

Sen. Bernie Sanders: “Our Prison System Must Change!” For-profit Private Prisons

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On August 18, Senator Bernie Sanders, a leading 2020 presidential candidate, unveiled a sweeping criminal-justice reform initiative that aims to cut the unprecedentedly huge U.S. prison population in half, end all mandatory minimum sentences, and root out unabashed corporate profiteering and greed in what the Independent senator from Vermont had previously called “the American Gulag.” So far, the only reaction among other politicians in Washington, D.C. has been to shrug off his idea of reforming our penal system: “If it ain’t broke, why fix it?” But why is Senator Sanders so worried (and angry) about America’s prison system?

Some sobering statistics

The U.S. locks up more people per capita than any other nation on earth. According to the latest statistics released by the U.S. Bureau of Justice (BJS), our country boasts by far the world’s most populated prison system. Close to 2.3 million adults are currently incarcerated in America’s 102 federal prisons, 1,719 state prisons, 3,163 local jails, 1,852 juvenile correctional facilities, and 80 Indian Country jails. The number of prisoners equates about 700 adults behind bars for every 100,000 people residing in our country. In addition, nearly 5 million adults are on probation or parole. In toto, approximately 7 million adults are under some kind of correctional supervision (prison, jail, probation or parole)—equaling about 3% of all adults in the entire resident population. Over 540,000 Americans are locked up without even having been convicted or sentenced. Many people are detained in local jails simply because they cannot afford to pay the bail set by the courts to secure their release—with the median bail for felonies being at least \$10,000. More than 63 thousand confined youth are held in our juvenile detention system—often for non-violent offenses or even no crime at all. (Wendy Sawyer and Peter Wagner, “Mass Incarceration: The Whole Pie 2019,” Prison Policy Initiative, March 19, 2019)

The only country that comes close to the U.S. in this respect is Turkmenistan in Central Asia, given its incarceration rate of 552 adults per 100,000 population (yet Turkmenistan has only about 30 thousand adult offenders in its prisons and jails). In comparison, our neighbor to the north, Canada, has a prison population of around 41 thousand, translating into an incarceration rate of 114 adults per 100,000 population. Mexico, our southern neighbor, has a prison population of about 200 thousand, translating into an incarceration rate of 164 adults per 100,000 population. Holland has an incarceration rate of just 59 adults per 100,000 population, while Japan has an even lower documented incarceration rate of only 41 adults per 100,000 population. (Peter Wagner and Wendy Sawyer, “States of Incarceration: The Global Context 2018,” Prison Policy Initiative, June 2018)

The racial and ethnic makeup of the U.S. prison population continues to be significantly different from the demographics of the nation as a whole. In 2017, blacks represented 12% of the U.S. adult population but 33% of the sentenced prison inmates. Whites accounted for 64% of all adults but 30% of the prison population. And while Hispanics represented 16% of the adult population, they accounted for 23% of all inmates. Compared to the past, the gap between the number of blacks and whites behind bars seems to be shrinking. (John Gramlich, "The Gap Between the Number of Blacks and Whites in Prison is Shrinking," FactTank: News in the Numbers, April 30, 2019)

For-profit private prisons

For-profit private prisons and jails have become very popular of late, especially among GOP-controlled state and local governments, most of which have at the same time passed measures designed to maintain high levels of local incarceration, while simultaneously slashing their spending on penal institutions. While only 8% of all incarcerated people are currently held in America's private prisons, by "privatizing services like phone calls, medical care and commissary, prisons and jails are unloading the costs of incarceration onto incarcerated people and their families, trimming their budgets at an unconscionable social cost." (Wendy Sawyer and Peter Wagner, "Mass Incarceration: The Whole Pie 2019," Prison Policy Initiative, March 19, 2019)

In at least 20 states, probation and parole are also privatized and profit-driven. In Georgia, for instance, privatized probation alone represents a \$40 million-a-year industry. In Florida, private probation officials are charging a 40% collections surcharge on probationers' debts to the "Sunshine state." (Chandra Bozelko and Ryan Lo, "You've Served Your Time. Now Here's Your Bill," HuffPost News, September 16, 2018)

Another, more widespread "innovation" involving "offender funded" justice, which is also very popular with state and local governments is pay-to-stay imprisonment. This is the barbaric practice of charging prisoners for the costs of their accommodation behind bars. In 49 states, prisons and jails can charge inmates up to \$66 per day or more (depending on the maximum amount allowed under state law), which can leave locked-up individuals with thousands of dollars of debt upon release, further impoverishing those who already lack material resources and making it practically impossible for even the most well-intentioned ex-prisoners to become once again productive members of society. In this form of modern-day slavery, people who are incarcerated are served with an itemized bill upon release, including hefty booking and release fees as well as the inflated costs of their imprisonment—from bed, (often inedible) food and telephone calls to other necessities such as personal hygiene products and medical bills. Should you also lose your job as a result of spending time in jail—and this is your sole source of income—you are in big-time trouble:

"If you fail to pay the fee when you are released, it may end up on your credit report. When you apply for a new job, they may do a credit check and you could be denied employment because of the pay-to-stay fees' impact on your credit. You've lost your job and you cannot get a new one...all of this keeps you from work, earning an honest check, and paying your bills and your accumulated fees." (American Civil Liberties Union of Ohio, "In Jail & in Debt: Ohio's Pay-to-Stay Fees," Fall 2015, www.acluohio.org: p. 8)

Departments of corrections at the state and county level have reportedly filed countless lawsuits against former inmates seeking to collect their imprisonment-related debts often

ranging up to tens of thousands and even hundreds of thousands of dollars. Prison officials appear to go after employed people whose income they can verify through financial disclosure forms, mail, bank or brokerage statements. In other words, Department of Correction bureaucrats are hounding former prisoners with enough personal income to pay for the skyrocketing and inflated costs of their own incarceration. (Jean Trounstein, "Fighting the Fees that Force Prisoners to Pay for Their Incarceration," Prison Policy Initiative, August 18, 2019)

"Prison slave labor"

While the U.S. news media have been lambasting foreign countries like China for employing "prison slave labor," our own prisons and jails are supplying a large, cheap but invisible labor force. Domestic critics have blasted the practice of economic exploitation of prison laborers as being a modern form of slavery. Prisoners are either employed by private companies selected through the federal Prison Industry Enhancement Certification Program (PIECP) or by state-owned businesses called "correctional industries." While the for-profit prison industry has lobbied for even more "factories behind fences," most inmates still work for the prison or jail where they happen to be serving time simply because:

"...prisons do rely on the labor of incarcerated people for food service, laundry and other operations, and they pay incarcerated workers unconscionably low wages: our 2017 study found that on average, incarcerated people earn between 86 cents and \$3.45 per day for the most common prison jobs. In at least five states, those jobs pay nothing at all. Moreover, work in prison is compulsory, with little regulation or oversight, and incarcerated workers have few rights and protections. Forcing people to work for low or no pay and no benefits allows prisons to shift the costs of incarceration to incarcerated people—hiding the true cost of running prisons from most Americans." (Wendy Sawyer and Peter Wagner, "Mass Incarceration: The Whole Pie 2019," Prison Policy Initiative, March 19, 2019)

Our prisons and jails are paying prisoners employed inside their places of incarceration much less today than they were paying them in the recent past. The national average of the wages paid to incarcerated workers in regular non-industry prison jobs range from 14 to 63 cents per hour. And the national average wages paid to incarcerated workers in prison jobs for state-owned businesses ("correctional industries") range from 33 cents to \$1.41 per hour. Regular prison jobs are still unpaid in Alabama, Arkansas, Florida, Georgia, South Carolina and Texas. (Wendy Sawyer, "How Much Do Incarcerated People Earn in Each State," Prison Policy Initiative, April 10, 2017) Given such inhumanely paltry wages for incarcerated people who are forced to work while in prison, it is hardly surprising that

"the economic exploitation of prisoners doesn't end when they're released. In 49 states, inmates are charged for the costs of their own incarceration.... No inmate can earn enough inside to cover the costs of their incarceration; each one will necessarily leave with a bill. The state of Florida, which pays inmate workers a maximum of \$0.55 per hour, billed former inmate Dee Taylor \$55,000 for his three-year sentence.... Ex-offenders in the United States owe about \$50 billion for various criminal justice costs like pretrial detention, court fees and incarceration costs.... These debts can make it even harder for a returning citizen to rebuild their life after incarceration, because in 46 states, failure to repay them is an offense punishable by yet more incarceration." (Chandra Bozelko and Ryan Lo, "You've Served Your Time. Now Here's Your Bill," HuffPost News, September 16, 2018)

Neither liberal Holland (which is, in fact, shutting down some of its prisons), nor Japan, nor even the far less liberal Canada have had much use for private prisons or cheap prison labor designed to punish and exploit the incarcerated, rather than reforming them.

Drugs and America's imprisonment rate

Just how much of this mass incarceration is a result of our "war on drugs"? It is not entirely clear if a country's drug policy contributes overwhelmingly to the size of its prison population, but many believe that the war on drugs has filled American prisons and jails to the brim with non-violent offenders, most of whom have done little more than being caught in possession of small amounts of soft drugs like marijuana. Currently, around 451,000 Americans are imprisoned for non-violent drug offenses. That is, 1 in 5 incarcerated people is locked up for committing a non-violent drug offense. The "war on drugs" was launched officially in the early 1970s by President Richard Nixon who believed that psychedelic drugs, "free love," and rock-and-roll music were turning patriotic crew-cut Americans into long-haired, antiwar hippies and anti-establishment radicals (an example of such presumed radical transformation would be the very popular 1970s movie-musical *Hair*). Through shrill or hypocritical presidential slogans like Ronnie Reagan's "Just Say No!" or Bill Clinton's "Don't Inhale! I Know I Didn't...", our policy of criminalizing the possession (rather than just the production, transportation, and sale) of all drugs, soft or hard, including even tiny amounts of pot for personal use, has contributed to swelling the ranks of inmates in the big house.

According to a Washington Post news story, the number of federal inmates alone has grown tenfold since 1980 due to "...steep mandatory minimum-prison sentences for many low-level non-violent drug offenders" and is threatening to unravel the Justice Department budget. (Brad Plumer, "The War on Drugs Is Breaking the Justice Department Budget," WP, August 12, 2013) In contrast, Holland's far more enlightened drug policy has separated soft drugs from hard drugs, tolerating the former while criminalizing only the latter. In Holland, the possession of marijuana (which they call "hashish") is ostensibly illegal, but is widely tolerated by the cops as evidenced by the numerous so-called "cafes" selling nothing else but pot all over the capital city of Amsterdam. Perhaps that's the reason why they have a much lower incarceration rate than us.

Canada's incarceration rate is rather similar to that of the U.S. This is hardly surprising, when one reads that "Canada has the dubious honour of having the highest number of drug arrests per capita of any nation other than the United States...." (Diane Riley, "Drugs and Drug Policy in Canada," Canadian Foundation for Drug Policy, November 1998) All drugs, soft and hard, including pot (cannabis), are illegal under Canadian law and the penalty for being caught is often imprisonment—although no automatic drug-related sentences are imposed like in our own country. Japan is not that different from either the U.S. or Canada in terms of drug policy but has a much lower incarceration rate (lower than even Holland's):

"Japanese law is among the harshest in the world.... Japanese law and society at large usually view drug possession as almost an unconscionable act. Japanese citizens who are caught growing, possessing, or using illegal drugs of pretty much any kind find themselves in deep trouble. Not only do drug offenders face up to five years in prison for their first offense.... People who get caught with drugs can be fired from their jobs, expelled from school, and have their life flipped, turned upside-down.... Tokyo sure ain't Amsterdam." (Hashi, "Drug Laws in Japan: You Better Have a Prescription," Tofugu.com, December 2, 2011)

Sounds a lot like Saudi Arabia, the medieval kingdom in the Arabian Peninsula where they chop off the heads of first-time drug offenders (I could not find out what the Saudis do when they catch you doing drugs for a second time). So, the relationship between Japan's drug policy and incarceration rate may not be as straightforward as in America's case.

This article will not deal with the cruel physical, sexual and mental violence and abuse which are reportedly pervasive and endemic in America's penal institutions, including military prisons, immigration detention facilities, civil commitment centers, and state psychiatric hospitals. A fact which is very well-known to American judges, which has not deterred them from meting out unjustifiably harsh and lengthy sentences "like giving away candy"—in the words of Henry Hill, the real-life protagonist of *GoodFellas*, the 1990 biographical crime movie directed by Hollywood filmmaker Martin Scorsese.

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