a strong moral conscience, and raise one's consciousness about social, political, legal, and economic justice. Developing these abilities can set in motion an unraveling of prison's power to keep current and former prisoners, and their families and communities, ignorant, dispirited, and, most of all, depoliticized and feeling powerless.

For those offenders who have truly harmed others, there must, of course, be a space to reflect upon and learn from one's past behaviors and attempt to make amends to those negatively affected. However, this apolitical analysis of individual wrong doing is incomplete without an appreciation of the myriad injustices produced by modern patriarchal, white supremacist, capitalist society, which has built mass incarceration into what it is today, with its systematic devaluation of poor and working class people, the

criminalization of communities of color, institutionalized classism and racism, the various forms of abuse and dehumanization present in prison life, and, after release, the legal, economic, social, and political indignities that can attach to offenders *forever*. It is for this reason a mistake to view crime and punishment strictly in traditional philosophical terms of individual deterrence, rehabilitation, and desert, as if everyone was already positioned equally in a fair and just social order. Likewise, it would be wrong to analyze crime and punishment only through a sociological, political, or economic lens, which is likely to ignore the reality of human freedom however constrained and qualified for those living with oppression.

### Conclusion

Repealing the ban can be considered a way of challenging what Erich Fromm has labeled the “pathology of normalcy.”<sup>87</sup> He employed this phrase as a means of asking why developed nations, with all their outward appearances of sanity, health, and progress, can still be fundamentally irrational, afflicted by systemic but largely unacknowledged social illnesses. Fromm’s metaphor can be used to critique the problems of the modern era, of which mass incarceration serves as a prominent example. At the present time hegemonic, entrenched beliefs naturalize taken for granted but historically specific and morally dubious penal practices.<sup>88</sup> It is commonly seen as desirable and, indeed, *utterly unremarkable* for a society to banish so many of its poorest members to confinement conditions that are sufficiently inhumane to be repeatedly condemned by human rights organizations.<sup>89</sup> Much of the public, uninformed or outright misinformed by corporate media promoting biases against poor people, the working class, and people of color,<sup>90</sup> prefers not to face harsh but everyday realities, such as the fact that prisons are

socializing offenders into a subculture that is often sexist, racist, violent, and especially dangerous for lesbian, gay, bisexual, and transgender people.<sup>91</sup> As one feminist author warned, “Most of the men who have been brutalized in prison will be released only to act more violently against women and children.”<sup>92</sup>

An analysis of this issues leads to the conclusion that accepted penal practice – of routinely tearing fathers, mothers, sons, and daughters away from those that need them, and warehousing them in unsafe, overcrowded, and mind-numbing conditions, with scarce educational and other resources, and then being thrown back out on the street virtually ostracized for life – cannot be justified with a thoughtless, “That’s just the way things are.” Rather, these practices are the result of patently irrational and immoral *choices*. Glenn C. Loury argues: “[I]mprisonment rates have continued to rise while crime rates have fallen because we have become progressively more punitive: not because crime has continued to explode (it hasn’t), not because we made a smart policy choice, but because we have made a collective decision to increase the rate of punishment.”<sup>93</sup> Moreover, these choices are, as others have pointed out, making society less secure,<sup>94</sup> wasting valuable resources,<sup>95</sup> and responsible for inflicting incalculable damage upon millions of families who are already vulnerable and straining against tremendous obstacles.

Loury offers two theories as to why most Americans tolerate this “monstrous social machine that is grinding poor black communities to dust.”<sup>96</sup> First, those opposed to civil rights were able to firmly associate, in the popular imagination, African-Americans with criminality, thereby making widespread African-American imprisonment, and their attendant disenfranchisement, appear morally justified. Second, very few of the racially

and economically privileged take the time to honestly ask themselves (in Rawlsian fashion), “Would I still claim American society is just if I did not know whether I would be born as a white person with resources or born as a person of color in a high poverty neighborhood, doomed to fight daily against the damaging legacy of slavery and racial apartheid?” “Few Americans today,” writes Michelle Alexander, “recognize mass incarceration for what it is: a new caste system thinly veiled by the cloak of colorblindness. Hundreds of thousands of people of color are swept into this system and released every year, yet we rationalize the systemic discrimination and exclusion and turn a blind eye to the suffering.”<sup>97</sup> It will not be easy to reject the commonsense mythologies predominating today – especially, America as post-racial and having all but eliminated classes (or, alternatively, “We are all middle class”) – but making visible race, class, as well as gender and other categories, is essential to challenge the ideologies of self-inflicted “blindness” that prop up and attempt to excuse injustice. In the end, Loury concludes, Americans need to shoulder their share of moral responsibility for consenting to public policies that preserve a variety of offensive and immoral racial disparities. “Mass incarceration has now become a principle vehicle for the reproduction of racial hierarchy in our society. Our country’s policymakers need to do something about it. And all of us are ultimately responsible for making sure that they do.”<sup>98</sup>

Fromm’s theories predict that when what is taken to be normal is in fact deeply pathological, to maintain that a more sensible way of treating human beings is possible, one should expect that the very society who is itself out of touch with reality will characterize its critics as “crazy.” Those advocating on behalf of prisoners will surely face ad hominem attacks of this sort. However, humankind can choose to “protect

himself from the consequences of his own madness only by creating a sane society which conforms to the needs of man,” and that a society can be constructed where “man relates to man lovingly, in which he is rooted in bonds of brotherliness and solidarity...”<sup>99</sup>

This essay attempts to make the case that Pell Grants should be made available again to qualifying prisoners, a thesis that hopefully is, after a little thoughtful consideration, not *that* controversial. Yet these arguments raise much more challenging philosophical and socio-political-economic questions, many of which are implied by Fromm’s vision. How does one, for example, work toward realizing a new society, or even simply a system of crime prevention and control, that conforms to the genuine needs and aspirations of humankind rather than the values of the white established caste and the needs of capital? What would it mean to relate lovingly and have solidarity with the criminal Other, not merely with those convicted of non-violent offenses, but with those who have caused real misery and loss to the innocent? In what ways does one fail to relate to others lovingly, not only in regards to the individual immoral acts that one commits but also in terms of one’s complicity with a status quo that normalizes racism, poverty, male dominance, and other forms of oppression? Lastly, how should society be remade to embody the preeminent truth of the human condition, namely the sisterhood and brotherhood that unites everyone into a single interdependent family? These questions must be asked, even if they are deemed crazy by a civilization on the edge of madness. By seriously pursuing such thoughts, and thereby enlarging one’s imagination to reflect upon more rational and ethical possibilities for the future of humanity, one takes the first step, I believe, toward realizing a just and sane world.<sup>100</sup>

---

---

Endnotes

- <sup>1</sup> Jon Marc Taylor, "Alternative Funding Options for Post-Secondary Correctional Education (Part Two)," *The Journal of Correctional Education* 56(3) (2005): 226.
- <sup>2</sup> Charles B.A. Ubah, "Abolition of Pell Grants for Higher Education of Prisoners: Examining Antecedents and Consequences," *Journal of Offender Rehabilitation* 39(2) (2004): 76.
- <sup>3</sup> Mary C. Wright, "Pell Grants, Politics and the Penitentiary: Connections Between the Development of U.S. Higher Education and Prisoner Post-Secondary Programs," *Journal of Correctional Education* 52(1) (March 2001): 14.
- <sup>4</sup> Jon Marc Taylor, "Alternative Funding Options for Post-Secondary Correctional Education (Part One)," *The Journal of Correctional Education* 56(1) (2005): 6 (italics removed).
- <sup>5</sup> Marc Mauer, *Race to Incarcerate* (New York: The New Press, 2006), 10.
- <sup>6</sup> See <http://www.eiocoalition.org/> (accessed June 4, 2012).
- <sup>7</sup> John Garmon, "Bring Back the Pell Grant for Inmate Higher Education," *Community College Week* 13(23) (June 25, 2001): 4-8; Richard Tewksbury, David John Erickson, and Jon Marc Taylor, "Opportunities Lost: The Consequences of Eliminating Pell Grant Eligibility for Correctional Education Students," *Journal of Offender Rehabilitation* 31(1/2)(2000): 52.
- <sup>8</sup> Inspiration for the present work was taken from Brenner and Caste's insightful analysis. Saul Brenner and Nicholas J. Caste, "Granting the Suffrage to Felons in Prison," *Journal of Social Philosophy* 34(2) (Summer 2003): 228-343.
- <sup>9</sup> Stanley E. Grupp, "Introduction," in *Theories of Punishment*, ed. Stanley E. Grupp (Bloomington: Indiana UP, 1971), 7. See also the different terminology used in John Andenaes, "General Prevention—Illusion or Reality?" in *Theories of Punishment*, ed. Stanley E. Grupp (Bloomington: Indiana UP, 1971), 141-2.
- <sup>10</sup> Drew Leder, "It's our Christian duty to educate prisoners," *U.S. Catholic Magazine* 61 (March 1996): 12.
- <sup>11</sup> "The most significant human rights abuses in the U.S. stem from its exploding prison population... Related to overcrowding is the endemic violence and threat of violence that pervades U.S. prisons." Human Rights Watch and American Civil Liberties Union, *Human Rights Violations in the United States*, 1993, <http://www.hrw.org/sites/default/files/reports/US941.pdf> (accessed June 4, 2012) (italics mine).
- <sup>12</sup> Ubah, "Abolition of Pell Grants," 81. See also Tewksbury et al., "Opportunities Lost," 45.
- <sup>13</sup> Grupp, "Introduction," 8.
- <sup>14</sup> Daniel Karpowitz and Max Kenner, "Education as Crime Prevention: The Case for Reinstating Pell Grant Eligibility for the Incarcerated," *Bard Prison Initiative*, 1995, <https://www.stcloudstate.edu/continuingstudies/distance/documents/EducationasCrimePrevention.TheCaseForReinstatingthePellGrantforOffendersKarpowitzandKenner.pdf> (accessed June 4, 2012). See also Chris Rose, Kristin Reschenberg, and Stephen Richards, "The Inviting Convicts to College Program," *Journal of Offender Rehabilitation* 49 (2010): 294.

<sup>15</sup> Tewksbury et al., “Opportunities Lost,” 46.

<sup>16</sup> Jon Marc Taylor, “Pell Grants for Prisoners,” *The Nation*, January 25, 1993, 88.

<sup>17</sup> Edgar R. Haulard, “Adult Education: A Must for Our Incarcerated Population,” *Journal of Correctional Education* 52(4) (December 2001): 159.

<sup>18</sup> Thomas Mathiesen, “The Arguments against Prison Construction,” in *Abolitionism: Towards a Non-Repressive Approach to Crime*, ed. Herman Bianchi and Rene van Swaaningen (Amsterdam:Free University Press, 1986), 88.

<sup>19</sup> Tom Wicker, “Foreward,” in *Prison Writing in 20<sup>th</sup> Century America*, ed. H. Bruce Franklin (New York: Penguin Group, 1998), xv.

<sup>20</sup> It should be noted that despite the popular but misleading “corrections” discourse, “[f]or the most part, contemporary prisons do not seem well designed to rehabilitate offenders.” Richard L. Lippke, “Imprisonable Offenses,” *Journal of Moral Philosophy* 3(3) (2006): 283. “Idleness, isolation, severe stigma, and the general absence of meaningful educational and work activities ‘dehabilitates’ inmates, rather than improving their prospects for resuming productive, law-abiding lives.” Richard L. Lippke, *Rethinking Imprisonment* (New York: Oxford UP, 2007), 252.

For additional analysis of the assumption that modern prisons are structured for rehabilitation, see Mechthild Nagel, “Bearing Witness to Injustice,” *Human Studies* 30 (2007): 281; Earl Smith and Angela J. Hattery, “Incarceration: A Tool for Racial Segregation and Labor Exploitation,” *Race, Gender & Class* 15(1-2) (2008): 94.

<sup>21</sup> John Irwin and James Austin, *It’s About Time: America’s Imprisonment Binge, Second Edition* (Belmont, CA: Wadsworth Publishing Company, 1997), 79.

<sup>22</sup> Tewksbury et al., “Opportunities Lost,” 45-6. For similar conclusions, see Karen F. Lahm, “Educational Participation and Inmate Misconduct,” *Journal of Offender Rehabilitation* 48 (2009):39.

<sup>23</sup> Wright, “Pell Grants, Politics, and the Penitentiary,” 14; Ubah, “Abolition of Pell Grants,” 77.

<sup>24</sup> Quoted in Wright, “Pell Grants, Politics, and the Penitentiary,” 14.

<sup>25</sup> Quoted in Kathy Yarbrow, “Saving Money or Wasting Minds?,” *Corrections Today* 58(5) (August 1996): 13.

<sup>26</sup> Quoted in Jon Marc Taylor, “Pell Grants and Prisoners Part Deux: It’s Déjà vu All Over Again,” in *Writing as Resistance: The Journal of Prisoners on Prisons Anthology (1988-2002)*, ed. Bob Gaucher (Toronto: Canadian Scholars’ Press, 2002), 490.

<sup>27</sup> Joan Petersilia, *When Prisoners Come Home: Parole and Prisoner Reentry* (Oxford: Oxford UP, 2003), 3; see also footnote 41.

<sup>28</sup> Grupp, “Introduction,” 5.

<sup>29</sup> Jeffrey Reiman, “Justice, Civilization, and the Death Penalty: Answering van den Haag,” *Philosophy and Public Affairs* 14(2) (Spring 1985): 115-148.

<sup>30</sup> “[I] accept that if some horrible punishment is necessary to deter equally or more horrible acts, then we may have to impose the punishment. Thus my claim is that reduction in the horrible things we do to our fellows is an advance in civilization *as long as our lives are not thereby made more dangerous.* . . .” *Ibid.*, 138.

<sup>31</sup> Quoted in Marie Gottschalk, *The Prison and the Gallows: The Politics of Mass Incarceration in the United States* (New York: Cambridge UP, 2006), 257.

<sup>32</sup> Even if rescinding the ban turns out somehow to make society more dangerous, there may still be compelling reasons to continue an inclusive Pell Grant policy. Categorically refusing to publically torture and mutilate the bodies of criminals, for example, seems to be a morally sound practice even though it may be the case that cruel and unusual punishments are the only means to effectively deter some violent crime. In other words, some policies regardless of their consequences may be intrinsically good because they are necessary for giving the respect owed to persons.

<sup>33</sup> See Herbert Morris, "Persons and Punishment," in *Theories of Punishment*, ed. Stanley E. Grupp (Bloomington: Indiana UP, 1971), 86.

<sup>34</sup> See Craig Haney, "The Psychological Impact of Incarceration: Implications for Postprison Adjustment," in *Prisoners Once Removed*, ed. Jeremy Travis and Michelle Waul (Washington, DC: The Urban Institute Press, 2003), 33-66.

<sup>35</sup> On recidivism rates, see Jeremy Travis, Anna Crayton, and Debbie A. Mukamal, "A New Era in Inmate Reentry," *Corrections Today* 71(6) (December 2009): 39. "[I]t is the taxpayer who has to be convinced.... Not only will one save monetarily [by restoring the grants], but future victims will be saved from unnecessary pain and suffering." Haulard, "Adult Education," 159.

<sup>36</sup> For an introduction to prison abolitionist philosophy, see Critical Resistance, *Instead of Prisons: A handbook for abolitionists* (Oakland, CA: Prison Research Education Action Project, 2005); Angela Y. Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003). See Richard L. Lippke, *Rethinking Imprisonment*, 250-60, for analysis of abolitionist arguments.

<sup>37</sup> J. D. Mabbott, "Punishment," in *Theories of Punishment*, ed. Stanley E. Grupp (Bloomington: Indiana UP, 1971), 55.

<sup>38</sup> Jeffrie G. Murphy, "Marxism and Retribution," *Philosophy and Public Affairs* 2(3) (Spring 1973): 217-243.

<sup>39</sup> *Ibid.*, 239.

<sup>40</sup> In this regard Ernest van den Haag is correct to claim "[p]overty does not compel crime; it only makes it more tempting." Quoted in Reiman, "Justice, Civilization, and the Death Penalty," 132. See also Jeffrey Reiman, "The Moral Ambivalence of Crime in an Unjust Society," *Criminal Justice Ethics* 26(2) (Summer/Fall 2007): 8. Nevertheless, one should critique the practice of placing *additional* burdens of self-restraint upon the poor. For further discussion of this issue, see Jason L. Mallory, "Prisoner Oppression and Free World Privilege," *Radical Philosophy Today* vol. 5, ed. Harry van der Linden (Charlottesville, VA: Philosophy Documentation Center, 2007), 187-8.

<sup>41</sup> "... 60 percent of prison inmates had earned less than \$10,000 the year previous to their incarceration." Taylor, "Pell Grants for Prisoners," 90. "Most prisoners are from poor or working-class communities, and two-thirds are racial and ethnic minorities." Marc Mauer and Meda Chesney-Lind, "Introduction," in *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, ed. Marc Mauer and Meda Chesney-Lind (New York: The New Press, 2002), 2.

<sup>42</sup> Willem Adrian Bongers, *Criminality and Economic Conditions* (Boston: Little, Brown, and Company, 1916), 532.

<sup>43</sup> "[M]ore than half of all prison and jail inmates had a mental health problem..." Bureau of Justice Statistics, "Mental Health Problems of Prison and Jail Inmates," 2006,

<http://bjs.ojp.usdoj.gov/content/pub/pdf/mhppji.pdf> (accessed June 4, 2012).

<sup>44</sup> Michael B. Mushlin and Naomi Roslyn Galtz, "Getting Real About Race and Prisoner Rights," *Pace Law Faculty Publications*, 2009, <http://digitalcommons.pace.edu/lawfaculty/549> (accessed June 4, 2012).

<sup>45</sup> Stanley L. Brodsky, *Families and Friends of Men in Prison: The Uncertain Relationship* (Lexington, MA: Lexington Books, 1975), 10. One female former prisoner describes prison's effects as follows: "Sometimes damage is palpable. A woman can wear it on her skin and in her eyes so that there's no mistaking the toll that prison has taken. Others appear the same, but the damage is like a tree rot that isn't visible until the tree falls down suddenly one day in a storm. For me, it was the daily experience that changed me slowly, imperceptibly, like the slow drip of water over the years cutting a deep chasm in a granite rock face." Ann, "Building a Revolution," in *13 Women: Parables from Prison*, ed. Karlene Faith with Anne Near (Vancouver: Douglas & McIntyre, 2006), 241.

<sup>46</sup> Jeremy Travis, "Invisible Punishment: An Instrument of Social Exclusion," in *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, ed. Marc Mauer and Meda Chesney-Lind (New York: The New Press, 2002), 15-36.

<sup>47</sup> For an argument that Iris Young's politics of difference can be used by former prisoners to make sense of and strategize against their oppressive conditions, see Jason L. Mallory, "A Politics of Carceral Difference," in *Social Philosophy Today* vol. 24, ed. John R. Rowan (Charlottesville, VA: Philosophy Documentation Center, 2008), 131-50.

<sup>48</sup> *Human Events*, "House Kills Pell Grants for Prisoners" 50(17) (May 6, 1994): 22.

<sup>49</sup> Quoted in Michele F. Welsh, "The Effects of the Elimination of Pell Grant Eligibility for State Prison Inmates," *Journal of Correctional Education* 53(4) (December 2002): 157.

<sup>50</sup> *Ibid.*

<sup>51</sup> For a discussion of how one state paid for its prisoner-students' college tuition in the form of loans that must be repaid when ex-offenders are on parole or else be sent back to prison, see Jonathan E. Messemer, "College Programs for Inmates: The Post-Pell Grant Era," *Journal of Correctional Education* 54(1) (March 2003): 35. For analysis of other funding options in wake of the ban, see Taylor, "Alternative Funding Options. . . . Part One," 6-17; Taylor, "Alternative Funding Options. . . . Part Two," 216-227; Kendra Hamilton, "Education Behind Bars," *Black Issues in Higher Education* 22(1) (February 24, 2005): 30-3; and R. Tewksbury and J.M. Taylor, "Consequences of Eliminating Pell Grant Eligibility for Students in Post-Secondary Correctional Education Programs," *Federal Probation* 60(3) (September 1996): 60-3. "Until a more stable, nationally accessible renewable funding source is established, such as the restoration of prisoner-student Pell Grant eligibility, alternative and patch-work funding methods will be necessary to resurrect post -secondary education options." Taylor, "Alternative Funding Options. . . . Part Two," 226.

<sup>52</sup> David Garland defines mass imprisonment as a system of punishment marked not only by an historically unprecedented number of prisoners but also the attempt to contain and control specific groups of people, such as economically marginalized African American males. "For most of the 20<sup>th</sup> century," Garland notes, "America's imprisonment rate

fluctuated around a stable mean of about 110 per 100,000. In 1973 the rate began to increase and it has continued to increase in every single year since. During the 1990s – the decade of widespread and sustained reductions in American crime rates – prison growth accelerated and the already high prison population was doubled. Today’s imprisonment rate (the number in custody as a proportion of the general population) is over 450 per 100,000 or 680 per 100,000 if one includes inmates of local jails. This rate is five times as large as it was in 1972. Compared to European and Scandinavian countries, the American rate is six to 10 times higher.” David Garland, “Introduction: The Meaning of Mass Imprisonment,” in *Mass Imprisonment: Social Causes and Consequences*, ed. David Garland (London: Sage, 2001), 1.

<sup>53</sup> Mauer, *Race to Incarcerate*, 215 (italics mine).

<sup>54</sup> Eduardo Mendieta, “Plantations, ghettos, prisons: US racial geographies,” *Philosophy & Geography* 7(1) (February 2004): 53.

<sup>55</sup> Gottschalk, *The Prison and the Gallows*, 2.

<sup>56</sup> Quoted in Taylor, “Pell Grants for Prisoners,” 90.

<sup>57</sup> Mushlin and Galtz, “Getting Real About Race and Prisoner Rights,” 50.

<sup>58</sup> Quoted in *Ibid.*, 48.

<sup>59</sup> Christopher Wildeman, “Parental Imprisonment, the Prison Boom, and the Concentration of Childhood Disadvantage,” *Demography* 46(2) (May 2009): 266.

<sup>60</sup> Donald Braman, “Families and Incarceration,” in *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, ed. Marc Mauer and Meda Chesney-Lind (New York: The New Press, 2002), 134.

<sup>61</sup> Gottschalk, *The Prison and the Gallows*, 248.

<sup>62</sup> Jeffrey Reiman, *The Rich Get Richer and the Poor Get Prison: Ideology, Class, and Criminal Justice* 7<sup>th</sup> Ed. (Boston: Pearson, 2004), 172.

<sup>63</sup> See Angela Y. Davis, “Racialized Punishment and Prison Abolition” in *The Angela Y. Davis Reader*, ed. Joy James (Malden, MA: Blackwell Publishers, Inc., 1998), 97.

<sup>64</sup> Christian Parenti, *Lockdown America: Police and Prisons in the Age of Crisis* (London: Verso, 2000), 41-4.

<sup>65</sup> *Ibid.*, 40-1.

<sup>66</sup> Manning Marable, *How Capitalism Underdeveloped Black America* (Cambridge, MA: South End Press, 2000), 126.

<sup>67</sup> M. Grayson L. Taylor, “Prison Psychosis,” *Social Justice* 27(3) (2000): 50-5.

<sup>68</sup> Laura Magnani and Harmon L. Wray, *Beyond Prisons: A New Interfaith Paradigm for Our Failed Prison System* (Minneapolis: Fortress Press, 2006), 84-7.

<sup>69</sup> See Mauer, *Race to Incarcerate*, 157-76; and Juanita Diaz-Cotto, “Latinas and the War on Drugs in the United States, Latin America, and Europe,” in *Global Lockdown: Race, Gender, and the Prison-Industrial Complex*, ed. Julia Sudbury (New York: Routledge, 2005).

<sup>70</sup> “While the benefits of prisons may be questionable for the public, they are undeniable for a variety of private corporate interests.” Alexander C. Lichtenstein and Michael A. Kroll, “The Fortress Economy: The Economic Role of the U.S. Prison System,” in *Criminal Injustice: Confronting the Prison Crisis*, ed. Elihu Rosenblatt (Boston: South End Press, 1996), 28.

<sup>71</sup> Mauer, *Race to Incarcerate*, 215.

<sup>72</sup> “The concept of crime, as usually presented,” writes Barry Krisberg, “serves to deflect attention from the violence and social damage that those with power inflict upon the mass of people in order to keep them subordinate and oppressed.” Barry Krisberg, *Crime and Privilege: Toward a New Criminology* (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1975), 20. See also, Reiman, *The Rich Get Richer*, for additional analysis of this issue.

<sup>73</sup> See, for example, Bonger’s landmark analysis of crime in capitalist society where many of these ideas are developed. Bonger, *Criminality and Economic Conditions*.

<sup>74</sup> Quoted in Ronald P. Salzberger and Mary C. Turck, “Slavery’s Insults: The Continuing Nonmaterial Injuries of Slavery,” in *Reparations for Slavery: A Reader*, ed. Ronald P. Salzberger and Mary C. Turck (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2004), 47.

<sup>75</sup> See *Ibid.*

<sup>76</sup> Julia Sudbury, “Transatlantic Visions: Resisting the Globalization of Mass Incarceration,” *Social Justice* 27(3) (2000): 133-49.

<sup>77</sup> Genevieve LeBaron and Adrienne Roberts, “Toward a Feminist Political Economy of Capitalism and Carcerality,” *Signs* 36(1) (Autumn 2010): 26.

<sup>78</sup> Bureau of Justice Statistics, “Total Correctional Population,” 2009, <http://bjs.ojp.usdoj.gov/index.cfm?ty=tp&tid=11> (accessed June 4, 2012).

<sup>79</sup> Roy D. King, “The rise and rise [sic] of supermax: an American solution in search of a problem?,” in *Prison Readings: A critical introduction to prisons and punishment*, ed. Yvonne Jewkes and Helen Johnston (Portland, OR: Willan Publishing), 84.

<sup>80</sup> Charles W. Mills, *The Racial Contract* (Ithaca: Cornell UP, 1997), 2.

<sup>81</sup> See Kim Gilmore, “Slavery and Prison—Understanding the Connections,” *Social Justice* 27(3) (Fall 2000): 195-205; Angela Y. Davis, “Race, Gender, and Prison History: From the Convict Lease System to the Supermax Prison,” in *Prison Masculinities*, ed. Don Sabo, Terry A. Kupers, and Willie London (Philadelphia: Temple UP, 2001).

<sup>82</sup> Quoted in Gottschalk, *The Prison and the Gallows*, 263.

<sup>83</sup> *Ibid.*

<sup>84</sup> “The moral suasion of old words (and the stench of old wounds), and antebellum memories, surface in contemporary human rights activists’ arguments for the end of the ‘prison industrial complex,’ and their self-identification as ‘abolitionists.’” Joy James, “Preface,” in *The New Abolitionists: (Neo)Slave Narratives and Contemporary Prison Writings*, ed. Joy James (Albany: State University of New York Press, 2005), xiii.

<sup>85</sup> Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley: University of California Press, 2007), 242.

<sup>86</sup> Alex Haley and Malcolm X, *The Autobiography of Malcolm X* (New York: Ballantine Books, 1999), 182.

<sup>87</sup> Erich Fromm, *The Sane Society* (New York: Holt Paperbacks, 1990), 6.

<sup>88</sup> See Michel Foucault, *Discipline & Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1977); and Davis, *Are Prisons Obsolete?*

<sup>89</sup> For example, see Human Rights Watch, *Out of Sight: Super-Maximum Security Confinement in the United States*, 2000,

<http://www.hrw.org/legacy/reports/2000/supermax/> (accessed June 4,

2012); Human Rights Watch, *No Escape: Male Rape in U.S. Prisons*, 2001,

<http://www.hrw.org/legacy/reports/2001/prison/> (accessed June 4, 2012); Human Rights

Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness*, 2003, <http://www.hrw.org/en/reports/2003/10/21/ill-equipped> (accessed June 4, 2012); Human Rights Watch, *Sentenced to Stigma: Segregation of HIV-Positive Prisoners in Alabama and South Carolina*, 2010, <http://www.hrw.org/en/reports/2010/04/14/sentenced-stigma> (accessed June 4, 2012); Amnesty International, *USA: "Not Part of My Sentence": Violations of the human rights of women in custody*, 1999, <http://www.amnestyusa.org/node/57783> (accessed June 4, 2012).

<sup>90</sup> See Gregory Mantsios, "Media Magic: Making Class Invisible," in *Race, Class, and Gender: An Anthology, 7<sup>th</sup> Edition*, ed. Margaret L. Andersen and Patricia Hill Collins (Belmont, CA: Wadsworth, 2010), 386-94; Anthony C. Thompson, *Releasing Prisoners, Redeeming Communities: Reentry, Race, and Politics* (New York: New York UP, 2008), 27-44.

<sup>91</sup> According to former prisoner, Stephen "Donny" Donaldson, "[U.S.] confinement institutions are the most sexist (and racist) environments in the country, bar none." Stephen "Donny" Donaldson, "A Million Jockers, Punks, and Queens," in *Prison Masculinities*, ed. Don Sabo, Terry A. Kupers, and Willie London (Philadelphia: Temple UP 2001), 118. "[P]risoners fitting any part of the following description are more likely to be targeted [for sexual assault]: young; small; physically weak; gay; a first offender; possessing 'feminine' characteristics. . . . Guards, as well as other prisoners, have harassed, abused, and ostracized lesbian, gay, bisexual, and transgender youth at a time when they are particularly vulnerable." Magnani and Wray, *Beyond Prisons*, 117, 141-2. See also Don Sabo, Terry A. Kupers, and Willie London, "Gender and the Politics of Punishment," in *Prison Masculinities*, ed. Don Sabo, Terry A. Kupers, and Willie London (Philadelphia: Temple UP, 2001), 3-18.

<sup>92</sup> Susanne V. Paczensky, "The Wall of Silence: Prison Rape and Feminist Politics," in *Prison Masculinities*, ed. Don Sabo, Terry A. Kupers, and Willie London (Philadelphia: Temple UP, 2001), 136.

<sup>93</sup> Glenn C. Loury, *Race, Incarceration, and American Values* (Cambridge, Mass.: The MIT Press, 2008), 7.

<sup>94</sup> "If people really knew how poorly prison, as well as other parts of the criminal control system, protected them—indeed, if they knew how prison only creates a more dangerous society by producing more dangerous people, a climate for dismantling the prisons would necessarily get under way." Thomas Mathiesen, "Towards the 21<sup>st</sup> Century: Abolition—An Impossible Dream?," in *The Case for Penal Abolition*, ed. W. Gordon West and Ruth Morris (Toronto: Canadian Scholars' Press Inc., 2000), 343.

<sup>95</sup> "At a cost of over \$40 billion a year, the United States now holds one out of every four of the world's prisoners." Donald Braman, *Doing Time On the Outside: Incarceration and Family Life in Urban America* (Ann Arbor: University of Michigan Press, 2004), 3.

<sup>96</sup> Loury, *Race, Incarceration, and American Values*, 11-2; 27.

<sup>97</sup> Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2012), 223.

<sup>98</sup> Loury, *Race, Incarceration, and American Values*, 36-7.

<sup>99</sup> Fromm, *The Sane Society*, 362.

<sup>100</sup> I would like to thank those who offered their comments on a previous draft of this paper at the Long Island Philosophical Society Conference, held at St. Francis

---

College in Brooklyn, NY on April 16, 2011. I am also grateful to Mechthild Nagel for her feedback and encouragement. Finally, this paper is much improved thanks to Candice Quinn, Dean Fafoutis, and two anonymous reviewers who provided very helpful criticism.