WomenNC.org

Women in the Prison System - Mechanisms for Re-Entry

Beijing +20: Women and Human Rights

CEDAW: Articles 7, 13, 15 - Political and Public Life, Economic and Social Life, Equality Before the Law

Mina Ezikpe
### Duke University

WomenNC 2015 CSW Research Paper

April 2015

INTRODUCTION

Focusing on the article concerning women's human rights from the Beijing Declaration Platform and Article, one human rights issue specifically and increasingly affecting women here in the United States is mass incarceration and the treatment of women in the criminal justice system and prison system. The female prison population in the United States has increased by 646% between 1980 and 2010 and has grown at a rate 1.5 times higher than the male prison population with women of color in particular constituting the population with the highest rate of increased incarceration. When the Beijing Declaration was signed, the rate of women's incarceration was nearing its peak expansion.

NUMBER OF INCARCERATED WOMEN, 1980-2010
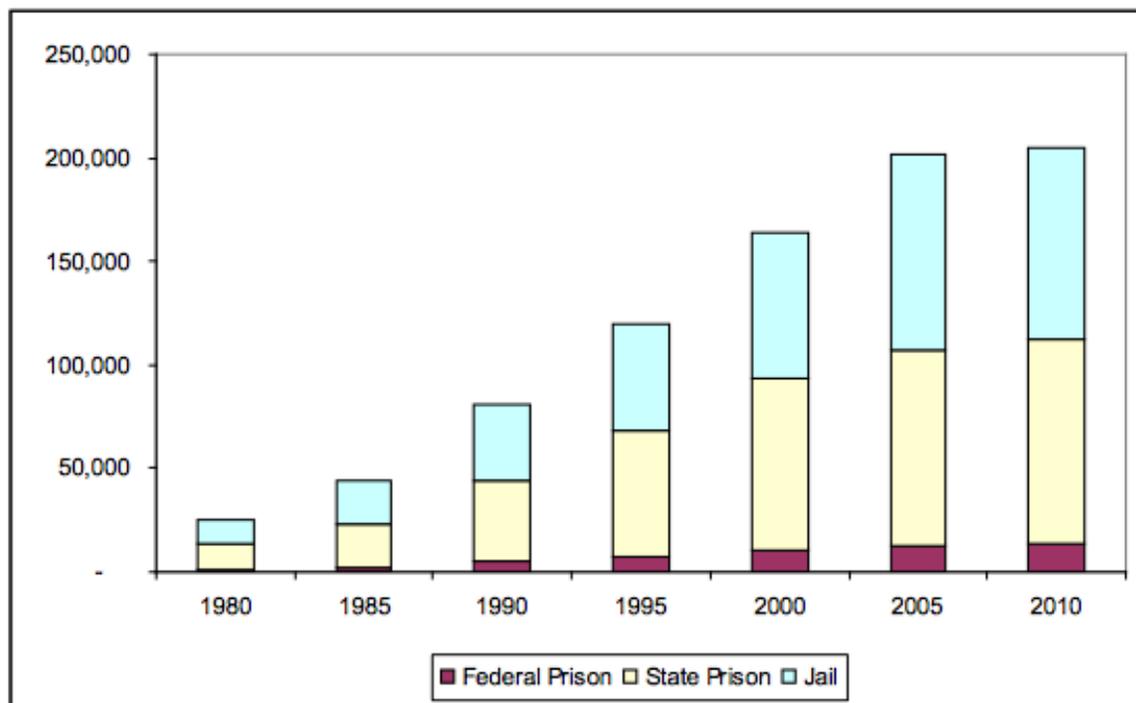
Source: Beck, A., & Karberg, J. C. (2001). *Prison and jail inmates at midyear 2000.* Washington, DC: Bureau of Justice Statistics; Guerino, P., Harrison, P. M., & Sabol, W. (2011). *Prisoners in 2010.* Washington, DC: Bureau of Justice Statistics.
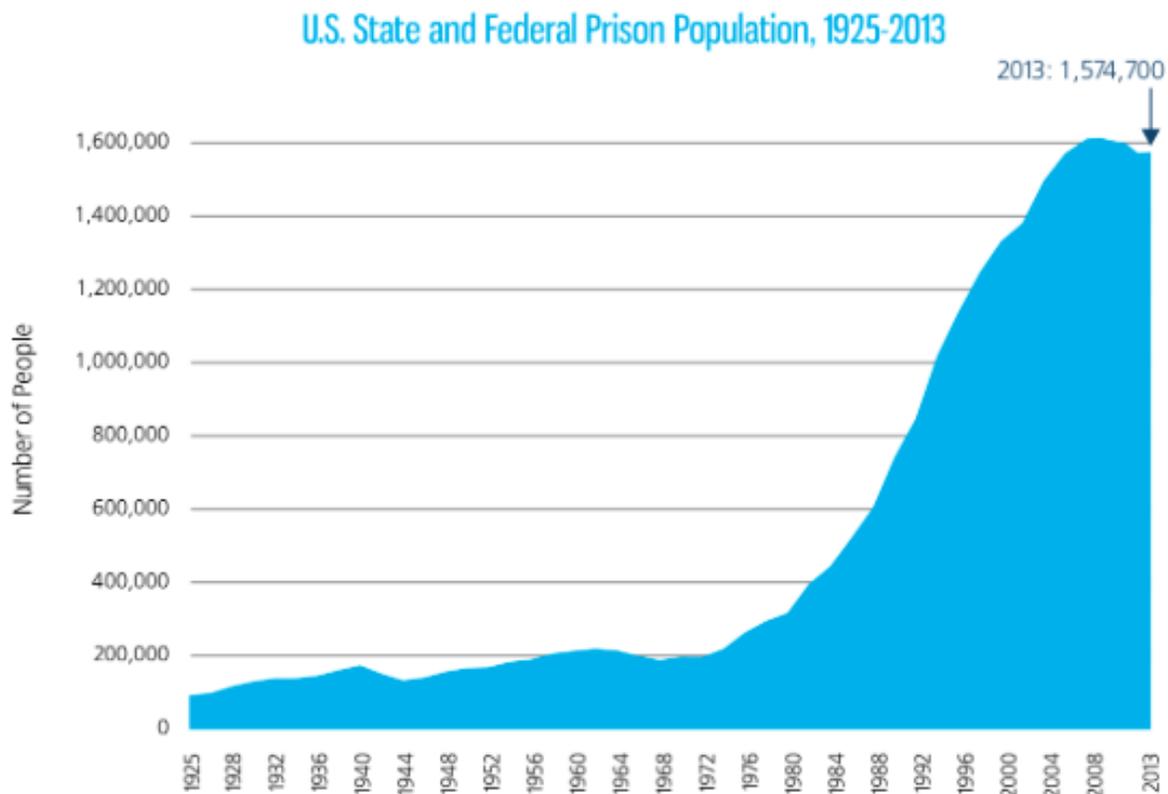
Looking at the plight of incarcerated women brings together the intersections of many issues facing women worldwide, including limited educational and economic opportunities, the prevalence of sexual and physical abuse, political disenfranchisement, and issues concerning reproductive justice.

While prisons exist in every nation, they represent a major human rights abuse not only because incarceration serves as an explicit denial of an individual's freedom but also because of the massive human rights abuses within the prison, including but not limited to poor medical healthcare, abuse from prison guards, other prison personnel, and other prisoners, inadequate sanitation and food, and state-sanctioned torture such as long sentences in solitary confinement. Even so, the prison has become the primary tool of crime control/reduction especially in higher-income nations. There are currently 10.2 million people imprisoned in the world, not including those not imprisoned but under some form of correctional supervision. Globally, the number of people incarcerated has increased (U.N. Secretariat, 2007, p. 6). Within the past 25 years, the global incarceration rate has risen from 136 per 100,000 people to 141, an increase of 6%, but this increase has been uneven from region to region and country to country.

Particularly, in the United States in the last forty years, there has been an increase of 500% in incarceration rates. There are currently 6,899,000 people under adult correctional supervision in the United States. That includes those in jails, federal and state prisons, and those under parole and probation. This means 1 in 35 adults in the United States are under some sort of correctional supervision, 1 in 51 are on probation or parole, and 1 in 110 are incarcerated. If we include juveniles under correctional supervision in the United States, the United States is the nation with the highest proportion of its citizens incarcerated. At an incarceration rate of 716 per 100,000, the U.S. makes up 5% of the world's population and 25% of the world's prison population. Nations in Western Europe, including England and Wales (148), Portugal (136), Australia (130), and Canada
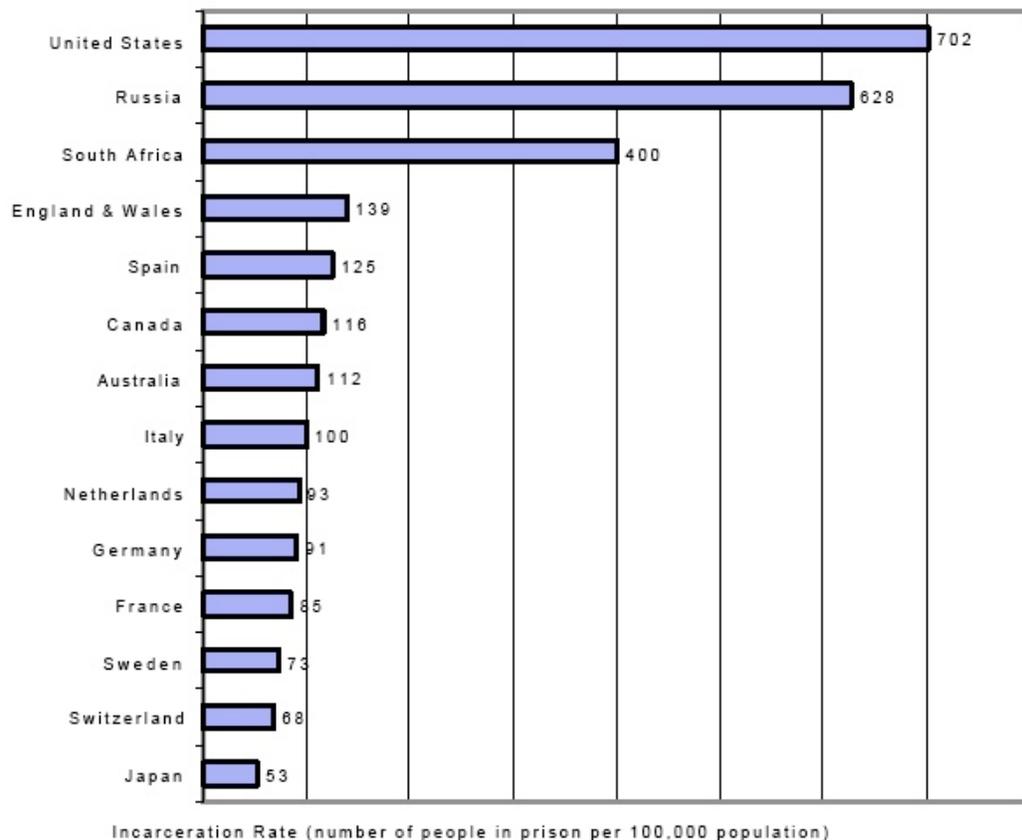
(118), have also seen an expansion in incarceration rates; however, the United States acts as a major outlier when compared to those nations with the nations like St Kitts & Nevis (714), Seychelles (709), U.S. Virgin Islands (539), Cuba (510), and Rwanda (492) following the U.S.'s incarceration rates.

U.S. State and Federal Prison Population, 1925-2013

2013: 1,574,700

Source: Bureau of Justice Statistics Prisoners Series.

THE SENTENCING PROJECT

Incarceration Rate (number of people in prison per 100,000 population)

WOMEN IN PRISON

In the last 20 to 30 years, the United States has implemented a wide range of punitive policies that have greatly and disproportionately affected women of color, which includes immigrant women and many women in lower socioeconomic classes. Through increased funding to law enforcement and prisons, these policies value the paternal state that directs swift punishment to its subjects over the maternal welfare state, as public funding has been greatly cut toward social services and public education (Wacquant, 2010). About 78% of women in prison have experienced some type of abuse (sexually, physically, emotionally) in their life, both in childhood and adulthood, and two-thirds of these women have less than a high school education. Many of these women also suffer from mental illnesses that include chronic depression, bipolar disorder, post-traumatic stress disorder and schizophrenia. Women who already find themselves at the margins of society through

poverty, lack of education, and abuse, instead of finding help, rehabilitation and opportunity through the state apparatus, are re-victimized by the state through criminalization and imprisonment. These women find themselves in impossible life circumstances and then are imprisoned for it (Gilfus, 1992)(Arnold, 1995).

Most women are in prison for nonviolent crimes, which mostly include petty drug offenses. Those incarcerated are more likely to be drug *users* than dealers, their drug use tied to the emotional and psychological effects of abuse and PTSD (Ahrens, 2008) However, instead of being allotted drug treatment sentences, their drug convictions count as felonies that bar these women from voting in public elections. These women are politically disenfranchised, adding another layer to the civil rights that are stripped of convicted criminals. Therefore, the withholding of civil liberties does not end when these women are released from prison. Federal laws also ban convicted drug felons from public housing, food stamps, and student loans, preventing these women from leading self-sufficient lives upon returning to society. This increases their chances of returning to the abusive relationships and illegal enterprises that landed them in prison in the first place and will inevitably land them there again. The cycle of the state's victimization of poor women and women of color continues.

Most of the disproportionate increase in women's imprisonment in the United States can be traced to the United States' "War on Drugs" that began in the 1980s, where harsher, more punitive, and mandatory prison sentences were given to nonviolent drug offenders on the basis that heavily criminalizing drug use would decrease its prevalence. These policies specifically targeted urban communities and drugs like crack cocaine associated with communities of color. Since these mandatory sentencing guidelines allotted for very little distinction between drug dealers and users and between petty drug dealers, first time offenders, and drug kingpins, many first time and non-
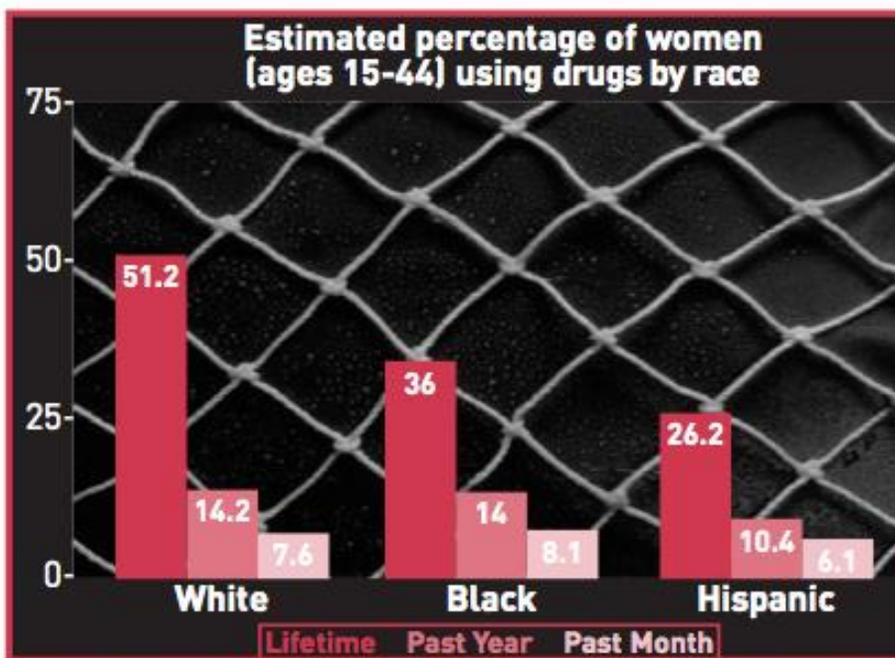
violent offenders (disproportionately so) were swept into the prison system. While in retrospect, the War on Drugs did very little to decrease drug use, and illegal drugs are just as accessible and cheaper than they were at the beginning of this war (Ahren, 2008), the War on Drugs created a culture of hyper-incarceration of urban, poor, and disproportionately black communities and especially led to the increase of the incarceration of women of color.

These policies have been especially harsh to women, who are usually first time offenders, and drug mules, lower level offenders that cannot give up information to receive lesser punishment like their male counterparts (Lapidus et.al., 2003: 36). Because these policies do not distinguish between the *characteristics* of an offense, gender-neutral sentencing has actually been harsher to women, who usually get caught up in crime due to the men in the lives through abusive relationships or economic dependence (Gilfus, 1993: 87). Women who have experienced trauma in the form of domestic or sexual abuse can also turn to drug-use as a way of self-medicating from these past experiences of trauma (Raeder, 1993: 923). Between 1980 and 2000, the increase in the number of women incarcerated on drug-related offenses was 888%, surpassing the rate of increase for men for similar offenses. The increase for black women alone equaled 800%. Even though black women use drugs at a rate equal to or even lower than white women, they are far more likely to be incarcerated for drug-related offenses.

Rate of increase of women behind bars since 1986

	All Women	African American Women
	400%	800%
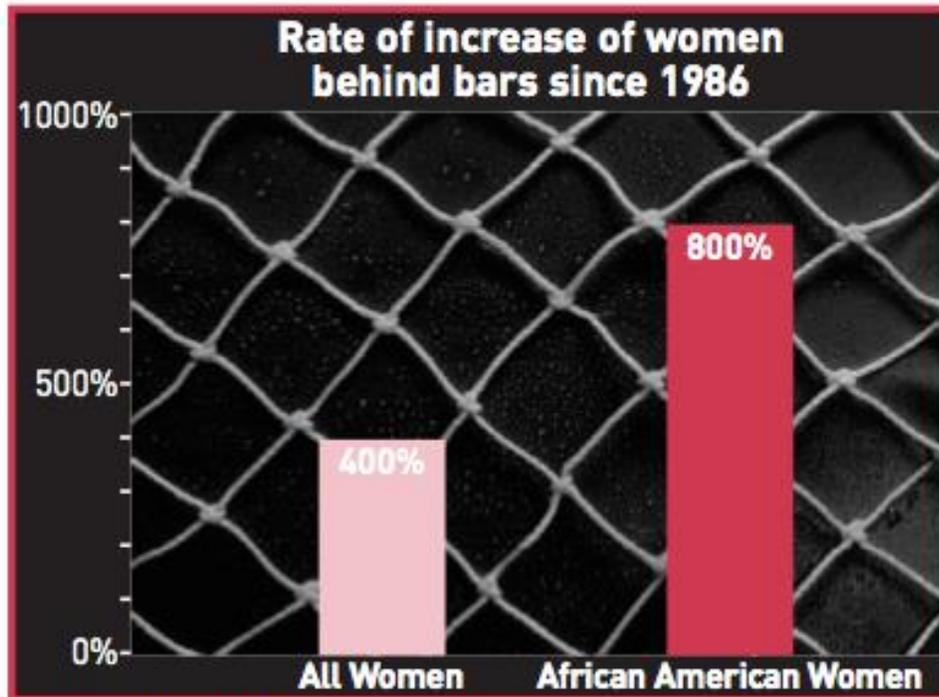
Sources: Marc Mauer, Cathy Potler & Richard Wolf, *Gender and Justice, Women, Drugs and Sentencing Policy*, THE SENTENCING PROJECT (Nov. 1999); SUSAN BOYD, FROM WITCHES TO CRACK MOMS: WOMEN, DRUG LAW, AND POLICY 208-09 (2004).

Estimated percentage of women (ages 15-44) using drugs by race

	Lifetime	Past Year	Past Month
White	51.2	14.2	7.6
Black	36	14	8.1
Hispanic	26.2	10.4	6.1

Source: NATIONAL INSTITUTES OF HEALTH, NATIONAL INSTITUTE ON DRUG ABUSE, DRUG USE AMONG RACIAL/ETHNIC MINORITIES, (revised 2003).

The situation of incarcerated women in the United States also reveals huge reproductive injustices in this nation. The Black Women's Caucus in 1994 defines reproductive justice as "the right to have children, not have children, and to parent the children we have in safe and healthy environments." Prisons pose a huge threat to women's reproductive justice as they either become the consequence of limited reproductive choices or they perpetuate reproductive injustice for women and particularly women of color. One in 25 women entering state prisons and 1 in 33 women entering federal prisons are pregnant. Many of these women will give birth shackled to their beds (Ahrens, 2008). Sixty-two percent of incarcerated women have children, most of whom are living with their mother at the time of her incarceration. Many of these children are uprooted and moved around from family member to family member. Others will wind up in the foster care system, never to be reunited with mom again (Lapidus, 2005)(Comfort, 2008). Especially for the families of women of color, who are increasingly the breadwinners of their homes, incarceration has devastating effects on the entire family.

WOMEN LEAVING PRISON IN NORTH CAROLINA

In the state of North Carolina, there are a total of 2,565 women currently incarcerated in state prisons with 2,681 released by the end of 2014. Of those 2,681 released, 40% reported having "questionable home plans," meaning they were released with no secure place to go. According to statistics on recidivism rates, 60% of those released will be re-arrested, 1/3 of them will be re-incarcerated within three years of release. Most will go back for technical violations of parole and not for new crimes.

In the last few decades in the United States, the very nature of re-entry has also changed to make re-entering after release more difficult for ex-offenders. Multiple states have cut their parole

boards, leaving ex-offenders without much support. The "new penology" (Seiter & Kadela, 2003: 370) of the American justice system has also shifted response to crime from rehabilitation of individual offenders to crime "risk-management," post-release services focusing on policing and surveillance of ex-offenders instead of casework and helping ex-offenders reintegrate. Add to this the stringent technical parole requirements ex-offenders must comply with, and the prevalence of recidivism is easy to understand (Seiter & Kadela, 2003: 362).

BEST PRACTICE MODEL: INSTEPP

When women offenders are released and under some type of parole supervision, very few organizations offer the services they need to gain aspects of their life back after incarceration. InStepp is one organization in Durham, North Carolina that aims to address myriad issues women face after being released from prison. Founded in 2007 by Gilda Womble, InStepp is a multi-service organization addressing the needs of society's most marginalized women and girls. Its mission states: "To create a vibrant community by empowering women and adolescent girls to rise above the challenges in their lives and succeed personally and professionally, through innovative gender-responsive training, education and prevention services." One of its programs called Employment Re-Entry Assistance (ERA) Program works with justice-involved women to help newly released women find gainful employment, something most newly released ex-offenders find particularly challenging and a big obstacle to their successful reintegration. InStepp provides clients with job training, résumé and cover letter writing workshops, legal workshops, and other services clients might need, including food, clothing for interviews, transportation, childcare while attending InStepp programming, and help securing housing. Of those who participated in InStepp programming in 2013, 46% of clients gained employment within the first year, 76% who

participated in employability/financial literacy skills training gained employment within the year, and 60% of clients who gained employment did so for the first time. InStepp receives most of its clients through referrals from other service-providing organizations.

According to InStepp clients, InStepp not only provided the practical services they needed to get back on their feet after incarceration but also provided emotional support to counter the stigma associated with a criminal history. Through their largely volunteer-based Adult Mentoring Program, clients are matched with a mentor who provides practical life advice as well as emotional support to clients. InStepp as an organization fills the gap in opportunity for their clients who have been recently released from prison. Much of the work that InStepp does is instilling personal advocacy skills into the clients, many of whom have never had much agency in their own lives. By providing services that build women's actual skill sets and providing constant encouragement and reassurance, InStepp equips clients with the lifelong ability to advocate for themselves and lead self-sufficient lives. When describing the work InStepp does, Womble states:

> As a community change agent, InStepp is compassionate about helping women overcome the challenges in their lives. We understand the needs of our clients and do what it takes to help them succeed, both personally and professionally. Our work is important because women are the heartbeat of our communities and families; when women suffer, our entire community suffers.

Womble became inspired to do something about the gap in organizations dedicated to women and particularly women involved in the criminal justice system in Durham County and the neighboring area in 2004. However, the organization became an official 501(c)(3) nonprofit in 2007 after three years of planning and putting together a board of directors. InStepp received its first grant funding in 2007 from the Department of Labor and receives most of its funding from local, state, and federal grants with funding from corporate and private donors constituting a smaller portion of its overall funding. Womble expressed that funding is a major concern of hers, threatening the long-term

financial viability of InStepp. However, she is very hopeful and optimistic that InStepp will continue to receive the funding it needs to provide the services it does to its current clients and many more in the future.

InStepp has also secured funding through strategic collaborations with other service providing organizations in the area and expanded the population of clientele they serve to include women who are survivors of intimate partner violence and immigrant, mostly undocumented, women. In the work that she does, Womble sees much overlap between the different populations InStepp serves. Many justice-involved women are survivors of some type of abuse and many women who are survivors of intimate partner violence have people in their lives that have been involved with the criminal justice system.

I got an opportunity to sit down with Ms. Womble and three ERA clients who I'll call Susan, Danielle, and Tina to speak with them about their experiences being involved in the criminal justice system, InStepp programming, and the major challenges they faced after being released. Some major themes appeared in many of the responses I received from the executive director and InStepp clients.

Susan was originally sentenced to 12 years and seven months in a federal prison for felony drug possession of crack cocaine but was released after 5 years this past year after federal laws lowered the sentencing for crack possession. Even though Susan has struggled with drug addiction both before and after her incarceration, relapsed, and was required to serve some time after that, she is out now and gainfully employed through a state program that gives incentives for companies that hire ex-offenders. Danielle is also an African-American woman, who served 11 months out of an 11-24 month sentence in a state prison for felony larceny. After losing her job and divorcing her husband, who was also involved in the criminal justice system and who got her initially involved in

the system, Danielle was involved with a plan with someone who worked in loss prevention to deface a store. She is a mother of four: two adult children and 18-year old and 16 year old sons. While she was serving time, her youngest son was taken in by child protective services, and she is now working to try and get him back. She is also enrolling in nursing classes at Durham Technical College, and after I spoke with her, she received employment. I spoke to Tina over the phone. She served 10 years in federal prison and was just recently released.

All three women identified the stigma associated with their criminal records and finding employment as the major obstacles to their successful re-entry. Tina referred to it as "residual punishment," that even though they had served their time and supposedly "repaid their debts to society," the women felt like society continued to punish them through legal forms of employment discrimination. Susan, whose offense involved drug possession, mentioned how she was banned from public services, including public housing, because of it. She criticized the halfway house she was staying at for being under-resourced and not providing adequate job placement services to clients. Danielle also criticized state re-entry programs when she mentioned the difficulties she was having with her probation officer. She felt her probation officer was young and inexperienced and did not keep good track of all of Danielle's records. Because Danielle's charges crossed two different counties, one county sentenced her but her time served included both counties. For some reason, this was not clear on her records and court officials threatened to re-incarcerate her over time she had already served. As she stated, "If you do not stay up on the game, they'll have you right back in the system, and it's not even your fault."

All of the women are from North Carolina, but only Danielle served her time in the state of North Carolina. Susan was incarcerated in Tallahassee, FL and Tina in Illinois. Susan described how her drug addiction had alienated her from her family for years and therefore she did not receive any

visits from them while incarcerated. While Tina had strong family and friend support near the beginning of her time incarcerated, because of the length of her sentence (10 years) and the distance from home, visits waned over the years. Danielle received frequent visits from her younger children, but not from her older ones who had trouble receiving clearance to visit her. Her fiancé did not visit her while she was incarcerated.

When asked about the conditions of life inside a women's prison, Susan declined to comment but left it at "A lot of things happen in there." Danielle described the poor conditions in the prison infrastructure as well as the general disorder, lawlessness, and constant threat of violence within the prison. All three women, while admitting to their own wrongdoing, expressed the belief that prison was not a place they should have been in. Danielle referred to it as "the pits of hell" and stated that it was a place that nobody would ever want to go, her advice to others being to do whatever they had to not to get involved in anything that would land them in prison.

It was interesting the role that faith had in the re-entry of the women I spoke to as well as Womble, who described how her faith led her to start InStepp and made her hopeful for the organization's future. InStepp clients connected their faith with concepts of personal accountability and holding themselves to a higher standard of not associating with the same individuals that helped involve them with the criminal justice system, not re-offending, and not ending up in prison again.

All three women interviewed identified InStepp as an indispensible part of their successful re-entry, not only in providing employment services, but also in providing emotional support, encouragement, and in bringing a sense of normalcy back into their lives. Each woman characterized the staff at InStepp as caring and genuine in their commitment to improve the lives of their clients.

THE NEED FOR PRISON REFORM

Prison as an institution is very costly. Prisons costs the incarcerated their livelihood. They cost the stability of their families and their entire communities, and they cost the rest of society billions of dollars annually (Ahrens, 2008). The exorbitant amount of money we use to police and incarcerate nonviolent offenders, particularly people of color, women, and juveniles, could be used on public services that curb the effects of poverty and provide educational and economic opportunities to improve their lives and enable them to hopefully give back to society one day. Instead, we spend vast amounts of resources to restrict and limit our own citizens and allow them to sit idly for years in jail cells or become even more conditioned criminals upon their release.

Many scholars have critiqued the increasing amount of gender-responsive services offered particularly to women inside the criminal justice system and prison apparatus. (Bumiller, 2003: 65) Many of these services include drug treatment and rehabilitation services, services funded primarily by the state that are easier found in prisons than they are outside of prisons for people of a lower socioeconomic status. Many women who find themselves incarcerated who have suffered from trauma, sexual assault, or struggled with drug addiction usually do not get the appropriate treatment before their run-ins with the law that wind them in the prison system. Expanding the function of prisons as simultaneous sites of isolation and punishment and primary site of needed social services for marginalized women is problematic to say the least. Many academics have questioned the effectiveness of rehabilitation models that exist within an institution whose primary function is to isolate and stigmatize its inhabitants as a means of crime deterrent, an aim in which prisons overwhelmingly fail to do. (Carlen & Tombs, 2006: 342) If anything, prisons create the very problems they were built to address. That is why most ideas of prison reform meant to strengthen

and expand the prison system usually lead to more people incarcerated, not less crime (Braz, 2006: 87).

Furthermore, critics of the prison system have also examined the rhetoric of "re-entry." Because most women released from prison come from such marginalized backgrounds and return to those same conditions upon release, the idea that they can be successfully *re*-integrated back into society when they were never *integrated* in the first place is highly questionable (Wacquant, 2010: 612). In fact, many suggest that the best method to solving the increasing problems associated with people re-entering society after imprisonment is first and foremost, to reduce the number going to prison in the first place (Lynch, 2001: 20), especially for nonviolent offenses, first time offenses, and technical violations of parole.

RECOMMENDATIONS

Confronting the issues that women face after their release from prison requires an understanding of the interplay of the systemic factors that lead to their imprisonment, the demoralizing effects of incarceration, and the stigma of criminality and barriers to successful re-entry. My recommendations for moving forward combine addressing underlying systemic inequality in our society, adopting polices of decarceration, de-stigmatizing ex-offenders, and adding increased support for ex-offenders and their communities.

- o Decriminalize most offenses, especially those associated with drug use (and policies like mandatory minimum sentencing laws and three-strikes-you're-out laws), juvenile offenses, and end broken windows policing and focus on alternatives to imprisonment like community service

(Recommendations, cont.)

o   Move drug treatment programs outside of the prison and make them more available to the most vulnerable populations as well as mental health services

o   Lift bans on ex-offenders from public services, so they can have access to resources to help them rebuild their lives after release

o   Support "ban-the-box" campaigns and other initiatives aimed at reducing the stigma of criminality

o   Start gender-specific post-release groups for ex-offenders and their families to build emotional support and community surrounding the issues faced by ex-offenders and their families

o   Work toward initiatives that close the educational and achievement gap between racial groups in the United States and end the school-to-prison pipeline

o   Remove stringent parole regulations, the reason 1/3 of ex-offenders are re-incarcerated

o   Support and implement community restorative/transformative justice based responses to crime, moving emphasis away from law enforcement and the punitive criminal justice system

o   Make trauma support for victims of abuse available early and preferably in public schools (outside of the criminal justice system)

References

Ahrens, L. (2008). *The real cost of prisons comix*. Oakland, Calif.: PM Press.

Arnold, R. (1995). Processes of victimization and criminalization of Black women. In B. Price & N. Sokoloff (Eds.), *The criminal justice system and women: Offenders, victims, and workers* (pp. 136-146). Columbus, OH: McGraw-Hill.

Berman, J. (2006). Women Offender Transition and Reentry: Gender Responsive Approaches to Transitioning Women Offenders from Prison to the Community. *National Institute of Corrections*. Retrieved December 29, 2014, from

https://s3.amazonaws.com/static.nicic.gov/Library/021815.pdf

Bosworth, M. (2010). *Explaining U.S. imprisonment*. Los Angeles: Sage.

Braz, R. (2006). Kinder, Gentler, Gender Responsive Cages: Prison Expansion is Not Prison Reform. *Women, Girls & Criminal Justice,* 87-91. Retrieved January 1, 2015, from

http://www.againstequality.org/wp-content/uploads/2009/10/gender_responsive_cages.pdf

Bumiller, K. (2013). Incarceration, welfare state, and labour market nexus: The increasing significance of gender in the prison system. In Carlton, B., & Seagrave, M. (Eds.), *Women exiting prison: Critical essays on gender, post-release support and survival* (pp. 52-84). New York: Routledge.

Carlen, P., & Tombs, J. (2006). Reconfigurations of penality: The ongoing case of the women's imprisonment and reintegration industries. *Theoretical Criminology, 10*(3), 337-360. Retrieved January 1, 2014, from

http://www.lib.unb.ca/instruction/bcull/CarlenTombs_TheoreticalCriminologyArticle.pdf

Comfort, Megan. 2007. Punishment beyond the legal offender. Annual Review of Law & Social

Science 3: 271–296.

Davis, A., & James, J. (1998). *The Angela Y. Davis reader*. Malden, Mass.: Blackwell.

Freedman, E. (1981). *Their sisters' keepers: Women's prison reform in America, 1830-1930*. Ann

Arbor: University of Michigan Press.

Gilfus, M. (1992). From victims to survivors to offenders: Women's routes of entry and immersion

into street crime. *Women and Criminal Justice, 4*, 63-89.

Guiding principles for promising female programming: An inventory of best practices. (1998,

October 1). Retrieved January 2, 2015, from

http://www.ojjdp.gov/pubs/principles/contents.html

Lacey, N. (2008). *The prisoners' dilemma: Political economy and punishment in contemporary

democracies*. Cambridge, UK: Cambridge University Press.

Lapidus, Lenora, Namita Luthra, Anjuli Verma, Deborah Small, Patricia Allard, and Kirsten

Levingston (2005). *Caught in the Net: The Impact of Drug Policies on Women and Families.*

(Report co-authored by the American Civil Liberties Union, Break the Chains: Communities

of Color and the War on Drugs, and The Brennan Center at New York University School of

Law). Retrieved May 23, 2005, from http://www.fairlaws4families.org/.

Liam, M. (2013). Reentry within the carceral: Foucault, Race, and Prisoner Reentry. *Critical

Criminology, 21*(4), 493-508. Retrieved December 29, 2014, from Springer.com.

Lynch, J. P., & Sabol, W. J. (2001, September). Prisoner reentry in perspective (Crime Policy Report,

Vol. 3). Washington, DC: Urban Institute

Maidment, M. (2006). *Doing time on the outside: deconstructing the benevolent community*. Toronto:

University of Toronto Press.

McCorkel, J. (2013). *Breaking women: Gender, race, and the new politics of imprisonment*. New York: New York University Press.

Raeder, M. (1993). Gender and sentencing: Single moms, battered women, and other sex-based anomalies in the gender-free world of the federal sentencing guidelines. *Pepperdine Law Review, 20*, 905-991.

Reynolds, M. (2008). The war on drugs, prison building, and globalization: Catalysts for the global incarceration of women. *NWSA Journal, 20*(2), 72-95. Retrieved January 7, 2015.

Seiter, RP., and KR. Kadela 2003. Prisoner reentry: What works, what does not, and what is promising. Crime & Delinquency 49(3): 360–388.

Sudbury, Julia. 2004. A world without prisons: Resisting militarism, globalized punishment and empire. Social Justice 31(1–2): 9–33.

Travis, J., Cincotta, E., & Solomon, A. (2003). *Families Left Behind: The Hidden Costs of Incarceration and Reentry*. Washington D.C.: Urban Institute.

U.N. Secretariat. Office on Drugs and Crime. Criminal Justice Handbook Series. *Handbook of basic principles and promising practices on Alternatives to Imprisonment.* New York, 2007. (U.N. sales no. E.07.XI.2).

Wacquant, L. (2010). Prisoner reentry as myth and ceremony. *Dialectical Anthropology,* 605-620.