

California prison crisis foisted onto beleaguered counties

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California is unlikely to meet its June 2013 deadline for the court-ordered reduction of its massive prison population. Meanwhile, the gross human rights violations described in *Plata v. Brown*—the May 2011 Supreme Court decision affirming a population reduction order—persist in state prisons and are increasingly being replicated at the local level as underfunded and inadequate county jails attempt to cope with a flood of tens of thousands of new inmates. (See “US Supreme Court decision exposes barbaric conditions in California prisons”)

In August 2009, a panel of federal judges gave California 45 days to reduce prison overcrowding to 137.5 percent of the capacity, still considerably more than what these facilities were designed to handle. In May 2011, the US Supreme Court affirmed that ruling in *Plata v. Brown*, a divided 5-4 decision that described horrid prison conditions that had they occurred in Iran, Syria or China, might have been used as a pretext for imperialist military intervention. The high court set a June 2013 deadline for the reductions.

The sharp divergences among the justices in *Plata v. Brown* reflect a division within the ruling class on how to cope with the prison crisis on the national scale, which has been greatly exacerbated by the unfolding, global economic breakdown.

In response to the Supreme Court ruling, California lawmakers ultimately gave up their decade-long fight against efforts to remedy the horrible state prison conditions and passed Assembly Bill 109. The bill has carried out what has become known as “realignment,” revising the state’s Penal Code so that those convicted of any of 500 nonviolent felonies would now go to county jails, not state prisons.

By October 2011, the county jails became responsible for maintaining all newly sentenced felons, with the exception of registered sex offenders and those with

current or prior “strike” offenses. These comprise a long list of crimes defined as serious or violent, ranging from non-violent offenses such as criminal threats to murder. After two “strike” convictions the accused is exposed to life in prison for any third felony offense, no matter how minor, such as the oft-cited stealing of a slice of pizza.

In a report last spring, the California Department of Corrections and Rehabilitation (CDCR) declared AB 109 a success, predicting \$1.5 billion per year in savings to maintain the reduced prison population and a \$30 billion savings on prison costs for the state over the next decade. According to Matthew Cate, secretary of the state corrections department, state prison overcrowding has dropped from 200 percent of capacity in 2006 to less than 150 percent in June 2012.

Yet, the prison crisis, like so many other state expenses, is merely being dumped onto local governments, many of which are already buckling under severe economic strains, giving way to an unprecedented number of bankruptcies this year in relatively large cities from Stockton to San Bernardino. The state’s 58 county governments now confront the cost of housing, feeding and providing medical care to as many as 30,000 hitherto state prison inmates for long periods of time, in many cases in facilities that were not designed for such a purpose.

It is clear that county jails are currently unable to meet the costs of prisoner medical care, the focus of *Plata v. Brown*. Since realignment began there has been a surge of complaints by lawyers for disabled county jail inmates including, but not limited to: an inmate with 80 percent hearing loss being denied a hearing aid and then disciplined for failing to listen to deputies’ directions at Santa Rita jail in Dublin; the denial of medication to a bipolar and suicidal inmate in a Santa Barbara county jail; the denial of a tapping cane to a blind inmate in a local jail in Sacramento county, forcing him to rely on other

inmates to help him eat, shower and use the restroom; and a disabled inmate in a Los Angeles jail whose custom wheelchair was replaced by a broken one that was too big to enter her cell and also required deputies to tie her feet down so they wouldn't drag.

Presented with a number of such cases, US District Judge Claudia Wilken has ruled that the complaints already amount to widespread rights violations in county jail facilities. In August, Wilken upheld her earlier order that the state is responsible for disabled parole violators and prisoners who are being held in county facilities. However, the state is fighting her ruling as aggressively as it fought prior orders to remedy the widespread rights violations in its state prisons.

In June, Governor Jerry Brown signed a law that deems any parolee in county jail to be under the county's "sole legal custody and jurisdiction," preemptively shifting legal responsibility for anything that may occur. If the state has its way, counties may be stuck with overwhelming costs for jail renovations and construction, medical expenses and long-term treatment programs and services such as sign language interpreters.

The United States incarcerates more people than any other country in the world by far. This prison overcrowding is in fact the rotten fruit of what is a much larger crisis of "criminal justice" in the United States, which cannot be resolved by the current ruling class within a bourgeois legal framework. The most important aspect of the crisis is the bipartisan, decades-long attack on the basic rights of citizens, allowing law enforcement officials and prosecutors unprecedented powers to legally bully, harass, arrest and incarcerate citizens with great ease.

The same process has diminished due process rights to a shadow of their former strength, in many cases reducing the entire courtroom procedure to a farce. Even the jury trial—the greatest of all due process rights—has been converted into a dangerous gamble for innocent defendants by virtue of draconian increases in mandatory sentencing for most felony offenses, violent or not.

A disturbing part of this shift from democratic to authoritarian legal norms has been the criminalization of nearly every social problem. Minor disputes between parties to a romantic or familial relationship, the economic inability to provide for one's children, substance abuse problems, mental illness and a host of other social problems rooted in widespread poverty and desperation have all been criminalized over this period, exposing a wide swath of struggling workers and their

families to extended periods of incarceration, exorbitant fines, loss of privacy and voting rights. A criminal record has become the modern-day equivalent of the "scarlet letter" for those seeking work, an apartment or a loan.

All of this has facilitated the conviction of thousands of nonviolent citizens, begetting a national maze of expensive and overcrowded jails and prisons. The world financial crisis is continually intensifying the prison crisis, as state and local governments push forward their unpopular efforts to slash the most essential public services and social programs.

The majority opinion in *Brown v. Plata* reflected a fear within the ruling elite of the potential political and economic fallout associated with the prison crisis, noting specifically that the failure to reduce the prison population would "all but bankrupt the state." However, the most reactionary elements of the ruling class—whose social outlook is expressed quite clearly in Justice Antonin Scalia's hysterical dissent in *Brown v. Plata*—will not deviate from the pattern of mass incarceration and social intimidation of the last 30 years.

California's own hysterical "anti-crime" constituency, generally backed by prosecutors, law enforcement and judges, remains resistant to the slightest reduction in sentencing, regardless of the crime. The influence of these elements can be seen in the fact that the response of the state's 25 most populous counties (except Alameda) to the influx of prisoners has been to dramatically increase spending on jail expansion—the same solution that was abandoned on the state level due to the budget crisis—while generally rejecting suggested alternatives to incarceration for non-violent offenders.



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