

PRISON EDUCATION AND OUR WILL TO PUNISH

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*“Each in his turn. Each one taught one . . .
Education is, I think, possibly, the germ of salvation.”*

—Edward “Doc” Dowdy¹

Although I have always and only entered as a visitor, I always tremble when I walk into a prison.² My heart begins to pound as soon as I walk through the first metal detector. Prison is a shameful environment. It is shameful to be present and it is shameful to walk away. Whether the windowless, six-by-eight-foot cells that house women, men, and even children are located in New York or California, whether the officers’ workday of force and humiliation seeps home to their families in Georgia or Missouri—the suffering is the same.

I first visited Green Haven, a maximum-security men’s prison in Stormville, New York, in 1993 as a student intern in college. I remember seeing the sunlight refract off of the steel shackles around a man’s ankles and being temporarily blinded. The Vassar/Green Haven internship program, created in 1979 by Larry Mamiya, professor of religion and Africana studies at Vassar College, focuses on building bridges between college students and activist-scholars in prison.³ Under the direction of these incarcerated men—all “organic intellectuals,” as Gramsci would call them—⁴the program explores non-traditional approaches to prison and social reform. As a result of this internship and the opportunity it gave me to unite with individual people, I have spent the last twenty years working with various communities “on the

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1. THE LAST GRADUATION (1997 Sundance Documentary Film Grant) (a film dedicated to Edwards “Doc” Dowdy, documenting Marist College’s last graduation inside Green Haven in 1995 when Pell grants were no longer eligible for people with felony convictions).

2. KAIA STERN, VOICES FROM AMERICAN PRISONS: FAITH, EDUCATION AND HEALING (forthcoming June 2014).

3. *Greenhaven Prison Program*, AFRICANA STUDIES PROGRAM AT VASSAR, <http://Africanstudies.vassar.edu/about/greenhaven.html> (last visited on May 22, 2014).

4. ANTONIO GRAMSCI, SELECTIONS FROM THE PRISON NOTEBOOKS 131 (Quentin Hoare & Geoffrey Nowell Smith eds., trans., 1999).

inside,” spanning twelve prisons in four states. For the last ten years, I have taught college-level classes inside prison.

Over the course of teaching inside Sing Sing,⁵ a maximum-security prison in Ossining, New York,⁶ I was struck by the vast inconsistency between the mission statement of the New York State Department of Corrections and what actually happens within the prison walls. “The New York State Commission of Correction,” the statement reads, “has a mission to provide a SAFE, STABLE and HUMANE correctional system in New York State” (emphasis theirs).⁷ However, the people who live and work inside prisons generally experience the complete antithesis of a safe, stable, and humane community.

Working at Sing Sing, I became deeply interested in the nature of the disconnect between the stated goals of the correctional department to be “safe, stable and humane,” and the clear injustices of the system itself. I began to re-evaluate what lay behind our impulse to punish, asking myself why the general public continues to invest in a system with staggering recidivism rates and a plagued history of violence and abuse.⁸ I also wondered why people who have served their sentences are ostracized from their communities and society as a whole when they return home. Theologian Richard Snyder’s thesis that we in the United States are captive to a “spirit of punishment” helped me begin to frame these enduring questions and consider the possibility that we, as a culture, are imprisoned by counterproductive ideologies.⁹

In my estimation, there is no more pressing human rights issue, no more urgent spiritual crossroads or threat to democracy than the current penal crisis. And this crisis, I believe, is rooted in a cultural ideology—Snyder’s “spirit of punishment”—that afflicts our psyches and institutions.

Our culture is mesmerized by the myth that violence will redeem us. This myth is rooted in religious ideology that claims we can right wrongs and heal wounds through isolation and retribution.¹⁰ We therefore exact violent

5. I taught “Introduction to World Religions” (fall 2003) and “Liberation Theologies” (spring 2004) through the Certificate in Ministry and Human Services Program (CMHSP), credited through Boricua College at Sing Sing prison.

6. Mark Gado, *Stone Upon Stone: Sing Sing Prison*, CRIME LIBR., http://www.crime library.com/notorious_murders/famous/sing_sing/index.html (last visited May 22, 2014).

7. *Mission Statement*, N.Y. STATE COMM’N OF CORR., www.scoc.ny.gov (last visited May 22, 2014).

8. See MATTHEW R. DUROSE ET AL., BUREAU OF JUST. STATS., RECIDIVISM OF PRISONERS RELEASED IN 30 STATES IN 2005: PATTERNS FROM 2005 TO 2010, at 1 (2014), available at <http://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>.

9. T. RICHARD SNYDER, *THE PROTESTANT ETHIC AND THE SPIRIT OF PUNISHMENT* 3 (2001).

10. See Brooke Shelby Biggs, *Solitary Confinement: A Brief History*, MOTHER JONES (Mar. 2, 2009), <http://www.motherjones.com/politics/2009/03/solitary-confinement-brief-natural-history>.

punishment in an effort to institute justice. Indeed, theologian Walter Wink has written that the myth of “redemptive” violence is “the spirituality of the modern world.”¹¹ In this system, prisons are the tools of justice, and with those tools the isolated become the enemy, and, oftentimes seamlessly, the enemy becomes the other, the one who deserves harm, the one who may legally and “righteously” be violated. To violate the enemy in the name of justice is as common as cartoon villains, but in prison that kind of violence is not abstract.

A NOTE ON LANGUAGE

People in prison do not like to be called “inmates.” Prison officers do not like to be called “guards.” Nobody I know who is trying to find his or her way home from jail or prison calls him or herself a “re-enterer.”¹² A room with feces smeared across the padded walls and nothing but a grate in the floor for people who are locked inside, naked, to relieve themselves is called a “safety cell.” Electric shock punishment is described by the U.S. Department of Justice as a “total learning environment.” Euphemisms are part of the trap—part of the web that distorts reality and obscures the fact that we are talking about people with human rights who are being violated in the name of justice.

One of the simplest methods to keep humanity at the center of discussions about crime and punishment is always to employ humanizing language. Eddie Ellis, president of the Center for NuLeadership on Urban Solutions, argues that language is the meat that formulates the ideas that we use.¹³ Not only are our ideological assumptions embedded in language, they are also reproduced. Ellis, who served 25 years in prison for a crime he did not commit, invites us to consider the language we use for people who have been convicted of crimes. Rather than naming folks “inmate”, “ex-con,” and “prisoner,” or “welfare mother,” “addict,” “super predator,” and “parolee”—he encourages us to refer to people as people.¹⁴

11. See WALTER WINK, *ENGAGING THE POWERS: DISCERNMENT AND RESISTANCE IN A WORLD OF DOMINATION* 13 (1992).

12. In response to recent attention to the issue of re-entry, the concept of “new-entry” is part of a public education effort from the unique perspective of people who themselves have served time in prison. “New-entry” highlights the fact that the majority of people who are being released from prison have never had the access and opportunities that contribute to strong communities and civic engagement. Therefore, advocates argue, it is not accurate to assume that they are “re-entering” civic participation. The term “new-entry” was coined by Eddie Ellis and the NuLeadership Policy Group (NuLPG), a recently formed activist public policy think tank and community organization founded and directed by people who were formerly or are currently incarcerated. See Eddie Ellis, *An Open Letter to Our Friends*, NULEADERSHIP POL’Y GRP., available at <http://www.reentry.net/library/attachment.73990> (last visited May 22, 2014).

13. See *id.*

14. *Id.*

The role that dehumanizing language plays in othering is often subtle and internalized, which makes it even more powerful in undermining people's right to be recognized as human beings.¹⁵ With this in mind, I refer to the "criminal justice system" as the criminal punishment system and "correctional facilities" as prisons. "These facilities do everything but correct," Ellis reminds us.¹⁶ Similarly, Kelsey Kauffman, who was an officer in Massachusetts state prisons, refers to the people who work in prisons as "prison officers" rather than "correctional officers."¹⁷

We participate in linguistic subterfuge, often unwittingly, by co-opting legitimate terms, even from progressive practices, and using them to perpetuate or worsen punitive ideologies. From a practical standpoint, for example, derogatory language undermines efforts toward public safety: would we rather be living next to a citizen who is working to reintegrate into society after being in prison, or an "ex-con?" A key question, assuming that people will not choose short-hand terms if they know they are offensive, is whether we believe there are some exceptions with regard to who deserves humanizing language. If one argues that "ex-con" is more precise because the very term is important to help us feel safe in knowing the danger in our neighborhood, then we have resigned ourselves to a broken system.

For many years, I framed the existing penal crisis in terms of the millions of men, women, and children who are under some form of so-termed "correctional supervision."¹⁸ Now, however, I include the whole punishment sector—those who are behind bars and those who are law enforcement. It has become evident in my experience of interacting with people who are directly impacted by the punishment system that the keeper and the kept all too often come from similar socio-economic communities, if not the same families, thus exposing the weakness and irony of our tendency toward othering.

Furthermore, "failure to understand officers—their characters and motivations, problems and perspectives—has inevitably undermined efforts to reform prisons and has contributed to the everyday misery of those who live and work behind the walls."¹⁹ Another officer encourages us to remember that neither the officer whose job it is to be there, nor the person serving time,

15. See Eddie Ellis, *Words Matter: Another Look at the Question of Language*, in *ESSAYS FOR CHANGE: BY CENTER FOR NULEADERSHIP ON URBAN SOLUTIONS 1* (2013), available at http://nationinside.org/images/pdf/Words_Matter_Final_Draft_04.12.13.pdf.

16. Interview by Kaia Stern with Eddie Ellis, President of the Center for NuLeadership on Urban Solutions (on file with author).

17. See KELSEY KAUFFMAN, *PRISON OFFICERS AND THEIR WORLD 5* (1988).

18. The United States is one of the only countries in the world that prosecutes children as adults. I place the term "correctional supervision" in quotes to draw attention to the euphemisms we use for punishment and imprisonment.

19. KAUFFMAN, *supra* note 17, at 3.

would be in prison if society had not decided to build the wall.²⁰ Kauffman reminds us that even though people who work in prisons “are both agents and victims of a dehumanizing system, they are *not* its architects.”²¹ Whether we refer to them as “officers,” “guards,” “turnkeys,” “screws”, or “goons,” they are profoundly misunderstood and often maligned not only by the general public, but also by social scientists and those who govern prisons.²²

By understanding the experience of those in American prisons, we may begin to open our political imagination to the possibility of accepting a cornerstone of social change. Recognizing and transforming injustice requires attending to and fostering practices that connect people with their own and others’ humanity.

OUR CURRENT CRISIS OF MASS INCARCERATION

The current U.S. penal system is failing.²³ It is failing victims of crime, law enforcement officers, people who are currently and formerly incarcerated, and each American taxpayer. With the exception of people who directly profit from the prison industry, it is miserably failing us all.

There are close to 9 million people who are under the control of the U.S. punishment system or who work in the criminal punishment sector.²⁴ In addition to the 6.6 million men and women in local county jails, state or federal prisons, on probation, or parole, 2.2 million individuals are now employed in policing, corrections, and courts—a population that exceeds the 1.7 million Americans employed in higher education and the 600,000 employed in public welfare.²⁵ Our country has the largest prison system in the world—millions of children in the United States have parents who are incarcerated, under some form of “disciplinary surveillance,” or work behind

20. *See id.* at 3–4.

21. *Id.* at 3.

22. *Id.*

23. Although penal institutions, jails, prisons, penitentiaries, and reformatories are often used interchangeably, I distinguish them in the following ways: penal institutions are any institutions that are used to punish; jails are county or city institutions that are meant to be for short-term incarceration (no more than a year), usually while people are awaiting sentencing; prisons are state or federal institutions meant for long-term incarceration; penitentiaries signal the early penal institutions that emphasized “penance”; and reformatories are the eighteenth- and nineteenth-century penal institutions that emphasized “reform.”

24. JASON ZIEDENBERG, JUSTICE POLICY INST., DEEP IMPACT: QUANTIFYING THE EFFECT OF PRISON EXPANSION IN THE SOUTH 4 (2003), available at http://www.justicepolicy.org/uploads/justicepolicy/documents/03-04_rep_deepimpact_ac.pdf.

25. *Id.* See also Fox Butterfield, *With Longer Sentences, Cost of Fighting Crime is Higher*, N.Y. TIMES, May 3, 2004, at A18 (stating that annual expenditures for this revolving prison system reached \$57 billion in 2001 (\$167 billion for police, prisons, and courts combined), and these figures do not begin to account for productivity losses or other social costs).

prison walls.²⁶ Specifically, 2.7 million children in the United States, or one in twenty-eight American kids, have an incarcerated parent, and approximately 10 million children have experienced parental incarceration at some point in their lives.²⁷ So prevalent is this phenomenon that Sesame Street recently devoted an episode to children with incarcerated parents and created a toolkit to help these children.²⁸

Ours is a crisis that constitutes a form of apartheid—an institutionalized apartheid that is social, economic, and racial—a crisis that particularly imposes itself, as cultural critic Hazel Carby reminds us, on black and brown bodies in poor urban areas, on mothers and fathers and children.²⁹ Two-thirds of all people entering prison have less than a twelfth grade education;³⁰ eight in ten earned less than \$2,000 in the month prior to their incarceration;³¹ and a large number are being sentenced for nonviolent and nonviolent drug-related offenses, which, many argue, pose minimal threat to public safety.³² While African American men comprise only 6 percent of the overall population, they make up 38 percent of those who are incarcerated.³³

As striking at these figures are, Bruce Western reminds us that what is most important about the criminal punishment system in America today is its

26. PEW CHARITABLE TRUST, COLLATERAL COSTS: INCARCERATION'S EFFECT ON ECONOMIC MOBILITY 6, 18 (2010), available at [http://www.pewstates.org/uploadedFiles/PCS_Assets/2010/Collateral_Costs\(1\).pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2010/Collateral_Costs(1).pdf).

27. *Id.* at 18.

28. See *Little Children, Big Challenges: Incarceration*, SESAME ST., <http://www.sesamestreet.org/parents/topicsandactivities/toolkits/incarceration#0> (last visited May 22, 2014).

29. See Hazel V. Carby, *Policing the Black Woman's Body in an Urban Context*, 18 CRITICAL INQUIRY 738, 739 (1992).

30. See CAROLINE WOLF HARLOW, U.S. DEP'T OF JUSTICE, NCJ 195670, EDUCATION AND CORRECTIONAL POPULATIONS 2 (2003), available at <http://www.bjs.gov/content/pub/pdf/ecp.pdf>; Stephanie Ewert et al., *The Degree of Disadvantage: Incarceration and Inequality in Education*, 651 ANNALS AM. ACAD. POL. & SOC. SCI., 24, 34 (2014).

31. URBAN INST., EMPLOYMENT AFTER PRISON: A LONGITUDINAL STUDY OF RELEASES IN THREE STATES 2 (2008), available at http://www.urban.org/UploadedPDF/411778_employment_after_prison.pdf; Jesse Bogan, *America's Jail Crisis*, FORBES (Jul. 13, 2009), <http://www.forbes.com/2009/07/10/jails-houston-recession-business-beltway-jails.html>.

32. See JOHN SCHMITT ET AL., CTR. FOR ECON. & POL'Y RESEARCH, THE HIGH BUDGETARY COST OF INCARCERATION 1, 8 (2010), available at <http://www.cepr.net/index.php/publications/reports/the-high-budgetary-cost-of-incarceration/> (stating that people who are convicted of non-violent offenses "make up 60 percent of the prison and jail population," and people who are convicted of non-violent drug offenses make up about 25 percent of all offenses).

33. SENTENCING PROJECT, FACTS ABOUT PRISONS AND PEOPLE IN PRISONS (2014), available at http://www.sentencingproject.org/doc/publications/inc_Facts%20About%20Prison.s.pdf; JESSE D. MCKINNON & CLAUDETTE E. BENNETT, U.S. CENSUS BUREAU, CENSR-25B, WE THE PEOPLE: BLACKS IN THE UNITED STATES 1 (2005), available at <http://www.census.gov/prod/2005pubs/censr-25.pdf>.

unequal distribution across the population.³⁴ For African American men who are under age thirty-five and have dropped out of high school, the chances that they will serve time in state or federal prison is approximately 37 percent.³⁵ Our punishment system constitutes a distinctly American “system of social stratification,” in which incarceration not only contributes to, but also *hides* inequality.³⁶ For example, the Employment Population Ratio, which calculates the fraction of the U.S. population that has a job, is measured by household surveys.³⁷ If you do not *live* in a household, if you are imprisoned or homeless or live in a mental institution, then you are not counted as part of the Census Bureau population; you are invisible in the assessment of economic well-being.³⁸

Sixty percent of the people in prison in the United States are now racial and ethnic minorities.³⁹ Further, while African Americans comprise only 14-15 percent of the nation’s drug users, they account for 37 percent drug arrests, 59 percent of drug convictions, and 74 percent of drug-related sentences.⁴⁰ However, in the last decade, the rate of incarceration for African Americans has dropped, largely due to changes in the severity of drug offenses.⁴¹

African American and Latina women now constitute the fastest growing segment of the American prison population,⁴² and more than 70 percent of all women living inside what Kathryn Watterson calls the “concrete womb” are single mothers with children below the age of eighteen.⁴³ It is estimated that 5.85 million American citizens have lost their right to vote as a result of their

34. See, e.g., BRUCE WESTERN, PUNISHMENT AND INEQUALITY IN AMERICA (2006).

35. See Bruce Western & Becky Pettit, *Incarceration and Social Inequality*, DAEDALUS, Summer 2010, at 8, 10. “In 1980, around 10 percent of young African American men who dropped out of high school were in prison or jail. By 2008, this incarceration rate had climbed to 37 percent, an astonishing level of institutionalization given that the average incarceration rate in the general population was 0.76 of 1 percent.” *Id.*

36. See WESTERN, *supra* note 34, at 11, 87–88.

37. *Id.* at 89.

38. See *id.*

39. See SENTENCING PROJECT, RACIAL DISPARITY, available at <http://www.sentencingproject.org/template/page.cfm?id=122> (last visited May 22, 2014); THOMAS P. BONCZAR, U.S. DEP’T OF JUSTICE, NCJ 197976, PREVALENCE OF IMPRISONMENT IN THE U.S. POPULATION, 1974-2001 at 1 (2003), available at <http://www.bjs.gov/content/pub/pdf/piusp01.pdf>.

40. Alec Karakatsanis, *Why US v Blewett is the Obama Justice Department’s Greatest Shame*, GUARDIAN (July 23, 2013), <http://www.theguardian.com/commentisfree/2013/jul/23/us-v-blewett-obama-justice-department-shame>.

41. Erica Goode, *Incarceration Rates for Blacks Have Fallen Sharply, Report Shows*, N.Y. TIMES, Feb. 28, 2013, at A12.

42. JUDITH GREENE ET AL., INST. ON WOMEN & CRIMINAL JUSTICE, HARD HIT: THE GROWTH IN THE IMPRISONMENT OF WOMEN 1977–2004, at 7, 42 (2006).

43. *Id.* at 26. See also KATHRYN WATTERSON, WOMEN IN PRISON: INSIDE THE CONCRETE WOMB (1996).

convictions—this includes many who have already served their sentences.⁴⁴ The financial cost, an estimated \$70 billion a year,⁴⁵ and the incalculable human cost of our revolving law enforcement system are staggering and represent but one feature of a penal crisis unprecedented in world history.

The current U.S. prison system also generates staggeringly high rates of recidivism. Each year in the United States, an estimated 700,000 people return to their neighborhoods from prison, and within three years of their release, two-thirds of all people who were incarcerated in state prisons are rearrested and half are re-incarcerated.⁴⁶ Any concept of our prison system as “correctional” or “reformatory” is challenged by the reality that our current system actively prepares people better for continued life in prison than for a life outside it.

As has been well documented by various activists and academics, the growth of the prison population in the 1980s and 1990s dwarfed that of all other decades in history—despite a decrease in crime rates.⁴⁷ In 1994, President Clinton signed the Violent Crime Control and Law Enforcement Act—the largest crime bill in the history of the United States, which denied access to Pell Grants for people in prison, systematically eliminating almost all of the existing opportunities for postsecondary education in prison.⁴⁸ Furthermore, the legislation provided billions of dollars to policing grants and state prison building as well as established “mandatory minimum sentencing,” expanded federal capital punishment to new crimes, and bolstered the “war on

44. SENTENCING PROJECT, FELONY DISENFRANCHISEMENT, <http://www.sentencingproject.org/template/page.cfm?id=133> (last visited May 22, 2014).

45. Lindsay McCluskey & Robert Rooks, *Investing in Prisons Over Education Is Not Being Smart on Crime*, HUFF POST EDUC. (May 27, 2011), http://www.huffingtonpost.com/lindsay-mccluskey/investing-in-prisons-over_b_868081.html.

46. FED. INTERAGENCY REENTRY COUNCIL, REENTRY IN BRIEF 1 (2011), available at http://csgjusticecenter.org/documents/0000/1059/Reentry_Brief.pdf. While approximately 50 percent of formerly incarcerated people do not return to prison, this should not be misconstrued as a success rate—since the long-term psychological damage of incarceration and the long-term impact on the community are difficult to assess. CRAIG HANEY, THE PSYCHOLOGICAL IMPACT OF INCARCERATION: IMPLICATIONS FOR POST-PRISON ADJUSTMENT 4 (2001), available at <http://aspe.hhs.gov/hsp/prison2home02/haney.htm>.

47. See COMMITTEE ON ETHICAL CONSIDERATIONS FOR REVISIONS TO DHHS REGULATIONS FOR PROTECTION OF PRISONERS INVOLVED IN RESEARCH & BOARD ON HEALTH SCIENCES POLICY, ETHICAL CONSIDERATIONS FOR RESEARCH INVOLVING PRISONERS 32 (Lawrence O. Gostin et al. eds., 2007) [hereinafter ETHICAL CONSIDERATIONS].

48. WENDY ERISMAN & JEANNE BAYER CONTARDO, INST. FOR HIGHER EDUC. POLICY, LEARNING TO REDUCE RECIDIVISM: A 50-STATE ANALYSIS OF POSTSECONDARY CORRECTIONAL EDUCATION POLICY, at x, 13 (2005), available at <http://www.ihep.org/assets/files/publications/g-l/LearningReduceRecidivism.pdf>. See also JUST. POL'Y INST., TOO LITTLE TOO LATE: PRESIDENT CLINTON'S PRISON LEGACY 1, 6 (2001), available at <http://www.prisonpolicy.org/scans/clinton.pdf>.

immigrants.”⁴⁹ In consequence, the 1990s, hailed as the “punishing decade,” witnessed an increase in prison population sixteen times higher than the average of previous decades.⁵⁰ So-termed reform produced punitive policy of a magnitude unparalleled in world history, and the criminal “other” is punished more relentlessly than ever before.

PRISON EDUCATION TRANSFORMS LIVES

*The more opportunities we in prison have to learn to value education and see possibilities for ourselves, the greater the chance we will break the cycle of incarceration not just for ourselves but for future generations to come.*⁵¹

Anyone who has worked in the context of prison education is aware of its tremendous transformative power, but all over the country, programs still struggle to convince lawmakers and the general public of their cost-saving potential.⁵² Our will to punish clouds public judgment and threatens the very solutions to the prison crisis that taxpayers claim to seek.

While it is impossible to generate broad-based statistical evidence to prove the effectiveness of transformative praxis, it is possible to show the effect of prison education more generally. Prison education programs change the lives of their participants in profound ways and reduce students’ experience of dehumanization in the prison context. More measurably, they have a significant impact on the lives of their participants after leaving prison. Studies of prison education programs have shown time after time that access to higher education is the single most important way to reduce recidivism and ultimately save taxpayer dollars.⁵³ Despite documented success, obstacles to program stability persist.

49. CHRISTIAN PARENTI, LOCKDOWN AMERICA: POLICE AND PRISONS IN THE AGE OF CRISIS 65–66 (1999).

50. ETHICAL CONSIDERATIONS, *supra* note 47. Although I concentrate primarily on New York, it is significant to note that during the 1992–1997 time period, the California prison population grew by 30 percent. Approximately 270 people entered prisons per week (compared to 30 per week in New York). JUST. POL’Y INST., THE PUNISHING DECADE: PRISON AND JAIL ESTIMATES AT THE MILLENNIUM 4 (2000), available at http://www.justicepolicy.org/images/upload/00-05_rep_punishingdecade_ac.pdf.

51. Chrisfino Kenyatta Leal, 2011 valedictorian of the Prison University Project.

52. The Prison Studies Project at Harvard University, started by the author and Professor Western, is compiling the first nationwide directory of postsecondary programs in U.S. prisons. The purpose of the directory is to increase educational opportunities for people who are incarcerated in all fifty states by supporting those who run postsecondary educational programs in prison. Searchable and continually updated, the directory is an online, state-by-state listing of primarily on-site (as opposed to distance learning) degree-granting postsecondary education programs in prisons. See *Directory*, PRISON STUD. PROJECT, <http://prisonstudiesproject.org/directory/> (last visited May 22, 2014).

53. ERISMAN & CONTARDO, *supra* note 48, at 9–10.

According to the National Institute of Justice Report to the U.S. Congress, prison education is far more effective at reducing recidivism than boot camps (grounded on military techniques), “shock” incarceration, or vocational training. In 1997, the Correctional Educational Association conducted the *Three States Recidivism Study* for the United States Department of Education. Over 3,600 people, released more than three years earlier, were involved in a longitudinal study in Maryland, Minnesota, and Ohio. Using education participation as the major variable, the study showed that “simply attending school behind bars reduces the likelihood of reincarceration by 29%. Translated into savings, every dollar spent on education returned more than two dollars to the citizens in reduced prison costs.” . . . Most strikingly, the State of Texas reported the extraordinary recidivism impacts of postsecondary education in prison: “[T]wo years after release, the overall recidivism rate for college degree holders was as low as 12%, and inversely differentiated by type of degree.”⁵⁴

The higher the degree attained, the lower the recidivism rate.⁵⁵

Today, an estimated 2.3 million people are incarcerated in the United States.⁵⁶ The vast majority of people locked in U.S. prisons do not have a high school diploma.⁵⁷ Approximately 95 percent of them eventually rejoin society but nearly half will recidivate within three years.⁵⁸ A study by the Department of Policy Studies at the University of California at Los Angeles found that “a \$1 million investment in incarceration will prevent about 350 crimes, while that same investment in correctional education will prevent more than 600

54. DANIEL KARPOWITZ & MAX KENNER, BARD PRISON INITIATIVE, EDUCATION AS CRIME PREVENTION: THE CASE FOR REINSTATING PELL GRANT ELIGIBILITY FOR THE INCARCERATED 1, 4, 5, available at <http://www.stcloudstate.edu/continuingstudies/distance/documents/EducationasCrimePreventionTheCaseForReinstatingthePellGrantforOffendersKarpowitzandKenner.pdf>. “The exact figures indicating these inverse recidivism rates for degree recipients were: Associate’s (13.7%); Baccalaureate’s (5.6%); Master’s (0%).” *Id.* at 5.

55. *Id.*

56. Liliana Segura, *With 2.3 Million People Incarcerated in the US, Prisons Are Big Business*, NATION (Oct. 1, 2013), <http://www.thenation.com/prison-profiteers>.

57. See ERISMAN & CONTARDO, *supra* note 48, at 4. Only 26 percent of people who are incarcerated in state prisons and 41 percent of people who are incarcerated in federal prisons had graduated high school. Seventy three percent of people in federal prisons have either graduated high school or attained a GED, but “the educational attainment of [people] in the state prison systems continues to lag behind with only 60 percent holding a GED, high school diploma, or higher.” *Id.*

58. LAURA E. GORGOL & BRIAN A. SPONSLER, INST. FOR HIGHER EDUC. POL’Y, UNLOCKING POTENTIAL: RESULTS OF A NATIONAL SURVEY OF POSTSECONDARY EDUCATION IN STATE PRISONS 5 (2011).

crimes.”⁵⁹ In other words, education is almost twice as valuable as incarceration to deter future crimes.

Survey results from an Indiana prison in the 1990s showed that incarcerated people who were enrolled in college classes committed 75 percent fewer infractions than incarcerated people who were not enrolled.⁶⁰ A more recent study demonstrates that postsecondary correctional education programs can break down the racial barriers that are a common cause of disciplinary problems in the prison setting.⁶¹ Prison officials have often recommended reinstating college programs because of their multiple benign effects: they “provid[e] an incentive for good behavior; produc[e] mature, well-spoken leadership who have a calming influence on other [incarcerated people] and on [prison] officers;” and they communicate the message that society has sufficient respect for the human potential of people who are incarcerated.⁶² “Changes in behavior can be attributed to improved cognitive capacity as well as to the incarcerated person having the opportunity to feel human again by engaging in an activity as commonplace as going to classes.”⁶³ Finding ways to “feel human again” and counteract prison’s dehumanizing effects is often one of the most powerful experiences of those whose lives were positively transformed in the prison context.

States “spend over \$52 billion annually on corrections and related activities.”⁶⁴ “Correctional education is almost twice as cost effective as incarceration.”⁶⁵ Yet, in 2003 only approximately 6 percent of corrections spending was being used to pay for all prison programming, including educational programs.⁶⁶ A 50-state analysis of postsecondary prison education concludes, “even if educational programs are expanded, their per-prisoner cost is far less than the total cost of incarceration.”⁶⁷ Postsecondary education yields multiple public benefits, including greater societal productivity, increased tax revenue, and decreased reliance on governmental support.⁶⁸ In a 2005 Institute for Higher Education Policy (IHEP) survey, “more people with a

59. AUDREY BAZOS & JESSICA HAUSMAN, UCLA SCH. OF PUB. POL’Y & SOC. RES., CORRECTIONAL EDUCATION AS A CRIME CONTROL PROGRAM 9 (2004).

60. ERISMAN & CONTARDO, *supra* note 48, at 7.

61. *Id.*

62. CORR. ASS’N OF N.Y., EDUCATION FROM THE INSIDE, OUT: THE MULTIPLE BENEFITS OF COLLEGE PROGRAMS IN PRISON iii (2009).

63. *Id.* at 8.

64. GORGOL & SPONSLER, *supra* note 58, at 4.

65. BAZOS & HAUSMAN, *supra* note 59, at 9.

66. ERISMAN & CONTARDO, *supra* note 48, at 10.

67. *Id.*

68. INST. FOR HIGHER EDUC. POL’Y, THE INVESTMENT PAYOFF: A 50-STATE ANALYSIS OF THE PUBLIC AND PRIVATE BENEFITS OF HIGHER EDUCATION 4 (2005).

high school diploma reported receiving public assistance in every state than those with a bachelor's degree, and in 28 states no one with a bachelor's degree reported receiving public assistance in the prior year."⁶⁹

Furthermore, the number of children affected by their parents' incarceration is significant: In the first decade of the twenty-first century, more than half of all people behind bars had minor children at the time of their incarceration.⁷⁰ Most incarcerated parents had lived with their children prior to incarceration and expected to be reunited with them upon release.⁷¹ A college education has far-reaching capacity to set a good example for these children.⁷² A study of the Bedford Hills College Program found that children of the women enrolled in the prison college program expressed pride in their mothers' academic achievements, were inspired to take their own education more seriously, and were more motivated to attend college themselves.⁷³

Moreover, many studies demonstrate that postsecondary prison education programs offer a chance to break cycles of inequality. As Hudson Link student Gregory Brown reflects, "I believe education can mean the difference between a life of crime and a productive life. My educational level can influence whether my twin sons aspire to be criminals or whether they have the self-confidence to pursue occupations that challenge their minds."⁷⁴ When children are inspired by their parents to take education more seriously, they too begin to see viable alternatives to dropping out of school and entering a life of crime, thus breaking a harrowing cycle of intergenerational incarceration.

According to a 2009 report from the Correctional Association of New York, "a college education has become one of the most valuable assets in the United States"; a bachelor's degree is worth more than \$1 million in lifetime earnings.⁷⁵ Thus the presence (or absence) of a degree has far-reaching implications for the employment opportunities available to formerly incarcerated people reintegrating into society. Gainful employment is one of the defining characteristics of successful "re-entry," and successful readjustment into society ultimately lowers the likelihood of an individual reverting to illegal activity.⁷⁶ Nonetheless, prison-based educational programs

69. *Id.* at 11.

70. ERISMAN & CONTARDO, *supra* note 48, at 8.

71. *Id.*

72. *Id.*

73. *Id.*

74. *Why Prison Education?*, PRISON STUD. PROJECT, <http://www.prisonstudiesproject.org/why-prison-education-programs/> (last visited May 22, 2014).

75. CORR. ASS'N OF N.Y., *supra* note 62, at 5.

76. Bruce Western, *Reentry: Reversing mass imprisonment*, BOS. REV., July/August 2008, at 7–12, available at <https://www.bostonreview.net/bruce-western-reentry-reversing-mass-imprisonment>.

of all types in the United States were systematically reduced after the 1994 Omnibus Crime Bill eliminated Pell Grant funding for people with criminal convictions.⁷⁷

In the face of what seem like clear-cut, common-sense facts about the cost-effectiveness and public safety benefits of prison education, why do programs continue to face continual threats to their funding? Why does the public have such a hard time embracing the idea of prison education as a source of personal transformation?

The idea that people who end up in prison deserve whatever happens to them there is still hugely pervasive in American culture.⁷⁸ This continuing “spirit of punishment,” combined with the increasing cost of health care, a deteriorating economy, and steadily worsening public schools, has decreased the public’s tolerance for programs which benefit people who have been convicted of a crime. It has become a kind of political third rail in American politics to advocate not only for educational programs, but also for programmatic funding which benefits people in prison. It is not hard to hear the spirit of punishment flourishing in the rhetoric: the evil criminal who cannot be redeemed, the “other” who is diverting funds for prison education away from the law abiding, tax-paying citizens.

However, the current climate of disregard for those who are incarcerated is also made possible by the public’s ignorance about the fiscal and public-safety cost of the contemporary criminal punishment system and of the potential benefits of positive reform. While some of that ignorance is a result of the discomfort discussed above, overcoming this basic lack of awareness opens possibilities to a movement for higher education—though some taxpayers will never feel called to move past the spirit of punishment that informs their emotional response to prison education, many others are disgusted by the high cost of the current prison system and may be receptive to proven solutions. Therefore, the urgent and immediate task we face is to educate the public sufficiently in order to overcome the devastating impact of eliminating educational programs in prison.

Given the current vulnerability of Pell Grants, the reinstatement of Pell Grant eligibility for people in prison is, while essential, by no means a sole cure-all to the question of funding for higher education in the prison context. The value of the Pell Grants—as well as the general public’s decreasing access

77. Violent Crime Control and Law Enforcement Act of 1994 § 20411, 20 U.S.C. § 1070a(b)(6) (2012). Since that time, prison education programs have slowly begun to return thanks to the work of dedicated educators, though sustainability is still at stake. *See Directory*, *supra* note 52.

78. *See* Jody Lewen, *Prison Higher Education and Social Transformation*, 33 ST. LOUIS U. PUB. L. REV. 353, 355 (2014).

to higher education—reveal how vital it is that the movement that provides higher education for people in prison be recognized as part of a larger national movement to provide general access to postsecondary education. Bipartisan support, as well as collaboration between public and private resources (which forge a sense of partnership between disparate constituencies and absorb the potential political fall-out which might otherwise cause any single source to falter) is critical to any strategic plan to get a bill passed. Discerning and accessing all potential sources of public funding requires substantial research and networking.

Should strategies to expand prison-based education ultimately be framed as part of a larger effort to secure equal access to quality postsecondary education for low and middle-income people? To answer that question, it is important to note the prevailing argument against education in prisons: law-abiding citizens should not have to pay for some “criminal” to go to college. What proponents of this view do not realize is that affording Pell Grant eligibility to those who are incarcerated does not take away funding from any other population.⁷⁹ Furthermore, the common response to deny, or worse, demonize people who have been convicted of crimes *as well as* those who work in law enforcement impairs all of our communities. In short, we fail each other when, in the name of politics and economics, we neglect to recognize that not only our inequalities are interconnected, but also our humanity.

Although political winds shift rapidly, recent bipartisan support for several bills and proposed allocations imply that federal legislators may have begun to embrace the reality that 1990s-style prison expansion without preparation for “re-entry” is simply unsustainable. In the last ten years, a combination of forces—most notably budget crises in almost every state, high recidivism rates, and a rapidly growing prison system that releases over 700,000 people annually⁸⁰—have created new opportunities for the importance of postsecondary prison education programs to be reasserted in public policy and practice.

*The challenge before us today is to bring higher education back. I pray that you will rise to this challenge and reverse the negative program cutbacks that our government, so blinded by ignorance, has imposed on prisons, people incarcerated, and society at large.*⁸¹

Putting partisanship aside, the combination of “compassionate conservatism” and necessary fiscal conservatism at the state level must be

79. See EDUC. FROM THE INSIDE OUT COAL., POLICY BRIEF: RESTORATION OF PELL GRANT ELIGIBILITY, http://www.eiocoalition.org/files/EIO_Pell-Grant-2013-Policy-Brief_V4.pdf (last visited May 22, 2014).

80. FED. INTERAGENCY REENTRY COUNCIL, *supra* note 46, at 1.

81. Anonymous college graduate, currently incarcerated at Otisville prison.

viewed opportunistically in terms of expanding Specter Grant resources and eligibility requirements, restoring federal loan eligibility to incarcerated students, linking higher education with resources for people who are coming out of jail and prison, and possibly even reinstating access to Pell Grants. Partnerships with state governments, which are increasingly receptive to strategies that make law enforcement expenditures more efficient, should be pursued with or without the return of federal support for postsecondary education programs.

It is clear that effective on-site, degree-granting postsecondary education in prison transforms lives and communities. It decreases violence within penal institutions and interrupts intergenerational cycles of inequality.⁸² Evidence based research demonstrates that nothing correlates more directly to reducing recidivism, and therefore increasing public safety.⁸³ Educational opportunity behind bars, while only part of the solution, is fundamental to reverse the current crisis of mass incarceration in American prisons.

Edward “Doc” Dowdy, a graduate of the MPS program at Sing Sing, invokes education as the “germ of salvation.”⁸⁴ The Correctional Association of New York’s 2009 report links the benefits of prison education to increased public safety as well as to the power of re-humanization, of “having the opportunity to feel human again by engaging in an activity as commonplace as going to classes.”⁸⁵ Education in prison not only translates into reductions in crime, savings to taxpayers, and long-term contributions to the safety and well-being of the communities to which formerly incarcerated people return, but also offers people a profound opportunity to withstand the spirit of punishment and transform both their own lives and the lives of those around them.

PRISON EDUCATION IS ONLY PART OF THE SOLUTION

Postsecondary prison education programs cannot themselves single-handedly reverse mass incarceration. First, only a minute fraction of all people in prison even have access to postsecondary education.⁸⁶ The vast majority struggle to read the information about basic supplies, like soap and stamps, on prison commissary lists because they have been failed by the public school systems that were meant to serve them. If we really care about postsecondary education in prison, we need to interrupt what many call the “cradle to prison pipeline” and invest in elementary literacy programs in communities of concentrated disadvantage. For those people who do land in prison, we need to

82. CORR. ASS’N OF N.Y., *supra* note 62, at 3.

83. *Id.* at 2–3.

84. See THE LAST GRADUATION, *supra* note 1.

85. CORR. ASS’N OF N.Y., *supra* note 62, at 8.

86. GORGOL & SPONSLER, *supra* note 58, at 2.

invest in teachers and courses that specialize in Adult Basic Education, English Language Learners, passing the GED, and pre-college courses to prepare students for college-level work.

Second, educational opportunity aside, people who have been convicted of a crime and served their time behind bars all too often recidivate because of legislative barriers as a result of their conviction—they are forbidden to live in state subsidized housing, prohibited from receiving public health benefits, and permanently barred from obtaining professional trade licenses.⁸⁷ Even holding a PhD makes no a difference when you have no place to live, nothing to eat, and no access to the medication you need to survive.

Finally, unequal access to education is only part of the mass incarceration crisis in the United States. In addition to punitive ideologies and racial injustices, poverty, drug addiction, and mental illness contribute to the unprecedented number of people in jails and prisons across our nation.

In my forthcoming book, I argue that religious ideology is responsible, in large part, for our punishment crisis.⁸⁸ But an indictment without a possible solution fails, so I offer a proposal for a path toward cost-effective policy reforms that decrease incarceration and recidivism, increase public safety, and rebuild and strengthen families and communities. In formulating this proposal, which I call Project Half, I was motivated by the Biblical concept of Jubilee, a periodic societal recalibration that involves forgiving debts and redistributing resources.⁸⁹ Given my understanding of how religious ideology formed and continues to influence our ongoing “spirit of punishment,” I also began to consider how we, as citizens of the United States, might find our way out of our current crisis. From this thinking grew my desire to reclaim a positive religious ideology, rooted in the same Judeo-Christian traditions that have long informed our understandings of punishment and reformation, but which instead affirm the possibility that individuals’ “sins” might be forgiven and that the entire community plays a collective role in healing the system. To this end, I move beyond the logic of punishment, beyond even the vital need to expand educational opportunity for people with criminal records, to propose an initiative that would reduce the U.S. prison population by half within the next eight years.⁹⁰

87. Commentary, *ABA Standards for Criminal Justice, Collateral Sanctions and Discretionary Disqualification of Convicted Persons: Black Letter with Commentary*, 36 U. TOL. L. REV. 441, 441 (2005).

88. STERN, *supra* note 2.

89. *Id.*

90. *Id.* As a member of the Norval Morris Project Keystone Group, which is part of the National Institute of Corrections, an agency within the U.S. Department of Justice, I was invited to answer the following question: “How can we safely and systematically reduce the correctional population by half?” While the idea for Project Half (“PH”) was born out of my work the

keystone group, which began in 2009, I take sole responsibility for PH and any shortcomings therein. While there is a tremendous amount of excitement about PH, funding has yet to be secured. *See Norval Morris Project Overview*, NAT'L INST. OF CORR., <http://nicic.gov/norvalprojectoverview> (last visited May 22, 2014).