

Punishing Poverty: A Lockean Immanent Critique of American
Incarceration and the Criminalization of Survival



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I. Abstract

As a joint thesis in public policy and philosophy, this project interrogates the American criminal justice system's violation of foundational social contract principles through its criminalization of poverty. Grounded in John Locke's *Second Treatise of Government* and the Capabilities Approach, I develop the concept of "poverty-induced crime" to argue that survival-based criminal offenses, committed in pursuit of basic needs, are morally defensible yet rendered invisible by prevailing formal legal frameworks. This theoretical intervention responds to the legal system's failure to adequately account for motivational context in formal criminal adjudication. The thesis presents a comparative analysis of Locke's political theory and the structural realities of poverty-induced crime. Moreover, the latter portion of this thesis uses real-world case studies to uncover the deep contradictions within American society that risk precipitating a regression toward the very state of nature the social contract seeks to overcome.

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Section I

Locke, Punishment, and the Contradiction of Incarceration

III. Thesis Overview/Introduction

Nations reel and stagger on their way; they make hideous mistakes; they commit frightful wrongs; they do great and beautiful things. And shall we not best guide humanity by telling the truth about all this, so far as the truth is ascertainable? - W.E.B. Du Bois, *Black Reconstruction in America*

“I never went to jail for being in a gang – but I did for being homeless,” stated Curtis Howard in a video interview with *Invisible People*¹. Curtis Howard as a young Black man was a member of the Crip Gang in San Diego, California and spent the past 30 years cycling between homelessness and incarceration. After being arrested for a year, his support system and community were eroded, leading him to perpetual homelessness upon release. Homelessness increased the difficulty adhering to the requirements of his conditional release. Maintaining sobriety, non-reoffense, or consistent communication with parole officers were barriered by the obstacles of being unhoused. From parole violations to survival crimes, the unsustainability of homelessness pushed Curtis back into the carceral system, further undermining his ability to exist as a free and independent individual.

The story of Curtis Howard is just one story in the spectrum of narratives bridging the earnest relationship between poverty and the criminal justice system. The relationship is reflected in the over incarceration of American constituents. Today, the United States leads the world in incarceration rates, far exceeding those of other developed nations and even surpassing authoritarian states like Russia, China, and Iran². In Germany, 93 people are in prison for every 100,000 adults and children, yet in the United States, the rate is roughly eight times that³. Even

¹ YouTube. *I Never Went to Jail for Being in a Gang—But I Did for Being Homeless*. March 9, 2025. https://youtu.be/QID_sdw1Q6w?si=52ouF5AZ7ZgXjU3R.

² Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press, 2012. Page 8.

³ Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press, 2012. Page 8.

as U.S. crime rates have dropped below the global average, the nation's incarceration rate remains six to ten times higher than other industrialized countries⁴. The United States penal system has emerged as a system of exploitation and social control.

Our impression and acceptance of the outward appearance of America's institutions of policing and incarceration exist as an example of our ingrained belief system that freedom, peace, and order are good, must be protected, and are important enough for us to impose conditional restraints on our own individual freedom. This notion is present in our understanding of the American spirit and value system – embodied in our Constitution, Declaration of Independence, Star Spangled Banner, and all other emblems and symbols of American ideology.

It is the work of this paper to provide more depth to understanding criminal action, not just as an autonomous willingness to do harm, but at times as a rational response to one's circumstances. This is confronted through the failure of legal language to represent the causal relationship between crime and poverty. In the American legal system, criminal actions are categorized in relation to their intent with no consideration for the significance of motivation, which results in an evaluative overemphasis on the implications of criminal action instead of its core causes. The exclusion of motivation eliminates the consideration of external factors such as poverty in determining how punishment and incarceration will be used to address criminal action. This leaves survival crimes as equally punishable under law, which perpetuates more poverty, crime, and social instability. Preconceived notions regarding the inherent righteousness of institutionalized punishment produces a collective hesitance to consider more complicated causes of criminal actions. The creation of the concept of poverty-induced crime is used to

⁴ Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press, 2012. Page 8.

develop the legal and social language between motivation, crime, and poverty that is currently lacking.

This thesis will demonstrate the gap between the expected role of punishment and incarceration as protectors of public safety and the reality of incarceration and post-release discrimination reflects more than just poor policy—it exposes a deeper systemic failure which reveals American society’s inability to fulfill its function of constituent protection. The nature of the criminal justice system perpetuating crime via the incarceration and discrimination of lower socioeconomic status communities is a fundamentally adverse betrayal to the values that American society rests upon and prides itself on. The disjunction between America’s symbolic aims versus its law and policy should alarm us, as our practices undermine the very values we claim to uphold. If we are to achieve “a more perfect union” founded on transcendental values of truth and justice, we must first be willing to face and untangle its inconsistencies, and the American criminal justice system exists as one of the most obvious discordances. Furthermore, the intention of this thesis is not to resolve every contradiction with the administration of justice in impacted communities, but rather to provide a new lens to look through for addressing the inconsistent outcomes existent in these communities

In a nation that proclaims liberty and democracy as its cornerstones, a fundamental contradiction persists: freedom and equality remain privileges rather than universal rights. This thesis seeks to confront this paradox by interrogating the American value system in relation to poverty, crime, and punishment through John Locke’s *Second Treatise of Government* and examining the systemic forces that criminalize penury. This paper will: (1) outline the leading philosophical arguments in the *Second Treatise of Government*, (2) establish a conceptual framework for understanding the relationship between crime, motivation, and poverty, (3)

evaluate the impact of poverty on criminal culpability, and (4) expose the contradictions between the values asserted by John Locke and present-day practices. By unraveling the conceptual link between poverty-induced crime and incarceration and proposing remedies, this paper challenges us to redefine what it truly means to realize freedom in a society that denies it to so many.

II. Philosophical Foundations of the American Value System

The rich inheritance of justice, liberty, prosperity, and independence, bequeathed by your fathers, is shared by you, **not by me.** - Frederick Douglass, *What to the Slave is the Fourth of July?*

a. Why John Locke?

The American value system is characterized by individualism, equality, liberty, democracy, achievement, and progress. These principles permeate every aspect of our social relations and the correlating assumptions and expectations regarding our communal realities. These ideas have frequently been neatly described through the caricature of “The American Dream,” the widely endorsed national ethos that the United States is the guard of meritocracy, achievement, and freedom. However, these ideas are not merely emblematic or rhetorical, but are direct reflections of America's foundation for the organization of society.

The language of the Declaration of Independence is an illustration of the central elements of the American value system. The document states, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life liberty and the pursuit of happiness”⁵. The birth of the American nation and the moral compass that ultimately guided America’s independence from the British crown was rooted in a philosophy that justice could be obtained through the consent of the governed,

⁵ Declaration of Independence. "A Transcription." National Archives. U.S. National Archives and Records Administration. June 8, 2022.

<https://www.archives.gov/founding-docs/declaration-transcript>. Originally printed in 1776 by John Dunlap in Philadelphia.

security, and equal rights. Kenneth D. Stern's *John Locke and the Declaration of Independence* (1966) provides a detailed analysis of how the Declaration of Independence mirrors *The Second Treatise of Government*. Furthermore, American revolutionaries drew direct connections between themselves and Locke. Thomas Jefferson asserted "All its [the Declaration of Independence's] authority rests then upon the harmonizing sentiments of the day," taken from "the elementary books of public right, as Aristotle, Cicero, Locke, Sidney, &c."⁶. Ultimately, the founding philosophical American views on government intentionally reflect John Locke's theory on the state's purpose and structure.

By reconstructing John Locke's natural right philosophy and social contract theory in the *Second Treatise of Government*, I will depict the intellectual underpinnings of the American value system. In doing so, it will be revealed that an effective system of punishment and incarceration are the ultimate aim of the construction of the state from the state of nature. According to Locke, the purpose of the law is to protect natural rights by using man-made laws to formally punish violations of natural law. The reconstruction will magnify and examine the role of criminal punishment in shaping civil society and, by extension, the American value system.

b. A Reconstruction of the Second Treatise of Government

In the *Second Treatise of Government*, John Locke lays the groundwork for natural rights, social contract theory, and the legitimacy of systems of governance. In doing so, Locke illustrates the state of nature, the state of human socialization prior to the establishment of political society. Within this state, "all men are naturally in, and that is, a state of perfect freedom

⁶ Jefferson, Thomas. *Jefferson: Political Writings*. Edited by Joyce Appleby and Terence Ball. Cambridge: Cambridge University Press, 1999. Page xvii.

to order their actions, and dispose of their possessions and persons..."⁷(Locke, ch. 2, sec. 4). For Locke, without the construction of a state of governance, human beings have equal accessibility to act according to their will and desires. This positions human beings in a state of equality, rooted in an equal freedom to externalize their wills.

For individuals to live under the same advantages of nature, implies that there exists equality, not through law as ordered by a political body, but through natural rights made manifest through reason. Locke argues that the "State of nature has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life"⁸. For Locke, by nature of our existence and natural will to survive, we all possess an equal desire for self-preservation. Due to this being the natural and divine order, Locke assumes equality in itself is a universal and transcendental truth that we ought to uphold. By recognition of this truth, so long as our preservation does not come into conflict with the reality of another individual's desire for preservation, it is rational to preserve the rest of mankind, by treating them as equals. In other words, in order to validate the truth of our free-will within ourselves, it is rational to do so for others. Thus, human beings possess an inherent right to life and the liberty to preserve themselves and their property.

Natural rights ought not to be infringed upon, thus coercive punishment can only be justified insofar as it asserts natural rights. For Locke, "Every man hath a right to punish the offender, and be executioner of the law of nature" and "o punish the breach of it with penalties

⁷ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), ch. 2, sec. 4.

⁸ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), ch. 2, sec. 6.

that are sufficient to make it a crime for any to trespass upon another's rights"⁹. For an individual to treat another individual unequally, is to do unto others what they would not desire to be done to themselves. This requires the offender to position their desire for preservation as superior to their human counterpart. In the state of nature, this established dynamic of superiority and subordination is contrary to the inherent equality that exists according to the natural and rational order, and thus the divine mutual security endowed to mankind. For these reasons, Locke expresses the necessity of punishment as a means of asserting and restoring the natural law. He states, "Every man hath a right to punish the offender, and be executioner of the law of nature"¹⁰. Not only does Locke highlight the existence of natural rights, but he also highlights the right that human beings within the state of nature have to be executors of the law of nature.

Furthermore, enforcing the law of nature serves, at least in part, to deter others from committing similar offenses. In the *Second Treatise of Government*, Locke presents two justifications of punishment: to restore natural order and prevent others from committing similar offenses. Locke's notion of inherent equality of the right of self-preservation extends to the actions one has the power to take to punish crimes. For Locke, criminal actions are violations of natural law and neglect the inherent equality possessed by all individuals. If the law of governing institutions functions as a formal expression of natural law, then crimes exist outside of both the state of nature and in society. Additionally, due to equal rights under natural law within the law of nature criminal acts are not just actions that impose harm but are threats to the social equilibrium. Locke states:

Whenever the legislators endeavor to take away and destroy the property of the people, or to reduce them to slavery under arbitrary power, they put themselves

⁹ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), ch. 2, sec. 7 & ch. 7, sec. 88.

¹⁰ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), ch. 2, sec. 7.

into a state of war with the people, who are thereupon absolved from any farther obedience, and are left to the common refuge which God hath provided for all men against force and violence¹¹.

Criminal actions risk turning the state of nature into a state of war, where individuals live under constant threat and must dominate others simply to preserve their own freedom. This threat persists through the possibility of violations continuing for the victims and humankind both present and future. Individuals have a right to punish offenders as a means of self-preservation and the protection of their inherent rights under natural law.

The right to self-preservation extends not only to the individual, but also to society as a whole and all of humanity. The collective right to self-preservation depends on the absence of a state of war. This creates an underlying tension between natural rights and punishment, as an individual's attempt to enforce justice for violations of natural law can inadvertently push the state of nature toward a state of war. In the state of nature, the social imbalance imposed by crimes against natural law can only be reconciled through retaliation. Locke states, "in the state of nature, one man comes by a power over another; but yet no absolute or arbitrary power, to use a criminal, when he has got him in hands ... but only to retribute him". It is through retaliation that an individual can assert their natural right, restore the imbalance of subordination, and potentially mitigate the social threat imposed by the normalization of such actions. This retribution, however, is subject to an abuse of power that would further perpetuate the inequality in violation of natural law. In the state of nature, every individual has a right to seek retribution, but Locke argues that it is unreasonable to believe that humans are fully capable of being coherent judges in their own cases. Due to our inherent ineptitude, we will likely be partial to ourselves and our friends. These conditions will result in a retribution that is ill-natured,

¹¹ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), chap. 21, sec. 222.

passionate, and motivated by revenge that will “carry them too far in punishing others”¹². The threat of impartiality from the individual’s attempt to restore justice makes it an insufficient and unreliable means towards implementing, sustaining, and maintaining natural law.

Consequently, the pursuit of justice cannot be an individual project, only a collective responsibility. The notion of governing bodies is created and pursued as means of ensuring the natural rights of humankind. However, the transition to civil society over individual life in the state of nature is predicated on the need to restrain criminal offenders and reconcile the tension between natural rights and punishment. The function of the law created and expressed by institutions is to formally express and ensure natural law. By this accord, it is necessary for the government to be created as a neutral body/vehicle for asserting the natural rights of mankind.

The construction and maintenance of civil society necessitates the power to punish crimes for public safety. For John Locke, civil society is a united body of individuals under the power of an executive that protects their property and well-being within a system of checks and balances¹³. Locke demarcates the beginnings and ends of civil society, and portrays a philosophical foundation rooted in the assurance of security, peace, restoring equality, and protecting constituents from imposing violations of natural law. Locke states, “For the end of government being the preservation of all the members of that society, as far as their preservation will permit it, everyone in the society has a right to the means of preserving life”¹⁴. Locke believes civil society should be directed to no other end, but the preservation of life, liberty, and property. Therefore, the construction of the state is rooted in the mutual consent proposed by entering the

¹² John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), chap. 2, sec. 12.

¹³ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), chap. 7, sec. 89.

¹⁴ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), chap. 9, sec. 131.

social contract, where individuals sacrifice their right to act wholly autonomously as they would in the state of nature. This sacrifice is predicated on the belief that civil society promises greater freedom, through the insurance of security and equality. This also highlights that the function of government is to achieve these ends in order to make the sacrifice of entering and living in civil society worthy and fair.

c. The Contemporary Significance of Locke's Principles

The principles highlighted in *the Second Treatise of Government* became the guiding ideals of the Declaration of Independence and the American Revolution. Our present-day notions of liberty are deeply influenced by Locke's conception of natural rights, social contract theory, equality, and institutionalized punishment. This prompts a critical examination of whether the foundational values of American political philosophy align with the current structure and function of the penal system. This thesis argues that they do not.

If punishment is failing to reach the ends of political and civil society, then there must be a re-evaluation of our value system or an alteration of how we address crime, or American society will persist in living dishonestly and incompletely within itself and its constituents. The criminalization of poverty exists as one modern example of how the ends of political and civil society are not being met. In modern American society, the law is not successfully used as a tool for expressing natural law. Likewise, punishment within society is not a restoration of justice or a tool of retribution. Poverty is a clear example of how criminal law, in practice, often reinforces inequality and causes harm rather than promoting justice and safety. Poverty deprives individuals of the resources and opportunities that shape their behavior and responses to their environment. Thus, it is necessary to decriminalize criminal responses to poverty that are rooted in the basic instinct to survive, especially when social participation and access to essential needs are out of

reach. In the case of poverty-induced crimes, the practice of punishment and incarceration in contemporary American society is diametrically opposed to the usage of punishment outlined by Locke in the *Second Treatise of Government*. In order to illustrate this contemporary disjunction, I will begin by constructing a definition of poverty and crime in order to illustrate definitively what poverty-induced criminal activity is and the present-day practices that defy the values set forth by John Locke.

IV. The Conceptual Framework: Defining Poverty & Crime

But simply punishing the broken – walking away from them or hiding them from sight – only ensures that they remain broken and we do, too. There is no wholeness outside of our reciprocal humanity - Bryan Stevenson, *Just Mercy*

A. What is Poverty and Why is it Wrong?

Poverty is a term that is frequently used in colloquial language. Yet its implications tend to serve different meanings for different people. What constitutes poverty? Does a certain monetary threshold exempt somebody from being categorized as impoverished? Poverty is frequently understood on a monetary basis, where living under a certain wage or having a certain amount of fiscal power is the typical boundary for identifying whether an individual or community is impoverished. This is expressed through socially imposed thresholds such as the federal poverty line: the maximum amount of income an individual can have in order to qualify for government assistance programs. In other words, this guideline attempts to assert the minimum amount of income that an individual has in order to meet the basic needs of food, water, shelter, etc. While this measurement is adjusted to household size, there are several other factors, such as one's neighborhood, educational access, financial literacy, familial support that are not enclosed in the poverty guidelines, yet hold significant importance in the quality of life

and social mobility of an individual/family. The poverty line is an effective practical tool for evaluating how government resources should be distributed, but it is not a conclusive indicator. Poverty is not only about one's disposable income, therefore, the definitive use of poverty within this thesis will not rely solely on a monetary basis.

A better, more holistic definition of poverty is suggested in the work of Amartya Sen and Martha Nussbaum. Sen and Nussbaum offer a "Capabilities Approach" which defines poverty in terms of individual freedom, rather than by monetary terms. Sen and Nussbaum's theory of absolute and relative poverty argues that our understanding of poverty should be restricted to forms of capability deprivation, which has to do with what people can actually do with their resources, like accessing healthcare, education, or participating in community life. Under their theory, absolute poverty is living at such a low level of income and wealth that one's health and survival are threatened. Poverty, in this case, is fundamentally a deprivation of freedoms and opportunities rather than a sole lack of monetary resources. For example, poverty in this sense means lacking essentials like food or weather appropriate clothing, not lacking money per se. Alternatively, relative poverty is living at a level of income that does not allow someone to participate in society. Lacking access to a mobile phone, wifi, inhibits their ability to work, connect, or participate in social life, regardless of their basic necessities being met.

The capabilities approach is essential for contextualizing poverty in contemporary American civil and political society. This definition of poverty is crucial for an honest depiction of the modern American socioeconomic stratification. Unarguably the lower economic strata in America look monetarily very different from those in countries with a lower GDP per capita, however they still experience relative deprivation that maintains legitimate consideration. One of the main rebuttals of American social critique is that on a global scale, America remains one of

the most promising countries for obtaining agency and freedom. However, this comparability does not exempt American society from its own social and institutional inequities. The capabilities approach to poverty provides a means for evaluating the deficiencies in America that directly and indirectly inhibit an individual's capacity to preserve themselves in a society.

In the capabilities approach, Amartya Sen and Martha Nussbaum identify a framework for human well-being. Human capabilities are a measure of human potential, what people are able to do and be. Similarly, a functioning is an active realization of one or more capabilities. Together these definitions provide an account of an individual's relation to outcomes and opportunities. More specifically, the notion of basic capabilities, refers to the innate abilities and opportunities necessary for developing more advanced capabilities. In this context, poverty can be seen as external and social factors that not only reduce an individual's capabilities, but their ability to transform their capabilities into functionings.

Moreover, the wrongness of poverty is also projected in Locke's theory of property which emphasizes the ethical limits of excess and the injustice of widespread poverty in a resource-rich society. In Chapter V, *Property*, in the *Second Treatise of Government*, Locke highlights that humans ought to accumulate these natural resources insofar as an individual can enjoy what they have accumulated¹⁵. While Locke does not define the precise boundary of 'enjoyment,' the extreme wealth and surplus in the United States render widespread poverty morally unjust, as it reflects the kind of wastefulness Locke condemns. For Locke, "nothing was made by God for man to spoil or destroy"¹⁶. He is therefore asserting that wastefulness is an unjust deprivation of a common resource that others have a right too and could have used for their own preservation.

¹⁵ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), chap. 5, sec. 31.

¹⁶ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), chap. 5, sec. 31.

The existence and availability of resources is critical for understanding the moral implications of poverty as a feature of society that governing institutions are ethically and principally responsible for attempting to eliminate. In a country as globally wealthy and prosperous as the United States, it is not a matter of if the resources are there for a civil society that is both livable and equally accessible to all, but rather a fair distribution of wealth and an elimination of the wastefulness of excess wealth. Although the limit of enjoyment is left for interpretation, the wealth in the United States makes poverty wrong and morally unjust due to its wastefulness and surpassing of Locke's moral limit of accumulation. There is no defensible justification for why certain individuals or groups should be denied the capabilities necessary for full participation in society, especially considering the robust availability of resources. In this context, poverty reflects not merely an individual shortcoming, but a systemic failure—one that calls into question the legitimacy of the law, particularly when it criminalizes actions committed by those who have been excluded from access to shared societal resources.

B. Understanding Crime within the Legal Process

A genuine exploration of the intricate relationship between criminal justice and poverty must begin with a critical understanding of how the American legal system chooses both to confront and to overlook crime. The current legal evaluation of criminal activity in America focuses substantively on the implications of an action and the agent's intentional role. The absence of institutional support for thoroughly considering motive in the evaluation of criminal actions leads to significant consequences for the government's ability to function as a neutral or active agent in addressing poverty and fulfilling its duty under Locke's social contract theory to protect the natural rights of individuals.

A comprehensive understanding of crime begins with an examination of its current definition and framework within the American legal system. One of the main flaws in the contemporary framework is that it excludes any notion of motivation that could potentially allow one's conditions of poverty to be a valued factor of criminal responsibility. As a result of this lack of formal recognition, survival crimes are treated categorically the same as crimes committed for sheer destruction. According to the Cornell Law School Legal Information Institute, crime is any behavior that is identified and punishable by criminal offense¹⁷. This means that crimes, as outlined by statutes and common law, are actions deserving of punishment and often require the element of intent. These crimes fall in two categories: *mala prohibita* and *mala in se*. *Mala prohibita* are crimes that are wrong because they are prohibited. Examples of *Mala prohibita* crimes include traffic violations, licensing offenses, or certain regulatory crimes. Alternatively, *mala in se* are crimes that are widely considered "wrong in themselves" due to universal consideration that they are morally wrong or evil. Examples include murder, rape, or theft, as these actions are condemned in most societies. *Mala in se* crimes, because they are grounded in moral judgment, can be interpreted as instances where the law more clearly reflects natural law. Acts considered 'wrong in themselves' align closely with Locke's moral framework, as they constitute a violation of another person's freedom and their fundamental right to self-preservation. Within the context of poverty, criminal behavior can take the form of both *mala prohibita* and *mala in se*, complicating how intent and moral judgment are applied.

The severity of crimes is understood in relation to their intent. Intent represents what you plan to do through the commitment and decision to commit an action. Whereas motivation is the reason behind that action. Intent is often a conscious awareness simultaneous to action, whereas

¹⁷ "Crime." Legal Information Institute. Cornell Law School. Accessed April 13, 2025. <https://www.law.cornell.edu/wex/crime>.

motivation can exist consciously and unconsciously. Poverty-induced crimes can take both forms or be prominently driven by intent or motivation. Today, intent, or *mens rea*, is a necessary condition for analyzing criminal actions and requires that the person possess a guilty state of mind when committing the crime. Most serious crimes such as murder, theft, and crime require *mens rea*. Whereas, strict liability crimes, crimes where a person can be held legally responsible for an act regardless of *mens rea*, do not require proof of intent, as a person can be found guilty even if they did not mean to commit the crime (an ex. of strict liability is statutory rape). Ultimately, the role of intent in identifying the crimes and how punishable they are as violations of public order are best exhibited in our understanding of murder via the Pennsylvania method. The Pennsylvania method identifies three kinds of murder: first-degree, second-degree, and third-degree. Murder punishable by the first degree requires it to be willful, deliberate, and premeditated¹⁸. Second-Degree Murder requires malice intent, and third-degree murder encompasses all other types of murder that do not fall within the first or second degree categories, such as unintentional murders.

The modern American legal system lacks a formal mechanism for identifying motivation for criminal action. Reliance on the Pennsylvania Method, which classifies crimes strictly by intent, marginalizes the role of socioeconomic motivation in legal culpability. Consequently, outside of the indirect influence motive may serve in developing the informal discretion of the jury or the judge, there is no formal way for the weight of crime to be judged according to its motivating factors. Moreover, considerations of motive are not fulfilled by a recognition of intent because intent is the internal guilty conscience whereas poverty-induced motivations are external factors and conditions unrelated to deliberation and premeditation. This results in criminal

¹⁸ "Murder." *Legal Information Institute*. Cornell Law School. Accessed April 14, 2025. <https://www.law.cornell.edu/wex/murder>.

classifications that center on an individual's decision to commit an action instead of the external factors that influence such decision-making. The consideration of intent *and* motivation is necessary to understand why a poverty-induced criminal action was committed and to begin to understand the role that governing institutions can serve in effectively addressing these issues in a way that deters the individual as well as others from committing similar offenses.

In the end, the American criminal justice system places extensive emphasis on the implications of criminal action by excluding motive considerations from formal legal evaluations. For instance, poverty can influence someone to commit a crime, extreme poverty may lead someone to steal food in order to provide for their hungry family. Despite their motive, the intent to take what wasn't theirs during the act of theft is still punishable under the law. Therefore, the function of motive in criminal law is used in combination with other evidence to prove that a person committed a crime, but it is not used to reflect holistically on criminal responsibility. To achieve the goals of punishment outlined by John Locke, it is necessary for motivation to be a formal consideration in how we evaluate and analyze poverty-induced crimes.

C. A Criminological Ideological Framework: Poverty Induced Crime

Currently, no formal legal framework exists to represent the causal relationship between crime and poverty. This section establishes an argument for the concept of poverty-induced crime to develop a clear language and analytical framework that is currently absent from the American legal system. Once defined, this paradigm will serve to address both the existence of poverty-induced crime and its inherent tension with the values articulated by John Locke.

Poverty serves as a significant motivating factor for crime, particularly when individuals view illegal actions as a means of survival or as a response to economic injustice. Crimes that are motivated by conditions of poverty, the relative ability for somebody to fully participate in

society as outlined by the capabilities approach, exist as *poverty-induced crimes*. Poverty induced crimes are crimes committed to survive or deal with the economic injustice in one's life. It should be noted that poverty-induced crimes are one example of a wide-variety of crimes that exist. However, this paper focuses on the phenomena of poverty-induced crimes and their relationship to the philosophical foundations of America.

Poverty manifests the failure of the state to provide resources and structures that allow individuals to have the required capabilities and an ability to transform them into their desired functionings. Consequently, the qualifying factors to have a criminal motive that is poverty induced does not exist solely in the individual's relative *perception* of their shortcomings. It is also indicative of the existence of *actual* social, personal, and/or institutional inhibitors preventing an individual from actualizing their capabilities.

Individuals can be motivated by both self-interest and conditions of poverty. In criminal action an individual can be motivated by both external and internal factors. The superseding or defining motivation is what determines the motivating basis of criminal activity. So long as poverty is the *defining* factor of a criminal activity it is poverty-induced. For example, if a kleptomaniac robs a gas station and uses the stolen funds to pay for their child's education, both motivations are at play. If the individual would have committed the crime regardless of their child's education fees, then the crime is driven predominantly by self-interest. On the other hand, if the crime would not have occurred without the financial need for the child's education, then it is classified as a poverty-induced crime.

Poverty-induced crimes exist both in action and inaction. The deficiency of resources available for an individual to realize their capabilities as a functioning is not only indicative of the actions they choose to commit, but the lack thereof. There exist two primary categories of

poverty-induced crimes evoked by inaction: the kind that perpetuate and prolong their criminal punishment and the kind that is the cause of the crime. The type of inaction that causes crime refers to situations where an individual's inability to act results in a criminal offense. There are also instances of inaction that prolong or worsen the punishment against a criminal offense. For example, the inability to pay cash bail, which will be discussed in more detail in Section IV. The failure to pay bail furthers the criminalization of poverty by keeping people incarcerated due to their financial limitations. Ultimately, poverty-induced crime is nuanced and complex, not only in its definition, but also in the layered ways it emerges from structural deprivation.

Distinguishing between poverty-induced crime provides a necessary framework for understanding the complex motivations behind criminal behavior and their broader social implications. A clear ideological framework for understanding poverty and crime provides the tools to analyze its relationship with deeper clarity.

V. The Impact of Poverty-Induced Crimes on Criminal Culpability

We can't just rail against crime; we need to address the root causes - Frank Wolf, US Congressman (1981-2015)

America's criminal justice system actively generates poverty-induced crime by enforcing practices that deepen poverty and create the very conditions that lead to poverty-induced criminal behavior. The criminalization of poverty in the United States can be traced back to the implementation of vagrancy laws; laws that criminalize behaviors like wandering without apparent means of support, loitering, and begging. While vagrancy laws have been ruled unconstitutional in the United States since *Papachristou v. City of Jacksonville* (1972) due to their ambiguous nature, the U.S. government continues to perpetuate both explicit and implicit

forms of criminalization¹⁹. Practices such as cash bail and the employment discrimination of the formerly incarcerated, decreases the social/economic mobility of ex-offenders and, on occasion, increases the conditions of poverty that incites poverty-induced crime. This initiates a feedback loop of recidivism where America's lower class is criminalized for their means of surviving under poverty, then pushed deeper into poverty through the post-incarcerate barriers. The motivations behind poverty-induced crime are ignored in formal legal definitions and processes, yet criminal justice policies emerge specifically to target these and perpetuate these crimes. Poverty-induced crime thus emerges as a cancerous bane to the fabric of American society, where our current attempts of extermination only multiply its very existence.

Despite laws and policies striving to sever the link between crime and poverty, modern America continues to see a strong and persistent connection between criminal activity and lower socioeconomic status. Adults living below the U.S. poverty line are three times more likely to be arrested than those who are not, and people earning less than 150 percent of the federal poverty level are 15 times more likely to be charged with a felony. These individuals below the federal poverty line also face longer sentences than people earning above that threshold²⁰. Furthermore, research done in *Social Problems: Continuity and Change*, found that arrest statistics indicated that poor people are much more likely than wealthier people to commit crimes²¹. This empirical evidence proves the existing disparity of lower socioeconomic individuals and the criminal

¹⁹ Justia Law. *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972). Accessed April 13, 2025. <https://supreme.justia.com/cases/federal/us/405/156/>.

²⁰ Hayes, Tara O'Neill, and Margaret Barnhorst. "Incarceration and Poverty in the United States." *American Action Forum*. June 30, 2020. <https://www.americanactionforum.org/research/incarceration-and-poverty-in-the-united-states/>.

²¹ Pressbooks @ Howard Community College. "8.3 Who Commits Crime? – Social Problems: Continuity and Change." March 25, 2016. <https://pressbooks.howardcc.edu/soci102/chapter/8-3-who-commits-crime/>.

justice system²². This relationship is likely driven by a lack of resources, or increased obstacles to participating fully in society (as depicted in the capabilities approach to poverty), as opposed to an overrepresentation of more violent or lawless people within lower socioeconomic communities. As an alternative, this disparity suggests the exact notion explicitly outlined by Locke, that a state of war is created whenever anyone uses force without right²³. When an individual's natural right to self-preservation is not safeguarded by their governing body, they will seek to preserve their natural rights individually, even if it requires defying the law.

More specifically, an Economic Analysis of Drug-Selling Gang's Finances by Steven D. Levitt and Sudhir Alladhi Venkatesh illustrate poverty-induced crime as merely the illegitimate means of sustaining and maintaining financial stability, health, and survival²⁴. The study analyzes the financial operations of a drug-selling gang using detailed financial records from a Chicago street gang that profited off of the wide availability of crack in the mid-1980s. The gang reflected a corporate-like structure driven by economic incentives that derived from being excluded from the legal labor marketplaces. Gang leaders earned an annual wage of \$50,000-130,000, which was drastically higher than the wages made available in the legitimate sector given their education and work experience²⁵. The environments that the gang members were a part of limited their opportunities to legitimately realize their capabilities in order not only to reach their

²² Pressbooks @ Howard Community College. "8.3 Who Commits Crime? – Social Problems: Continuity and Change." March 25, 2016.

<https://pressbooks.howardcc.edu/soci102/chapter/8-3-who-commits-crime/>.

²³ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), chap. 3, sec. 19.

²⁴ Levitt, Steven D., and Sudhir Alladi Venkatesh. "An Economic Analysis of a Drug-Selling Gang's Finances." *The Quarterly Journal of Economics* 115, no. 3 (August 2000): 755–789. <https://doi.org/10.1162/003355300554908>.

²⁵ Levitt, Steven D., and Sudhir Alladi Venkatesh. "An Economic Analysis of a Drug-Selling Gang's Finances." *The Quarterly Journal of Economics* 115, no. 3 (August 2000): 755–789. <https://doi.org/10.1162/003355300554908>.

potential but to also maintain the financial stability necessary for the basic necessities of life and survival. Thus, criminal organizations presented self-created means of survival outside of legitimate and established organizations because such institutions failed to include them. Moreover, the widespread social neglect experienced by individuals in poverty fosters a collective sense of distrust, compelling them to assume responsibility for their own survival through alternative means. Ultimately, the paper further emphasizes the core theme of poverty-driven crime: engaging in criminal activity as a rational strategy for economic opportunity.

Poverty not only shapes criminal behavior, but impacts how it is judged within the American legal system. This is most evident in the criminalization of poverty-induced criminal activity evoked by inaction in America's cash bail system, where incarcerated individuals are held in detention for their inability to pay pre-trial detention fees. Cash bail is used as a guarantee that a defendant will return for trial or hearings and is returned to the defendant following all necessary court appearances, otherwise the bail is forfeited to the government²⁶. To date, Washington, D.C., Illinois, New Jersey, New Mexico, Arizona, Alaska, Colorado, Kentucky, and Maryland have moved to eliminate cash bail²⁷. Yet, 70% of people in U.S. jails are considered pre-trial detainees, most of whom will interact with the cash bail system at some point in their duration within the criminal justice system²⁸. A standard cash bail amount is set for alleged offenses but can be lowered or raised under the discretion of a judge. Consequently, those who do not have the means to pay their court-determined bail must remain in pre-trial detention or

²⁶ Brennan Center for Justice. "How Cash Bail Works." December 10, 2019.

<https://www.brennancenter.org/our-work/research-reports/how-cash-bail-works>.

²⁷ ACLU Pennsylvania. "Smart Justice – Ending Cash Bail." Accessed April 13, 2025.

<https://www.aclupa.org/en/smart-justice-ending-cash-bail>.

²⁸ Brennan Center for Justice. "How Cash Bail Works." December 10, 2019.

<https://www.brennancenter.org/our-work/research-reports/how-cash-bail-works>.

utilize a private bail bond company, which are often exploitative and can take and sell collateral, such as homes and cars, if payments are late. The cash-bail system underscores poverty not only motivating certain criminal activity, but also shaping an individual's experience in the justice system itself.

The consequences of inaction by the state often result in active criminal behavior by the individual to evade the threats to life imposed by inaction; this relationship defines active poverty-induced criminal activity. The inherently economically inequitable nature of the bail system results in stories like Kalief Browder, a young African American man who spent three years on Rikers Island and 800 days in solitary confinement; he was released after a lengthy trial failed to convict him of his alleged crime: stealing a backpack²⁹. Two years after his arrest, Browder committed suicide for mental and emotional distress attributed to the prolonged time he spent in solitary confinement while incarcerated³⁰. These instances of criminalization result from lack of action inhibited by limited economic access.

Similarly, the commercial bail industry often imposes extensive contract fees that coerce people into paying more in fees than their total cash bail assignment. Furthermore, many bail agents harass clients who miss payments and often hire bounty hunters to find clients who miss their court date. Bounty hunters are notorious for employing violent practices that too often result in trauma, injury, and even death. The threat of loss of property and death all occur before and independently of a defendant's guilt, and operate solely on the assumption of guilt.

²⁹ American Civil Liberties Union. "Kalief Browder's Tragic Death and the Criminal Injustice of Our Bail System." February 27, 2023. <https://www.aclu.org/news/smart-justice/kalief-browders-tragic-death-and-criminal-injustice-our-bail-system>.

³⁰ Arnold Ventures. "He Spent 1,100 Days in Rikers Island a Legally Innocent Man. His Story Changed New York's Bail Laws." August 10, 2022. <https://www.arnoldventures.org/stories/he-spent-1-100-days-in-rikers-island-a-legally-innocent-man-his-story-changed-new-yorks-bail-laws>.

Furthermore, cash bail bonds are not effective for their intended purpose. Those in similar circumstances who were given cash bail had an average presence rate of 81%, while those who were given unsecured bonds had an appearance rate of 88%. Yet, the United States is one of the only countries in the world with a cash bail system that is dominated by commercial bail bondsmen. The legal permissance of the cash bail operates as a de facto wealth test, ensuring the continued incarceration of the poor while the wealthy walk free.

Furthermore, post-incarceration punishment and legal discrimination continues the alienation of the lower class from participating in legitimate labor markets. A study done by the Illinois Criminal Justice Information Authority found employment to be a crucial factor in successful community reintegration. The study found that formerly incarcerated people experienced high unemployment (45% compared to the state rate of ~4.8%) and had relatively low earnings post-release (\$8,998, which is still lower than the federal poverty level)³¹. This trend is likely a microcosm of a greater trend of post-incarceration unemployment fueled by discriminatory hiring practices such as the requirement of criminal history on job applications and disqualification for vocational licenses. A key factor in this cycle of poverty induced violence is the explicit and implicit discrimination against formerly incarcerated individuals, which heightens barriers to accessing legitimate job opportunities, homes, public benefits eligibility, educational opportunities, social and economic mobility, etc.

The criminalization of poverty-induced crimes results in conditions of degradation that position individuals as subordinates in society as well as to their circumstances. Poverty in society and the pressure on the lower class to commit crimes due to alienation from legitimate labor markets highlight the failure of civil and social institutions to provide fair access to the

³¹ Bureau of Labor Statistics. "Unemployment Rates for States." U.S. Department of Labor. March 28, 2025. <https://www.bls.gov/web/laus/laumstrk.htm>.

resources necessary for individuals to exist within and assert their natural rights. This results in the law functioning, not as an expression of natural rights, but as an institution that perpetuates poverty and crime through incarceration and punishment.

VI. The Internal Reckoning: Poverty, Crime, and the American Contradiction

Only through contradiction does history advance; it is the struggle of opposites that drives the world forward. - Georg Wilhelm Friedrich Hegel

The previous sections of this paper provided an analysis of poverty-induced crime as a concept and in the practice of law and policy. Yet, there is a dissonance between the principles outlined by John Locke and the constructed concept and applications of poverty and crime within the United States. On the basis of the American value system, poverty is a direct violation of Locke's theory of natural rights. According to Locke, self-preservation and survival are the most fundamental human rights. Poverty, understood through the traditional scope of monetary power and through the relative resource lens proposed by Sen and Nussbaum, strips individuals of the ability to achieve these basic aims. The capabilities approach underscores how poverty imposes sustained financial and social limitations that prevent lower-class individuals from securing food, shelter, well-paying jobs, and other tools necessary for survival and participation in society³². This degradation reduces individuals to subordinates—not only within society but to their own circumstances—robbing them of the autonomy and freedom that Locke defines as essential to human existence. Poverty, and the pressure to commit crime due to exclusion from legitimate labor markets, expose the failure of civil and social institutions to protect natural rights. The existence of an economic underclass in America is a social failure and moral indictment, a

³² Stanford Encyclopedia of Philosophy. "The Capability Approach."
<https://plato.stanford.edu/entries/capability-approach/>.

betrayal of the very principles of life, liberty, and property upon which the nation claims to stand through John Locke.

Poverty induced crime functions as a form of social rebellion, where offenders revert back to a state of nature. The lower classes have their will constrained due to state control, while also being denied the benefits that make the partial relinquishment of one's rights meaningful in the social contract. For individuals in poverty, the state fails to uphold the ultimate goal of joining civil society: the protection and security of one's means of self-preservation. Therefore, the existence of poverty induced crime as response to social disenfranchisement is rational for self-preservation and justifiable under Locke's social contract theory insofar as one takes personal responsibility and accountability for their own self-preservation, even if it exists outside the scope of the law. Those living in poverty return to living in a state of nature. When social and political institutions fail to protect and preserve the natural rights of individuals, they create a structural dissonance between the aims of civil society and the individual's drive for self-preservation. This misalignment undermines the legitimacy of the social contract, prompting individuals to act as they would in a state of nature. When the law no longer reflects an individual's rational self-interest, adherence to it becomes neither reasonable nor morally binding. This misalignment creates the very conditions that its construction was intended to evade.

By unjustly punishing poverty-induced criminal activity, the state denies individuals their right to resist a violated social contract and restore the natural order through self-preservation, as they would be entitled to do in the state of nature. According to Locke, the criminal justice system should function as a mechanism of both retribution and deterrence. Locke justifies punishment on two grounds: first, as a means of restoring the natural order by reaffirming the

violated rights of the victim, and second, as a deterrent to prevent others from committing similar offenses³³. Because the lower class is effectively forced to operate in a state of nature due to the governmental failure to uphold its proper purpose, their right to both self-preservation and the restoration of natural law through acts of resistance or punishment is justified. Not only does this give further license for agents in poverty to act under *any means necessary*, but it further highlights the failure of the modern American criminal justice system to leverage punishment as a tool of deterrence. As highlighted in the previous sections, poverty-induced crime is a unique category of crime provoked primarily by the motivation of one's external circumstances. Today, the American criminal justice system fails to restore these external circumstances, rather, the system punishes the behavior in a way that deepens the agents' conditions of poverty. The criminal justice system's handling of poverty-induced crime is a failure of the aims of civil society as well as the intended role of punishment in making those aims attainable.

Poverty-induced crime is justified under Locke's philosophical framework. The violation of this fundamental premise of the social contract and aims of civil/political society, not only characterizes the rational existence of criminal activity provoked by a rejection of one's self-preservation, but *legitimizes* it. The inability to effectively actualize one's will in society as it relates to their relative needs of survival is an individual instance of the lack of capabilities, personal freedom, and agency. Locke argues that if the government violates this agreement by failing to protect people's rights or abusing its power, it loses its legitimacy. Locke argues:

The reason why men enter into society, is the preservation of their property; and the end why they choose and authorize a legislative, is that there may be laws made... for the protection and regulation of property. Whenever the legislators

³³ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), chap. 2, sec. 7 & chap. 7, sec. 88.

endeavor to take away, and destroy the property of the people... they put themselves into a state of war with the people, who are thereupon absolved from any further obedience³⁴.

Individuals have the right to rebel against or even overthrow a government that violates the terms of the social contract. This breach of the social contract and the resulting loss of legitimacy prompts a deeper examination of how individuals, whose capabilities and freedoms have been undermined, may resort to criminal activity as a form of resistance or survival.

The government's role in penalizing poverty-induced crime, and thus exacerbating it, functions as a direct contradiction to the goals outlined in the construction of civil society. The basis of establishing civil society is to increase protection towards and security of the natural rights of self-preservation that human beings inherently possess. By treating poverty with either indifference or active neglect, the government not only violates the core goals of civil society—but also endangers it, as this stance provokes criminal responses that threaten the very stability such a society is meant to protect. For these reasons, to maintain adherence to the aims, values, and purpose of American civil and political society it is obliged to actively prevent/limit the existence and perpetuation of poverty. However, the law's negligence of motivation functions as a neutral agent towards poverty and the policies built from these neutral limitations of the law actively perpetuate poverty by penalizing poverty-induced crime in a way that enhances the conditions of poverty that provoke initial action. Because of this the state, through its relationship with the institution of incarceration, is a causal factor in poverty-induced crime resulting in the insecurity and the subjugation of natural rights that is diametrically opposed to the central aims outlined by John Locke.

³⁴ John Locke, *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis: Hackett Publishing, 1980), chap. 19, sec. 222.

The American criminal justice system's handling of poverty-induced crime exposes a profound moral and philosophical failure. Since the country's inception the idea of "The American Dream" has held the United States at the pinnacle of the free-world and global example/enforcers of the contingent value system. Yet, the American state not only fails to protect this right, it actively undermines it. By punishing poverty-induced crime instead of addressing the structural deprivation and institutional failures that causes it, the state violates the social contract that its authority rests upon. This is both a policy and legal failure, but its implications reflect a deeper discordance from the foundational principles of freedom, equality, and justice outlined in John Locke, and continue to be the American mantra.

If Locke's argument holds, and any governing body that fails to protect natural rights, then the American state forfeits its legitimate authority over those living in poverty and in "survival mode". From cash bail to legalized employment discrimination of the formerly incarcerated, the United States weaponizes poverty to enforce subjugation and economic exclusion. A sub-group existing within a state of nature threatens the wide-spread existence and legitimacy of the law and threatens to untangle the rule of law and democracy for the others whom the social institutions maintain reliable and legitimate authority over. Thus, the stakes of this quarrel remain high and threaten the stable existence of the state and the monopolizing authority of the means of self-preservation, upon whose failure is a *direct descent back into a state of nature*.

Contemporary civil society exists in disjunction with the values of justice, equality, and liberty. By nature of the principle of contradiction American society at large is presented with the opportunity of reconciliation or perpetual cacophony. America has two options. First, reconsider our value system to reflect its practical reality, one where the government is not a reliable donor

of security, freedom, and equality. A reconstruction of our value system to match our practical reality inevitably revolves around a collective reconsideration of ourselves as an honest democratic governing body. Secondly, the state can reorient its actions into alignment with the American value system by addressing motivation in criminal legal matters, recognizing poverty-induced crime, and developing policy frameworks that address the external conditions that provoke criminal action and punish accordingly. Or thirdly, the state can continue to exist in contradiction, by curating an illusion around the country's belief while maintaining its contradictory practice.

The United States stands at a crossroads. Existing in this contradiction undermines the legitimacy of the state and the law, fostering conditions where crime becomes a corrosive force that destabilizes public safety and weakens the fabric of society. Similarly, re-evaluating our value system would operate like a reconstruction of our entire state. Under this course of action our founding principles and documents will have to be reimagined to fit with our practical reality. The labor, investment, high probability of despotism, as well as a collective unwillingness to create a new collective identity makes this option unfeasible. The only rational way out of this contradiction, one that maintains the legitimacy of the law and country's identity is the second option: a reconstruction of our institutional practices of punishment and restoration of a symmetric social contract.

VII: Counter Arguments & Rebuttals

The notion of the "American Dream" is morally and philosophically non-binding. The basis of a philosophical contradiction between the American value system and the reality of the criminal justice system rests on the assumption that the ideas articulated by Locke are greater than their symbolic representations. One may argue that a nation's relationship with their

philosophy and principles has less to do with how they are implemented, but rather the ideas functioning as a mechanism for collective national identity. Likewise, the unalloyed ideas expressed by Locke may arguably reflect a “north star” that we should aim to strive towards, instead of specific guidelines that we should expect a country to legitimately achieve. If Locke’s philosophy is symbolic rather than practical, then our relationship to it resembles that of a Christian to the Bible: it serves as an aspirational ideal, a vision of what we ought to strive for, even as we accept that it may never be fully realized due to human fallibility. Thus, the gap between principle and reality is not necessarily a contradiction, but rather an inherent feature of how moral and philosophical ideals function within the collective imagination.

Conversely, in defense of the established argument, American principles like liberty and security are binding, not because they are always perfectly fulfilled, but because they are foundational to the very structure of our government. The argument outlined above does not imply that the state has to completely remove or eliminate poverty, as this is an incredibly ambitious proposition. Instead, it claims that the state is responsible and cannot act as a neutral agent against poverty or create conditions that actively perpetuate poverty. It holds that the ideas outlined by Locke may never be fulfilled in absolute, but this feature does not absolve the state of moral accountability. By nature of having principles that may never absolutely be achieved it is the existence of moral mindedness that allow the actions of an individual or collective to be measured against any metric. If a state possesses the resources to eliminate poverty and an ideal to eradicate inequality through the social contract, then the state's repeated failures to address poverty reflect an abandonment of their original ideals. Ultimately, symbolism enforces the relevance of moral and philosophical responsibility rather than terminating it.

Another fundamental critique of this argument may be the assumption that Locke, the American Dream, and the American value system are not synonymous or interchangeable. While Locke was highly influential in shaping America's founding principles, drawing on aspects of his philosophy may not imply that the nation's founders were committed to all his ideas. An assumption outlined is the belief that the nation's architects and framers are committed to the entire context of a philosophy of which the parts they are derived are embedded into. This begs the question, to what extent can the selective adoption of a philosopher's ideas be taken as a commitment to their entire philosophical framework?

However, this reasoning fails to account for the possibility that Locke's arguments in the *Second Treatise of Government* cannot be referenced in piece-meal³⁵. Locke is frequently referenced within the scope of "life, liberty, and the pursuit of happiness" in the Declaration of Independence and Constitution, but elements of Locke's argument such as the social contract, state of nature, and idea of punishment are parts of a greater illustration regarding what the governing bodies of the United States should look like³⁶. These aspects are interconnected; an honest interpretation of Locke cannot assent to state punishment and freedom without the theories of the social contract and state of nature. The social contract and the state of nature are what allow for governing bodies to exercise punishment through the rule of law, while constituents maintain their status as free individuals. Locke's framework is not a series of arguments that can be selected and/or neglected, but to argue that the idea of government and its

³⁵ Stern, Kenneth D. *John Locke and the Declaration of Independence*. PhD diss., Cleveland State University, 1966.

³⁶ Declaration of Independence. "A Transcription." National Archives. U.S. National Archives and Records Administration. June 8, 2022.
<https://www.archives.gov/founding-docs/declaration-transcript>. Originally printed in 1776 by John Dunlap in Philadelphia.

aims should exist in the way Locke expresses it, is to be bound in the means of achieving them that Locke defines.

Another critique of the contradiction is that not all crimes committed by poor people are motivated by survival or structural exclusion. While the argument works to outline the idea of poverty-induced crimes, it is unclear how an accurate mechanism can be created within the criminal justice system for the judge and jury to effectively identify poverty-induced crimes. The nature of poverty-induced motivations establishes external coercive factors that can be unidentifiable given the facts of the case. Perhaps, the negligence of motivation from criminal procedure is not an oversight, but a feature to ensure that crimes are equally and honestly punished. A legitimate consideration of these motivations within the formal American legal system is irreconcilable through a reformation of the criminal justice system; it calls for a complete reimagining of the relationship between governance and punishment.

Contrary to this claim, resolving the contradiction's reconciliation in absolute, does not impact the existence of the contradiction. Also, the practical reconciliation comes after an assent to the existence of the contradiction. While it is a worthy and important question to inquire what society is to make of the American principles' contradiction to the institution of incarceration, this does not challenge the grounds or any of the claims made within the argument. Like the rebuttal regarding the moral and philosophical binding of symbolic ideals, a sufficient reconciliation of this contradiction rests, not in a *perfect* reconciliation, but an accord where the government acts as an effective and active agent in eliminating poverty. The evaluative measure for policy/legal recommendations or reforms is not if they perfectly complete their aims. This would make the contradiction an inescapable conundrum where the unattainability of a perfect

state is the only way out. Instead, it is measured by recognition of this incongruity and honest and practical efforts to strive towards the ideals outlined by Locke and the Founding Fathers.

Section 2

Lived Contradictions: Case Studies in Poverty and Punishment

VIII. Case Study Introduction

In order to acquire a clearer understanding of the interconnected relationship between poverty and punishment within the United States legal system, I conducted a study evaluating gun violence in urban minority communities. My interviews center on the narratives related to gun violence in Chicago. Gun violence is one of the most violent forms of poverty-induced crimes. It destroys lives and communities in ways that impact generations of people deeply. The nickname "Chiraq" has been coined in reference to Chicago's alarming and persistent levels of gun violence³⁷.

The following case studies focus on highlighting gun violence as a specific instance of poverty-induced crimes. This study involved an active engagement with legal experts, scholars, former gang members, and violence interrupters. The narratives collected in my interviews are concrete illustrations of the philosophical argument regarding the contradiction between punishment and incarceration. These findings establish the relationship between policing, gun violence, and gun control legislation in the lower-income communities of Chicago. These findings ultimately reveal three main conclusions: 1) firearms are a necessary tool for policing and survival, 2) poor policing produces mechanisms for self-preservation and legal disillusionment, and 3) this results in the amplification of incarceration in lower-income communities and the criminalization of youth. These narratives are concrete illustrations of the social responses to broken social contracts and the threat of self-governance and the state of nature.

Throughout this section of the thesis I will rely on reconstructed narratives of the interviewees in an effort to create real-world illustrations of poverty-induced crime, along with

³⁷ BBC News. "Iraq v Chiraq: How Chicago Violence Feels Like a War." September 12, 2016. <https://www.bbc.com/news/world-us-canada-37323969>.

their contradiction. The aim is to bring to life the theories and abstractions described in my recreation of Locke and my notion of poverty-induced crime to portray this conundrum, not only as a philosophical exercise in analysis, but an idea with real-world implications.

IX. Methodology

A large portion of the utilized interviews were conducted during the Spring 2023 Gun Violence Practicum at the University of Chicago. In-class interviews involved students taking turns questioning the interviewee. The interviews were structured in lecture-style, where the interviewees began the session with details about their relevant past experiences within the scope of gun violence. The interviewees were selected under the discretion of professor Chad Broughton.

Interviews were also conducted in a variety of formats including personally conducted and classmate conducted interviews. These interviews were typically completed on a one-on-one basis, where interviewees were selected by index or through cold emails. One of the primary obstacles in my collection was the inherently anecdotal nature of this data. These interviews may present partial or biased perspectives of the problem of gun violence, poverty, and the criminalization of poverty-induced crimes. This bias may result from a limited sample pool which invariably lacks a complete representation of the larger populace, hindering its use as conclusive support for the perpetuation of gun violence through gun control legislation.

Another potential limitation is the inevitable subjectivity of my word choice throughout the interview process. In my research my peers and I utilize the phrases inner city communities, urban minority communities and low-income urban communities interchangeably, these changes could have potentially impacted how each of the interviewees interpreted the question and thus

how they tailored their responses. Although many of these issues are not distinct to my research specifically, but rather are common pitfalls when collecting data from interviews.

X. Case Studies and Perspectives

1. The Narrative: Jay Sean

Jay Sean is a young Black man from the southside of Chicago who grew up surrounded by poverty, violence, and crime. One day, at the ripe age of five years old as he exited the bus with his brother and father, Jay was shot at for the first time in his life. At this moment, a part of Jay's innocence was taken away, and he was exposed to the harsh reality of violence within his community.

The violence that he was introduced to as a young five year old was the beginning of a social awareness of violence that permeated, not only his daily life and activities, but even the most sacred spaces for youth: school. Jay's middle school education was characterized by everyday brawls and fights that escalated instead into his urge to begin bringing a BB gun to school as a personal line of defense. For Jay, it was not a matter of *if* he was going to get a weapon to protect himself, but *when*. Reflecting on this moment Jay's primary sentiment is that he wishes he would have purchased one earlier. Jay states " I would have gotten my shit [gun] sooner, but I wasn't around. [There was] nobody I really felt like I had to kill – I mean I would kill a n*gga with my hands, but I didn't think I was going to shoot first until I got to high school". Jay was living in a world of lawlessness and violence, and the only way to survive under such circumstances was to succumb to the very actions and decisions that were imposed on him. He was conscious of the way that others' perceptions threatened his own life. He was constantly viewed as a threat from employers to peers, and his only means of combating it was to stay a vigilante.

However, Jay's descent into street life was not only characterized by the need to defend himself, but the financial burden of limited resources. Jay began skipping class everyday to shoot dice and sell drugs. Not because he wanted to, but because there was no other alternative for him to sustain himself financially. Despite being raised by a mother unassociated with drug dealing and street violence, Jay found that his high school life presented a trade off: go to class and be broke or skip class and generate income. With nobody giving him money and the importance of self-maintenance for self and social image at this time in Jay's life, he was shuffled into an illegal lifestyle for self-preservation.

In due time, Jay would soon realize that not all neighborhoods were created and treated equally. His ventures around the city would expose him to communities and people who seemed to live completely different lives. Although Jay could see how life can be, he knew that is not how his life was and those opportunities were not open to him. From that moment as a five year old stepping off the bus, there was a gradual shift, where the way his environment became embedded into who he was.

2. An Analysis

Most importantly, for Jay, there did not seem to be any reasonable escape from his circumstances. If Jay never armed himself or sold drugs, it's not clear that he would be in more favorable circumstances than he is now. We often think of decision-making as black and white, right and wrong, where the tradeoffs represent clear gains and benefits. However, there are some highly consequential decisions that are double-edged swords, a gamble between the lesser of the two evils. If Jay never armed himself, he may have died. If he never sold drugs he may have ended up poor, left with an even less desirable pool of decisions.

Jay's story also reveals something crucial about Locke's notion of self-preservation. Jay's community was in a state of war, where law was not the supreme authority. Individuals instead were left to arm and defend themselves. From the outside, within parts of society where law is the supreme authority, these actions can easily be punishable and characterized as illegal. However, for Jay, the contractual fabric of society is fundamentally different. The law, intended to protect individuals from the state of nature and war, was absent. The protection of the most fundamental rights of self-preservation were not protected by the state. The state of war is contagious, and its existence anywhere is a threat to justice, democracy, and law everywhere.

It is not the individual's decision to self-govern themselves that is the core concern, but the conditions that merit the preeminence of self-authority over state authority. Particularly for the case of poverty-induced crime, punishment and incarceration for Jay would have even greater causal implications. Had Jay been arrested for selling drugs in high school, he would have been incarcerated, then released. By then he would not have a high school diploma, which would make acquiring a decent paying job more difficult than it was when the trade off between criminal means of wealth accumulation vs legal means were already asymmetrical. Given his decision-making and tradeoff utility was the same, Jay would have been more inclined to pursue poverty-induced criminal actions, beginning a cycle of recidivism where punishment produced more crime and insecurity.

3. The Perspective: Demeatrius Whatley

Demeatreas Whatley, is a program specialist for Cure Violence US and Executive Director of Men on the Rise, where he addresses the role of economic disenfranchisement in formulating socially violent subcultures that drive gun violence within inner city communities.

Whatley is a formerly incarcerated gang member who now works primarily as violence interrupter for the Southside of Chicago, his perspective of poverty-induced crimes echoes similar conclusions as those derived from Jay Sean's story. As a violence interrupter Whatley utilizes his former involvement in street violence to work within community dynamics to prevent violence before it happens. His perspective as a participant, and now mediator, of poverty-induced violence provides more clarity on how this concept manifests in the real world.

For Whatley, gun possession fosters a sense of empowerment and control among individuals in low-income communities. Growing up in these environments, where resources are scarce, often cultivates a survival mentality in which individuals are incentivized to compete against one another rather than collaborate. Whatleys states:

In poverty stricken communities every person thinks for themselves. They think 'I need to protect what I have in order to survive—by any means necessary'. It's hard because people are always trying to take what little you have. If you have something, you try not to let anyone take it. So, to protect myself, the best way is with a gun.

The structural resource scarcity inherent in poverty fosters adversarial social dynamics. In contexts where access to essential resources is limited and the state fails to function as a protective or distributive force, individuals are often compelled to redistribute resources through force or coercion. His invocation of the phrase "by any means necessary" echoes John Locke's theory of self-preservation along with Jay Sean's motivations, wherein individuals possess the right to secure the means of survival when institutions fail to do so. In such conditions, where survival and social participation are contingent upon inequitable access to resources, individuals may resort to extreme measures. Consequently, urban poverty emerges not only as a root cause but also as a consequence of crime, lying at the heart of the persistent cycle of violence present in inner-city neighborhoods.

As a violence interrupter Whatley has a clear view of how community distrust with law enforcement bred the urge for self-protection through gun possession and gun violence. Growing up, it was the expectation that one remained skeptical and avoidant of law enforcement. Community notions of policing, inherited generationally, entrenched the social belief that police officers were untrustworthy, and sought to perpetuate more social harm than good. This perception was further entrenched by violent encounters with law enforcement, where officers routinely brandished firearms or instilled fear of physical assault, a reinforcement of distrust in the community. Whatley asserts:

So it's always been that you don't trust [police]. Even when I was growing up, we didn't trust the police, because we know if we get caught, you're going to pull a gun out on us ... Are they gonna beat us? ... So that's why we knew to run. Even if you haven't done anything wrong, you knew to run when you saw the police.

Whatley describes how when residents of lower-income communities in Chicago called upon the police for protection, officers often failed, whether intentionally or not, to distinguish between victims and perpetrators. This conflation likely stems from the deep rooted association between poverty and criminality, casting lower-income communities not as complex social environments but as sites of deviance. Such reductive stereotyping obscures the dual reality that residents are often both victims and survivors of poverty-induced conditions. As a result, they are frequently perceived by law enforcement not as individuals in need of protection, but as threats, criminalized even in moments when they seek safety. Officers' treatment of poverty-induced crime reflects a fundamentally altered social contract between lower-income communities and the state—one in which state authority fails to offer protection and instead enforces surveillance and control. Simultaneously, acts such as fleeing from law enforcement and arming oneself for self-defense constitute forms of insurgent self-governance, embodying a rejection of the state's purported monopoly on authority, particularly its institutions of incarceration.

XI. Gun Control Laws and The Perpetuation of Gun Violence

Gun control legislation that criminalizes firearm protection without addressing the core causes of poverty-induced crimes and community safety only perpetuate mass incarceration. Firearms are perceived as a social necessity for residents of lower-income communities because of the role poverty plays in resource deficiency and social exclusion. They are also indicative of the lack of trust of policing authority as facilitators of justice and because the conditions of surviving in poverty often demand unlawful actions. Therefore, criminalizing gun possession in urban minority communities does not effectively reduce firearm usage. For many residents, owning a gun is a means of self-preservation in the face of inadequate protection from the state. As a result, these laws lead not to increased safety, but to the over-incarceration of lower-income individuals. This, in turn, fuels higher rates of recidivism and contributes to a cycle of increased criminality.

John Walker, a former resident of Englewood, Chicago and ex gang member of the Gangster Disciples, describes how increased legislation restricting gun usage and violence can increase youth violence in inner city communities. Walker describes how youth members are introduced into gang culture at younger ages. Children as young as 11 or 12 are being recruited because they can be used as shields from harsh criminal sentences, since younger individuals often receive more lenient punishments. Walker notes,

It was [at] like 11 or 12 that kids were being introduced to this gang culture. They wanted to get these kids started at a young age... In some communities, they use these 10,11, and 12 year old kids to do hits to do murders, do robberies, because the older guys felt like the younger kids, if they got caught, they wouldn't spend a bunch of time in prison, they would be able to get back out shortly.

Walker highlights how in the case of poverty-induced criminal activity law cannot be used as a tool to reduce or eliminate its existence. Self-preservation is the strongest motivator and guiding

force. If the root causes of poverty-driven crime aren't addressed, people may ignore or find ways around the law. In this case, those legal loopholes end up fueling more violence against vulnerable members of low-income communities.

Furthermore, institutional barriers create increased opportunities for an individual's condition of poverty to prolong their experience in the criminal justice system. Demeatrius Whatley highlights how legal representation often contributes to the recidivism of urban minority community residents who do find themselves in the criminal justice system as a result of their poverty-induced crimes. Whatley believes that “most of our community can’t afford legal representation when they go to these court systems it's gonna be young Black men powered up in these systems over and over again”. Whatley is highlighting a fundamental flaw in criminal defense resource allocation. Although the public defender system allocates attorneys to any criminal defendant who needs one, all attorneys are not given an opportunity to equally succeed in court. Public defenders are often overworked due to their high caseloads, which leaves them with little to no time to invest the time, focus, and energy necessary for zealous representation and effective plea bargaining. As a result, an individual’s financial limitation is the key motivator behind poverty-induced crime and the length and quality of their experience in the criminal justice system.

XII. Conclusion

This thesis has sought to illuminate the contradiction between the American value system via John Locke’s *Second Treatise of Government* and social practices of punishment through a thorough examination of the systemic forces that criminalize poverty by: (1) outlining the leading philosophical arguments in the *Second Treatise of Government*, (2) establishing a conceptual framework for understanding the relationship between crime, motivation, and

poverty, (3) evaluating the impact of poverty on criminal culpability, and (4) exposing the contradictions between the values asserted by John Locke and present-day practices.

Punishment and incarceration remain at the foundation of society in both past and present. It has been used as a scapegoat for us to deal with the most complicated questions about how we ought to be living together and who is deserving of the right to do so. Throughout American history incarceration has been used as a tool of subjugation. While the argument in this essay centers on persisting contradiction between class and punishment, variations of this contradiction exist in much more complex intersections, bleeding not only across class lines, but racial and ethnic ones as well. From the consequences of the War on Drugs felt in the lower-class Black community, to the detention of Asian Americans during the Second World War, and to the increased reliance on non-criminal detention practices, humans have consistently looked toward punishment and incarceration as a messiah.

The arguments composing this thesis aim to bring forward this contradiction and the urgency to resolve it. What must be done to address it, remains the work of the reader, academics, and legal practitioners. While this paper has not tackled if the contradiction is mendable within the existing governing infrastructure or posited what a successful reconciliation may look like, it remains my belief that to do so, one must first know and see what the structural inconsistencies are.

Incarceration, at least in the context of poverty-induced crimes, cannot be the solution to society's most paramount struggles of social existence. We have sought punishment and incarceration as an answer, but it also exists in the same complex, problematic form as the social problems we are attempting to use to confront. It is crucial we collectively redevelop our relationship to punishment and incarceration. Separately, it is also necessary to be constantly

asking who the system of incarceration is working for and who it is not. The neglect that certain communities face within the legal and penal system are not individual struggles that leave the remainder of society unaffected. The failure in our administration of justice threatens a healthy state of governance and promotes a regression back into a state of self-governance.

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