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James Kilgore¹

Abstract

Since the early 1980s mass incarceration has become a critical fixture on the U.S. social landscape. Prison and jail populations have increased almost fivefold since 1980 with similar increments in the ranks of those under parole and probation. Historically many labor analysts and unions have regarded incarcerated people as an aberrant sector of the working class. Labels such as “lumpen proletariat,” “criminals,” and the “undeserving poor” have often been applied. In some instances, people doing poorly paid production work while incarcerated have been categorized as “scabs” who undermine hard won union gains. Such thinking is at odds with current realities, if it ever was appropriate. The recent patterns of criminalization have led to the imprisonment of significant swaths of working class people of color, largely the targets of the War on Drugs or anti-immigrant repression. Despite the fact that this racialized roundup now holds millions of workers captive, the process remains largely outside the scope of those concerned with labor and working class organization. Old stereotypes still keep “ex-convicts” and “felons” at the margins of labor organization and analysis. This article argues that unions and labor-oriented organizations need to oppose mass incarceration and adopt new strategies to incorporate a broad working class perspective in their approach to the criminal justice system. The author emphasizes that such an approach would compel unions to act in the interests of the broad working class, which at time may even be in conflict with the immediate interests of their members.

Keywords

trade unions, lumpen proletariat, mass incarceration, organized labor, convicts, felons, War on Drugs, prisons, criminalization, welfare

¹University of Illinois, Urbana-Champaign, IL, USA

Corresponding Author:

James Kilgore, Center for African Studies, University of Illinois (Urbana-Champaign), 910 S. Fifth Street, Champaign, IL 61820, USA.

Email: jjincu@gmail.com

Mass Incarceration: Toward a Working Class Agenda

Analysts of organized labor and the working class have often grappled with the position of those regarded as “criminals.” Many classical Marxists, for example, adopted the term “lumpen proletariat.” Marx’s own description of the ranks of this lumpen element reads a bit farcically today. He depicted the lumpen as “the social scum, that passively rotting mass thrown off by the lowest layers of the old society^[3].” In their ranks he included “vagabonds,” “discharged soldiers, discharged jailbirds,” “escaped galley slaves,” swindlers, brothel keepers, tinkers, and beggars” (Marx 1848).

In the 1960s and 70s an important counter to this characterization emerged through the voices of Amílcar Cabral, Frantz Fanon, and later the Black Panther Party. They attempted to apply the term “lumpen” to the colonial context. Cabral (1964) divided the lumpen into two categories: those who were “beggars, layabouts, prostitutes, etc.” and those who were newly arrived from the rural areas but had no firm roots in town. Fanon and the Black Panthers had a slightly different understanding. The Panthers defined lumpens as “all those who have no secure relationship or vested interest in the means of production and the institutions of capitalist society” (cited in Jones 1998, 245). Drawing on Fanon, the Panthers posited that the lumpens were largely those with nothing left to lose and, therefore, the most likely to engage in revolutionary action.

While this literature has provided some insights, the contemporary U.S. feels a long way from Marx, Fanon, or the Black Panthers on these issues. For the past four decades U.S. authorities have carried out a program of mass incarceration, increasing the ranks of those held in U.S. prisons from less than half a million in the 1970s to nearly 2.2 million today. Similarly, the numbers of those on parole and probation have grown from a million to nearly 5 million (Bureau of Justice 2011).

A wide range of authors (Alexander 2009; De Genova 2007; Kilgore 2011; Loury 2008; Marable, Steinberg, and Middlemass 2007; Smith 2008; Wacquant 2010) have captured the racial aspects of mass incarceration. In particular, Alexander’s book, *The New Jim Crow*, in which she likens mass incarceration to previous systems of racial oppression such as slavery and segregation, has garnered widespread influence and spent months on the *New York Times* bestseller list.

A few writers have taken a different angle—attempting to describe the relationship of incarcerated laborers to the broader working class by examining workplace organizing behind bars and the ways in which private industry has superexploited incarcerated labor (Thompson 2011a; Chang and Thompkins 2002).

Here I want to capture a different perspective—the position of the convicted and formerly incarcerated as members of the working class on the streets, not as laborers inside prison. Hence, I will describe the process of what I call the criminalization of the working class and the implications of that process for organized labor. My argument holds that this criminalization obstructs working class organization by dividing groups of people with common interests. In making this point, I will analyze key incidents of organized labor’s contradictory and at times extremely backward reaction to mass incarceration. I will conclude by offering some suggestions as to how unions might begin to address this issue in their practice.

The Criminalization of the Working Class

The criminalization of the U.S. working class has been a multi-faceted process likely rooted in the Nixon era. As early as 1968, Nixon brought “law and order” onto the Presidential campaign agenda, promising, among other things, to put an end to the drug problem:

Narcotics are a modern curse of American youth. ... I will take the executive steps necessary to make our borders more secure against the pestilence of narcotics. (cited in Epstein 1990, 61)

But while Nixon may have laid some ideological groundwork for a War on Drugs, his political demise as a result of the Watergate scandal waylaid any grand plans to implement his vision. Moreover, by the late 1970s, the right wing of the Republican Party found its political fortunes waning. The gains won by the black liberation struggle, the anti-war forces, and a host of other social movements had shaken the ideological foundations of white supremacy and the U.S. ability to carry out military interventions abroad. The stability and prosperity that much of the white middle class had enjoyed during the post–World War II years appeared under threat. The prospects of a society which embraced school busing, affirmative action, sexual equality, open homosexuality, the relaxation of drug laws, and demilitarization posed a direct challenge to the status quo of social conservatism and superpower chauvinism.

It eventually took a broader movement of Republican ideologues, with Ronald Reagan as their public face, to seize the opportunity to play on the insecurities of white workers in particular. While the smashing of the air traffic controllers’ strike in 1981 has received considerable attention as the watershed moment in Reagan’s attack on the working class (McCartin 2011), the War on Drugs is likely of equal importance. As Alexander (2009) has pointed out, the War on Drugs emerged at a time when most U.S. citizens didn’t view drugs as a major problem. Conservative forces simply used the drug issue to play on white fears and construct an image of the “black criminal”—an evil-hearted, anti-patriotic drug dealer out to hook white children on marijuana, heroin, and later, crack cocaine. By the late 1980s, particularly after the Willie Horton debacle in the Dukakis Presidential campaign of 1988, this image had sunk deep into the popular psyche.

Alexander (2009) rightfully contends that a central purpose of the War on Drugs was to woo “Reagan Democrats” out of the Democratic Party. While the pro–working class policies of Roosevelt’s New Deal had held the loyalty of millions of white workers since the 1930s, the passage of the Democrat-backed Civil Rights Act and Voting Rights Act in the 1960s, coupled with the social movements and rebellions of the period, undercut the party allegiance of much of the white working class. The proposition of a War on Drugs, with its implicit racial overtones, pushed white workers to choose either a racial solidarity couched in traditional “American values” or a class solidarity which could have propelled the U.S. down a social democratic (or perhaps even more radical) path. Racial solidarity won out and whites shifted in droves to the Republican Party, creating a popular support base for social conservatism, increased

budgets for “public safety” at the expense of social welfare, and intervention in places like Grenada and Central America.

On the streets of African-American working class communities, a massive roundup of black male youth ensued. The statistical outcomes are staggering. While African-Americans make up only 12% of the general population, they now comprise nearly 40% of those in state and federal prisons. Today one in eleven black males aged 25-29 resides in prison or jail. On a per capita basis, the incarceration rate for African-American males in 2010 was more than six times that for those categorized as “white” (Bureau of Justice 2011).

This repression has a spatial focus as well: poor urban working class communities of color. Researchers and activists have begun to speak of “million dollar blocks” in major urban areas—places where the criminal justice system spends more than a million dollars a year incarcerating and prosecuting the residents (Gonnerman 2007).

Examining this process from a labor market perspective reveals that a criminal record has become a crucial factor driving millions of working class adults into the ranks of the marginalized or excluded. As Alexander (2009, 159) contends, felony (or perhaps more appropriately “felon”) is the new N-word, producing not only a stigma but a score of legal provisions which ban those with convictions from a range of jobs and professions, as well as creating enormous obstacles to accessing state benefits. These will be described in detail below.

Accompanying this economic marginalization has been a political disenfranchisement. Only two states allow incarcerated people to vote (a practice quite common in Europe) while 30 states ban those on parole from the ballot box. This disenfranchisement renders some 5.3 million people voteless (Sentencing Project 2009, 5). Furthermore, in many states the incarcerated are counted in the population of the area where they are imprisoned, thus giving more constituency representation to predominantly white rural areas where the majority of prisons are located (Wagner 2012).

Overall this amounts to depriving a significant layer of the working class of their rights to compete in the job market as well as excluding them from receiving benefits created for the unemployed or impoverished sector of the working class. Then, to top it off, these workers lose the political franchise available to contest the agenda that spearheaded their deprivation.

In sum, following on Alexander’s (2009) analysis, I conclude that the War on Drugs and the resultant imprisonment of predominantly African-American workers, particularly in the 1980s and 90s, constituted a major component of restructuring the U.S. working class, dividing workers into a largely African-American sector which lies outside the law and at the economic margins and a more respectable, law-abiding cohort which is predominantly white.

However, while the War on Drugs was the cutting edge of the criminal justice system’s attack on the working class in the 1980s and 1990s, in the past decade the emphasis has shifted. Up until 9/11, incarceration rates of African-Americans accelerated at a far higher rate than those of other racial groups. However, with the tightening of immigration laws and enforcement after September 11th, the rate of detention of Latinos skyrocketed. In fact, from the period 2000-09, the incarcerated population

of those the government categorized as “Hispanics” increased by more than 50% while the numbers of African-Americans behind bars declined slightly (Bureau of Justice 2011). This wide scale incarceration of Latinos amounts to a second phase of mass incarceration, what I have referred to elsewhere as the “New Operation Wetback” (Kilgore 2011).¹

Once again in the immigration scenario we see a racialized political-economic agenda at work, particularly since the beginning of the 2008 economic crisis. The repression of “illegal immigrants,” a very thinly disguised coded term for Latinos, has assumed primary causation in the white popular imagination for rising unemployment and economic depression. This targeting of the undocumented for blame has deflected critical white working class eyes from hedge fund managers and NAFTA architects and re-directed them toward Latino immigrants. Right wing commentator Kevin Coach Collins (2011) aptly captured this attitude in one of his blog posts entitled “SEIU Helps Illegal Aliens Steal American Jobs.”

The invasion of illegal aliens who are sneaking over our southern border every day places the very life of our nation in jeopardy. This onslaught of poor illiterates brings nothing we need or can't provide for ourselves, but they do bring an array of social problems we don't need. These people are a clear and present danger to all of us; so we need everyone to roll up his/her sleeves and get to work to stop this flood of problems. (Collins 2011)

Collins' (2011) wishes seem to have come true with the passage of anti-immigrant laws in Arizona, Georgia, and Alabama which have stepped up the heat on the criminalization and detention of Latinos. As with drug dealers, the racial animus directed against “illegals” has built up a momentum and a moral self-righteousness of its own.

As a result, in 2011 the U.S. deported nearly 400,000 people, the most ever (Department of Homeland Security 2012). Despite the Obama administration's promises to arrest only undocumented people involved in genuine criminal activities and to offer opportunity for deferred action on deportation, without a major ideological shift it is difficult to see how large swaths of the “innocent” Latino working class will avoid the detention and deportation net.

While the most publicized aspect of the criminalization of the working class has been the growth in the number of people behind bars, Loic Wacquant argues that mass incarceration (or what he refers to as “hyperincarceration”) and the criminalization of the welfare system constitute “two sides of the same historical coin” (2010, 84). Simultaneous with the mass incarceration of the 80s, Reagan and his allies mounted a racialized and female-focused attack on the welfare system. Using the code of the “Welfare Queen,” right wing politicians played on white resentment of an alleged mass of unwed African-American women who mothered babies in large numbers and lived off the hard-earned dollars provided by white taxpayers (Gustafson 2003; Kohler-Hausmann 2007). As Kohler-Hausmann has pointed out these attacks “framed welfare recipients, who were already burdened in the public discourse by the intersecting stigma of race, class and gender, as deceptive criminals” (2007, 330).

The ideological offensives on welfare mothers, who are almost universally working class and more than 60% African-American and Latino (Office of Family Assistance 2008), provided popular support for a host of stripping away welfare provisions and increasing regulations and punishments for those receiving benefits (Office of Family Assistance 2008). The Democrats also joined in this effort with the Clinton administration passing the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), fulfilling candidate Clinton's election promise to "end welfare as we have come to know it" (Clinton 1991).

Similarly, other aspects of the restructuring of the social welfare system have largely targeted poor mothers of color. For example, Paltrow (2013) has documented how repressive attitudes about reproductive rights have often resulted in criminal prosecutions of poor African-American women in particular. She has gone so far as to label this process the "New Jane Crow" (Paltrow 2013). Roberts has added an analysis of the foster care system, positing that present policies have resulted in the "systematic punishment of black mothers" (2012).

These changes have precipitated a melding of criminal justice and welfare policy. For example, a key element of new welfare legislation has been the provision of federal law enforcement officials with access to the personal files of people receiving state benefits. This allowed them to use things like food stamp records to snare people with outstanding warrants or track down anyone who had violated their parole. Further criminalization of recipients included the taking of fingerprints and other biometric data. Even child birth has been categorized as illicit behavior. For instance, PRWORA provided states with the power to institute a "family cap" on welfare payments, denying any increase of stipend when a woman had an additional child. Essentially this amounted to financial punishment for giving birth. About twenty states currently have some form of "family cap" (National Council of State Legislatures 2009).

Likely the most effective method of criminalizing the behavior of welfare recipients has been the reduction of benefits. According to a 2010 report, 48 states have lower real benefits than in 1996. In more than 30 states the real value of Temporary Aid to Needy Families (TANF—formerly AFDC) has declined by more than 20% since 1996 (Schott and Finch 2010). This decline in benefits has been accompanied by tighter restrictions on other sources of income. Effectively economic necessity drives people to "criminal" activity to earn enough money to survive. In this context, informal work such as baby-sitting, contract house cleaning, or selling second hand clothes becomes illegal—leading to either a discontinuation of benefits or, in some instances, prosecution for welfare fraud.

Lastly in a fascinating intersection of mass incarceration and the criminalization of welfare, Federal legislation places numerous restrictions on access to public benefits for those with felony convictions. At the most basic level, Federal law bans anyone with a drug conviction from getting SNAP (food stamps) or TANF, though a number of states have exercised the option to overrule this law. Perhaps the most destructive denial of benefits is granting local housing authorities the power to refuse people with a felony access to public housing. This not only further limits the economic opportunities and life chances of formerly incarcerated people but also places increased burdens

and risks on their family members. In some jurisdictions, a mother can be evicted from public housing (i.e. criminalized) if she offers accommodation to one of her children who has a felony conviction. Similar sanctions can be levied against women or men wanting to live with a marital partner or co-parent of their children. In essence, the very act of living as a household or in a collective grouping has been criminalized.

This criminalization process has even extended into schools. Metal detectors, lockdowns, searches, and on-site security officers have become common in schools in the wake of Columbine and 9/11. However, as Hirschfield (2008) has pointed out, the ethos and result of this surveillance activity are different in urban schools with high black and Latino enrolments. He argues, among other things, that inner city students are more often subject to invasive actions by police such as bodily and metal detector searches as well as arrest (Hirschfield 2008).² Statistics bear out Hirschfield's assertions. A study of urban middle schools conducted for the Southern Poverty Law Center revealed that rates of suspension for black students increased by 150% from 1973 to 2006, more than double the rate of increase of white students' suspensions. The study, which covered 18 major school districts, also showed that over 28% of black male students had been suspended, higher than any other racial group (Losen and Skiba 2010).

A deepening of this process has taken place with the addition of ankle bracelets for students with records of excessive truancy and in 2012, the requirement for all students in two largely Latino San Antonio schools to carry GPS linked student cards or be removed (Kilgore 2012). Predominantly implemented in working class schools with a high percentage of black and Latino students, electronic monitoring is but another facet of a much broader attempt to socialize youth of color as prime candidates for direct control by the state: an ankle bracelet today, the penitentiary tomorrow. This "school to prison pipeline" criminalizes students even before they have a chance to enter the workforce.

The criminalization process described above has re-shaped the lives of much of the urban working class of color. Sadly, organized labor has done little to stem the tide of this massive offensive on their fellow workers. Let us now turn to a consideration of how and why unions have failed to address one of the most crucial domestic social and economic policy disasters of the last half century.

Mass Incarceration, Organized Labor, and the Working Class

In the opening of their book *Solidarity Divided*, Fletcher and Gasparin (2008) tell the story of a 2003 conversation in Johannesburg, South Africa between visiting members of the SEIU and representatives of the National Education, Health, and Allied Workers Union (NEHAWU), the largest public sector union in South Africa. A person in the SEIU delegation stated that the task of a union was to defend the interests of its members. A NEHAWU spokesperson countered by arguing that the task of a union was to represent the interests of the working class noting "that there are times when the interests of the working class conflict with the interests of the members of our respective unions" (Fletcher and Gasparin 2008, 1). This crucial contrast goes a long way to

explain how organized labor in the U.S. has responded to mass incarceration. When they have responded at all, they have typically defended the narrowest employment interests of their members while neglecting the way in which mass incarceration has impacted the working class as a whole.

I will illustrate this by examining four issues: 1) the use of incarcerated people as cheap labor, especially in contracts with major corporations; 2) the privatization of prisons; 3) the opposition to prison closures; and 4) the promotion of harsh criminal justice legislation. After this discussion I will offer some possible alternative courses of action available to unions and the broader working class movement.

Cheap Labor

Organized labor has a long history of opposition to private profiteering from prison labor. As far back as 1890s Kentucky, the Knights of Labor led a guerrilla style raid on a prison stockade, freeing all those incarcerated therein because they were being used to break a mining strike (Fraser and Freeman 2012). Two decades later, in 1913, John Frey of the *International Molders Journal* summed up the views of an era: “We are unalterably opposed to the labor of convicts being let to contractors” (1913, 5). Frey was writing in direct response to the convict leasing system under which correctional authorities hired out their captives to private businesses.

In modern times the AFL-CIO has also been unequivocal on this issue. In a 1997 declaration the organization’s Executive stated:

The AFL-CIO opposes the widespread use of prison labor throughout the public and private sectors in the United States in unfair competition with free labor. (AFL-CIO Executive Committee 1997)

Sloan (2013) has carefully outlined the importance of opposing superexploitation of the incarcerated for the working class, citing the impact on general wage levels and benefits as well as the loss of civilian jobs. Hence, the stand of the AFL-CIO on prison labor does represent a coalescence of the interest of their members with those of the broader working class.

However, in laying a primary focus on this issue, unions are avoiding a much bigger challenge. Despite intimations by writers like Fraser and Freeman (2012) that mass incarceration may be moving us toward a “a new world in which the prison-labor archipelago could indeed become a vast gulag of the downwardly mobile,” the reality is that very few people in prison are under contract to private corporations. Nearly all private sector prison labor is regulated under the Prison Industries Enhancement Certification Program (PIECP). The PIECP statistical report for the fourth quarter of 2011 showed 4,719 people employed in prison or jail PIECP programs, a miniscule portion of the nation’s incarcerated population (PIECP 2012). Even in the Federal system which has a proportionately larger contracted workforce than state prisons or local jails, the overseeing body, Federal Prison Industries (FPI), claims that only 16% of “work eligible” people in the system work for it (Bureau of Prisons 2012). None of

these FPI contracts are with private concerns. Hence the superexploitation of incarcerated workers, especially by transnational corporations, is not the core labor issue resulting from mass incarceration.

Rather, the major labor-related problem is the deprivation of liberty endured by the more than two million who are behind bars and the restricted labor market opportunities of the nearly five million people on parole and probation. While the practice of superexploitation of prison labor should be condemned, organized labor's choice to prioritize this issue is an escape from the far more vexing process of the criminalization of the working class as embodied in mass incarceration.

A similar situation exists with regard to private prisons. A wide range of unions have condemned privatization of prisons. In Florida, unions like American Federation of State, County and Municipal Employees (AFSCME), the Teamsters, and the Florida Education Association joined a range of activist groups in a notable and successful action in 2012 to foil an attempt by Florida governor Rick Scott to privatize 24 state correctional institutions (Kilgore 2012). Once again, the stance of the unions on this issue was consistent not only with the interests of their members but with those of the working class as a whole.

However, as with prison labor, emphasizing the role of the private prisons evades the heart of the matter. The elected political leaders of both parties have been the main actors in mass incarceration—passing legislation to facilitate carceral expansion (mandatory minimums, Three Strikes, Truth in Sentencing) and voting for the budgetary allocations to make it all possible. Though private prisons have been around for nearly three decades, the vast majority of prisons and jails in the U.S. remain in state hands. As of the end of 2011, only 8% of prison and jail beds were under private authority (Bureau of Justice 2011). In financial terms, the 2012 revenue of the two largest private corrections firms, the Corrections Corporation of America and the GEO Group, came to less than a third of the corrections budget of the state of California.

To address the interests of the full range of sectors of the working class facing criminalization, unions need to go beyond simply opposing privatization but also tackle the “tough on crime”/“lock ’em up and throw away the key” paradigm, a paradigm that dominates the party political realm and also likely has considerable traction among union members.

As noted above, in the case of prison labor and privatization organized labor had a problem of emphasis. However, in situations involving proposed prison closures or early releases, the issue moves beyond emphasis. Here, in many instances, union members' interests have proven ultimately anti-working class. The classic example of this tension occurred with the 2011-12 campaign to close the Tamms Supermax Prison in Illinois. Beginning in 2008, a local group, the Tamms Year Ten (TYT) committee, began a campaign to expose the practice of extended solitary confinement faced by most people incarcerated at Tamms.³ At the outset of their efforts, TYT maintained that more than a third of those incarcerated at Tamms had been in isolation for more than ten years. TYT's exposure of the conditions in Tamms soon drew widespread support for its campaign from groups like Amnesty International and the American

Civil Liberties Union, as well as enlisting community members who had family members in Tamms. Subsequently a court ruling later substantiated the allegations of the campaigners describing conditions at Tamms as “virtual sensory deprivation” and concluding that several dozen men incarcerated in the supermax facility were the victims of human rights violations (cited in Kunichoff and Mendez 2012).

In 2012 Illinois Governor Pat Quinn, in response to the campaign and his state’s fiscal crisis, proposed the closure of Tamms and several other institutions. He planned to transfer those held in Tamms to other prisons and provide job opportunities for the prison’s staff in different correctional facilities. His proposal gained widespread support within the legislature until AFSCME, which organizes the correctional officers and other staff at the prison, initiated a public campaign against the closure. In a fact sheet circulated in conjunction with a mobilization for an April 2, 2012 hearing on the issue at the state capital AFSCME argued:

All of our state’s correctional facilities have a common mission: to protect the public, to supervise offenders during their incarceration and to prepare them for reentry into society. Since opening in 1998, Tamms CC has played a vital role in ensuring that this mission can be fulfilled. (AFSCME 2012)

The fact sheet went on to allege that closing Tamms would result in overcrowding in other prisons. When Quinn persisted with his plan for closures, the union filed a lawsuit asking for a temporary restraining order against the Governor’s action. The union’s filing stated:

Plaintiff brings this lawsuit to protect its members that are at risk of injury and death due to the decisions of the Governor of the State, the Illinois Department of Corrections and the Illinois Department of Juvenile Justice to close multiple correctional facilities and to absorb the inmates at those facilities into an already overcrowded and overburdened correctional system. (cited in Kunichoff and Mendez 2012)

In response to the court action, TYT organized a march on AFSCME’s Chicago offices to demand that the union “acknowledge the human rights catastrophe that has taken place at Tamms” and “honor their own progressive past and remember that mass incarceration is the civil rights issue of our time.” As a reminder of this “progressive past” mothers of men residing inside Tamms carried signs that said “I am a mom.” These represented a historical reference to Memphis AFSCME members who bore placards which read “I am a man” during the garbage workers’ strike that brought Martin Luther King to Memphis at the time of his assassination (TYT email message dated August 9, 2012). The union paid little attention to this but pressed on with its lobbying and legal action. Eventually AFSCME’s pressure on lawmakers bore fruit, and the state legislature voted against the closure. However, under Illinois law, Governor Quinn had the power to override a legislature vote on prison closures, and he did. Tamms finally closed in January 2013.

AFSCME’s reaction to the Tamms closure reflects a complex set of failures on the part of the union. First, it never responded at all to any allegations of human rights

violations, not even the cases of Darrell Cannon and Anthony Davis, both of whom spent many years in Tamms and were later exonerated for the crimes for which they had been sentenced. Second, the union ignored a key cause of prison overcrowding—the Governor’s elimination of the credit for good time scheme after a 2009 failed early release plan. Between 2008 and 2011 the state prison population climbed by more than 3,000 (Illinois Department of Corrections 2009, 2011).

TYT and its supporters urged AFSCME to back a plan to ease overcrowding by reinstating credit for good time (a practice halted in 2009 after more than a century of use) and do some type of early release program. The union issued no reply. One Department of Corrections employee explained it like this: “that way AFSCME can continue to have their claim that the prisons are fuller than ever, as though that was a product of crime rate instead of the intransigence of prison employees implementing the early release law.”⁴ Ultimately for the union raising the issue of overcrowding was a diversionary tactic. The real issue was members’ jobs regardless of the state of the prison system.

Eric Fink, a former lawyer for AFSCME in Pennsylvania summarized the motivation of the union in this case—echoing the SEIU/NEHAWU dichotomy cited in *Solidarity Divided*:

The union’s main function is to advocate for the interest of its members, and it isn’t normally in the business of saying we support eliminating the jobs of our members. (cited in Kunichoff and Mendez 2012)

A further key aspect of the nexus between class and race in the U.S. prison system underlies the contradictions surrounding Tamms. Since 1980, the majority of new prisons have landed in non-metropolitan areas like Tamms (Pop. 724 in 2000 census) with overwhelmingly white populations. All told at least 350 rural counties have acquired new prisons since the start-up of the corrections industry boom in 1980, and more than half of all rural counties added prison work to their available employment mix during the final two decades of the twentieth century. The result is that the majority of prisoners are now housed in rural America (Huling 2002).

Hence, in posing the jobs of predominantly white prison workers against the human rights violations of the overwhelmingly African-American men incarcerated in Tamms, AFSCME failed to connect the dots. In the framing of the South African activist quoted above, this is a classic case where the interests of the members of AFSCME stand in contradiction to the broader interests of the working class.

As James Thindwa, founder of Jobs with Justice, put it:

The African-American community and labor should be fighting together on worker and civil rights issues. But AFSCME’s unwillingness to acknowledge the crisis of mass incarceration is precluding this. (quoted in Burns 2012)

Journalist Brian Tierney (2012) had a slightly less diplomatic view on AFSCME. He referred to its efforts as “Unionizing the New Jim Crow.” In his view,

Like the prisoners behind bars, prison guards are a part of the working class. But when their unions support prison growth, they set the interests of the working-class prison guards against the rights and dignity of the working-class prisoners. Rather than leveraging their influence to push for both better working conditions for their members and progressive reforms to beat back the New Jim Crow, prison employee unions counterpose union rights and social justice when they campaign to keep facilities like Tamms open.

So far, we have focused primarily on the actions of mainstream unions on the issue of mass incarceration. However, the corrections sector has spawned a number of state-based union structures. Most notable among these have been the California Correctional and Parole Officers Association (CCPOA) and the New York State Correctional Officers & Police Benevolent Association (NYSCOPBA). Joshua Page (2011) has written extensively on the activities of the CCPOA and NYSCOPBA in support of mass incarceration. He details how in addition to gaining wage packets that often bring prison guard salaries to over \$100,000 a year, the CCPOA has provided enormous lobbying and advocacy resources to promote the passage of harsher sentencing laws. In addition, the California union has mobilized campaign contributions and endorsements for candidates who support their agenda. While writers like Thompson (2011b) have argued that Page over-estimates the extent of these unions' influence, the CCPOA has definitely emerged as a pro law and order trade union which clearly links the welfare of its members to the continued expansion of the incarceration of other sectors of the working class.

Explaining the reticence of unions and labor strategists to take up the challenge of mass incarceration issues is complicated. At times it may be just the traditional "white blindspot"⁵ which fails to see beyond a privileged racial reality. In other instances, the unions' desires to appear patriotic may push them to stand on the side of law and order, lest they too be driven into the "criminal" category. For some public sector unions, police and prison guards are key membership cohorts. Such unions may find it difficult to campaign against lock 'em up and throw away the key when their members are the holders of the keys. Or it could be that since formerly incarcerated people largely fall into the stratum of the "precariat," these non-traditional workers with a "felon" label are prompting long held negative attitudes toward the marginalized to resurface with a vengeance. Whatever the reasons, this omission perpetuates an ideology and practice that will keep workers divided.

Mass Incarceration: An Alternative Agenda for Labor

If organized labor or other pro-labor forces are to move in the direction of a working class agenda rather than simply defending the narrow interests of their members, first of all, unions need to re-think the boundaries of the working class. Writers such as Fletcher, Bronfenbrenner, and Dewitt (2011) have highlighted this point, arguing that neoliberal restructuring of the global economy has thrown an increasing number of people into the ranks of precarious or casual workers. Among these groupings stand the formerly incarcerated whose background makes their situation even more

precarious than other part-time and contract workers. Organizations like the Excluded Workers' Congress (2011) and the workers centers have incorporated this precariat into their organizing. Goldberg and Jackson (2011) in a *New Labor Forum* piece labeled this approach "reimagining the right to organize." Clearly some reimagination of the boundaries of the working class and the traditional prerequisites for union membership, including a job, remains a priority.

Second, labor could become involved in national campaigns that specifically address the employment issues of people with felony convictions. For example, more than 40 cities and counties nationwide have adopted "Ban the Box" measures, ordinances which forbid employers from including a question about a job seeker's criminal background on an initial application form (National Employment Law Project 2012).

Ultimately, however, addressing the issues of mass incarceration will require a broader philosophical reorientation. Taking steps to defend the interests of the working class when they are not in the interest of a union's membership is a colossal philosophical leap—moving from narrow self-interest to a solidaristic approach. There are hints of this in some quarters. For example, when California Governor Schwarzenegger proposed adding 10.9 million dollars to the corrections budget in 2007, the Service Employees International Union Local 1000 responded by arguing for expanding rehabilitation and re-entry programs rather than adding new bed space (Furillo 2007). Such thinking is a small start in a more pro-working class direction. As former AFSCME lawyer Andrew Fink noted, "the ideal solution might be to say, for reasons of social justice, that we agree with reining back the prison complex, but we want that to be coupled with shifting to other jobs and the necessary training so correctional officers can be trained to do other things" (cited in Kunichoff and Mendez 2012). However, no such proposals have yet emerged from AFSCME.

Likely unions in the corrections sector could benefit from the lessons of the Chicago Teachers' Union's successful 2012 strike.⁶ In carrying out this labor action, the membership went way beyond its own narrow wage and benefits package and mobilized parents and community members around issues of quality of education. Much of this popular mobilizing incorporated notions of race and class dynamics in a city which was moving schools toward a two tier, highly racialized education system. For the corrections sector, the linkage is even more challenging since prison guards and parole officers, unlike teachers and most civil servants, perform services most residents don't want to ever have to use in the first place. Still, at least two thrusts for such consciousness raising are possible. The first is to demonstrate how deindustrialization under the neoliberal model has impoverished both working class people of color in urban areas and white rural workers as well. Gilmore (2007) has described how building such ties in one California initiative helped to block the building of a new prison in a rural area and orient rural residents to look beyond construction of corrections institutions for economic regeneration.

The second is to recognize fully that mass incarceration has created an over-bloated prison system and bureaucracy. Plainly stated, there are just too many people working in this sector, and far too many perform jobs that actually make them

complicit in the deprivation of the liberty of other sectors of the working class. In the present context of fiscal crisis, a number of states have already closed down several prisons. According to Porter (2012), in 2010 fifteen states closed prisons, eliminating more than 15,000 beds. In 2012, Florida alone shuttered ten correctional institutions (Porter 2012). This trend of closures is unlikely to stop. Organized labor can either continue to fight for the narrow job interests of its members and promote the continued mass incarceration of working class people of color, or, as Fink suggested, they can begin to think about how corrections workers might be re-trained for other more socially useful public sector jobs. Over the course of the next several years, many unions will confront situations like AFSCME faced in the Tamms scenario. Let us hope that the lesson they learn from Tamms turns their head in the direction of social justice and the interests of the broad working class and does not drive them into a narrow, self-interested bunker from which they defend their jobs and the right to incarcerate no matter the consequences.

As Tierney (2012) has observed, there is a way to reimagine organizing—with an anti-racist class consciousness:

By opposing the racist policies of mass incarceration and fighting to expand industrial employment, labor can win good union jobs for those who are otherwise railroaded by the criminal justice system. From the shop floor to the cell block, workers have so much more to gain from that struggle.

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1. "Operation Wetback" was a U.S. government initiated program of mass deportation of mostly Mexicans from the U.S. Southwest. Begun in 1954, Operation Wetback lasted for five years and resulted in hundreds of thousands of deportations.
2. This term has been popularized through a national campaign by the Civil Liberties Union, especially in New York. For the basic description of the term see the New York Civil Liberties Union webpage: <http://www.nyclu.org/issues/youth-and-student-rights/school-prison-pipeline>. For more scholarly discussions see Kim et al. (2010).
3. Background information on the campaign is largely from personal conversations with Laurie Jo Reynolds, one of the founders of the campaign, and from Kunichoff and Mendez (2012). For further background on Tamms in the context of supermax prisons in the U.S. see Eisenman (2009).
4. Personal communication, January 18, 2013. The person requested to remain anonymous.

5. A term from the 60s applied to the unconscious practice of racism in the Left in particular. Perhaps it is appropriate here. See Ignatin and Allen (1967).
6. For an overview of the importance of community involvement in the strike see Bartlett (2012).

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Author Biography

James Kilgore is a labor researcher, historian, and novelist, currently based in the Center for African Studies at the University of Illinois. He has written widely on the South African labor movement, and his most recent novel, *Freedom Never Rests*, depicts the struggles of a shop steward in post-apartheid South Africa. He wrote the book during his six and a half years of incarceration in California.