SARAH BALDWIN: Hi there, it's Sarah, host of Trending Globally. Before we start, I wanted to mention something. We're trying to learn more about our listeners; what you like about our podcasts at Watson, what you don't, and what you'd like to hear more of.

So we created a survey, and we'd love to hear from you. It only takes a few minutes to fill out, and it will really help us improve the show, and you'll be entered into a raffle for a pair of Bose noise canceling headphones.

A link to the survey is in our show description. You can even go fill it out right now. We'll still be here when you get back. Thanks. Now, onto the show.

In December 2018, something strange happened in Washington D.C. Congress passed bipartisan legislation.

DONALD TRUMP: Everybody worked so hard on this, and I look behind me, I said, this is a cross-section of everybody in our country.

SARAH BALDWIN: At a time when so many politicians can barely even speak to each other, what issue could they have possibly agreed on?

DONALD TRUMP: Criminal justice reform.

SARAH BALDWIN: That's because from almost every angle, our justice system is broken. This past fall, I spoke with Adaner Usmani and Terry-Ann Craigie about the web of issues surrounding criminal justice in America. Craigie is an associate professor of economics at Connecticut College, and a fellow at the Brennan Center for Justice at New York University School of Law. Usmani is a sociologist and a postdoctoral fellow at the Watson Institute.

Usmani and Craigie don't agree on everything, but they do agree on this. Our current system needs an overhaul, and its failures ripple out to every corner of our country. I started by asking Usmani, how did our criminal justice system become so focused on incarceration and so uninterested in rehabilitation?

ADANER USMANI: I think it's the $64 million dollar question, as they say. What changed in the United States in the 1970s? You see this kind of hockey stick graph if you look at the incarceration rate over the course of the 20th century.

In the early part of the 20th century, the United States was at around developed country levels-- 100 per 100,000-- and then all of a sudden something changed. So the question is, what is it? My view is that-- a lot of the conventional literature on this question misses the fact that one thing that really did change in the United States was that there was a very pronounced rise in the rate of violence and crime.

A lot of the literature has seen the change in the 1970s as a reaction to the civil rights movement, which it no doubt was, but something else did also change alongside the fact that the civil rights movement, which is that violence increased. So I think we have to ask the question, why was it that the United States dealt with this rise in violence through penal policy rather than through many other things that the state can do to deal with violence, which is, for instance, social policy. And that, I think, has many complicated explanations, but if I had to summarize it there would be two kinds of explanations.

One would be certain conjunctural facts about the 60s and 70s, that the economy was starting to sputter because of what the United States was doing in Vietnam. The fiscal space for the federal government was constricting. And then there's some longstanding factors, which is that the United States is unique amongst developed countries in not really having a Social Democratic Party, not really having a social democratic policy option. And so insofar as a social democratic policy option, was the social policy option, that was also off the table.

SARAH BALDWIN: And what would that have been? What would that have looked like?

ADANER USMANI: There were seeds of it, actually, in the late 1960s. If you read the Kerner Commission's Report, for instance, on the riots in the late 60s. The policy recommendations in that report are pretty social democratic-- the idea is that we need to drastically improve housing, drastically improve welfare, drastically improve employment opportunities, drastically improve education. But there wasn't the political force to bring that to fruition alongside all of the other constraints that I mentioned earlier, and I think that really is the tragedy of the punitive turn in the United States, that this social democratic policy option-- which was mooted-- was never really a political viability.

SARAH BALDWIN: Does that have something to do with an inherent American characteristic?

ADANER USMANI: That's an interesting question. I mean, this is a broad-- there there's a huge scholarly literature on the question of what makes America exceptional in this regard, why there is no socialism in the United States. I think my preferred explanations for that-- don't avert the culture.

I see culture as kind of endogenous to the fact of no Social Democratic Party. I would advert to certain facts, actually, about the legacy of slavery in the United States. What the legacy of slavery meant for the way in which the working class was formed in this country, and also what it meant for political institutions, that mean that powerful minorities have the power to veto redistributive legislation in a way that isn't true in other European countries.

But it's a very good question. I think it's a live question. But a lot of my research tries to argue that we would benefit from marrying the literature on the American exception in this regard, to the literature on the American exception with regards to punitiveness incarceration. I think that's where I see my research heading.

SARAH BALDWIN: And what about you, Terry-Ann? What are your thoughts on the turn it took, and why, and the roots?

TERRY-ANN CRAIGIE: OK, so I'd like to address something that Adaner said right, which is that violence was basically skyrocketing, and it caused, or sort of triggered, the mass incarceration movement, the changes in sentencing, laws, and policies. I don't think that's quite right. I think when you look at criminal justice contact from the 60s, 70s, to the 80s and the 90s, it's pretty stable.

What we saw was a change in the rate at which people are being booked, they were being charged, and they were being incarcerated. So it was not the criminal justice contact that necessarily changed, it was the rate at which people were becoming incarcerated. And I think we can point to the tough-on-crime policies, we can point to changes in sentencing policies that caused that.

SARAH BALDWIN: I was interested to hear your comment in discussion with Glenn Loury, in which you sort of suggested, or were perplexed, that we didn't treat this as a public health problem-- this problem of mass incarceration and the desperate need for criminal justice reform-- by giving people what they need not to commit crimes or not to be justice-involved. And I was interested to hear you say that most people think that prison is costly, but it's actually cheaper than social programs. Could you talk a little bit about that? And I think that you have thoughts on that as well, Terry-Ann.

ADANER USMANI: So I think one way in which the contrast between penal policy and social policy is often cast is by looking at per capita spending. So for instance, you'll often hear reformers say that we spend $40,000 a year locking someone up, why don't we spend $30,000 sending them to college or something like that? And that is a relevant comparison, and a scandalous comparison, in some ways.

But the issue that's not often acknowledged in that statistic is that penal policy is targeted policy. Penal policy is targeted at that fraction of poor people who end up committing crime, which is a very, very small fraction of poor people in this country. Social policy, on the other hand, is universal social policy, goes to all poor people in general. And so if you compare the amount of social spending that goes to the poor in the United States, to the amount that is spent on prisons and police and the courts, it's about 4 to 1. It's about $250 billion dollars on prisons, police, and the courts at all levels of government-- federal, state, and local-- and about a trillion dollars, give or take-- that estimate is a bit more difficult-- but about a trillion of social spending goes just on the poor.

SARAH BALDWIN: And that takes the form of--

ADANER USMANI: Well, everything from Medicaid, to earned income tax credit, to Head Start, federal aid to schools. I mean, it's difficult, because actually, social spending in the United States is much larger. It's about $3 trillion if you include social security, Medicare, and all of these things.

But the trillion dollar figure is an attempt to count just that amount of social spending that goes on the poor, because the United States spends a lot of its social spending, actually, on the middle class and even on the rich. And so if you look just at the amount that's spent on the poor, it's about a trillion dollars, would be my best estimate. But all of that's to say that a good approach-- well, I would consider a normatively satisfying approach to this problem, would be one in which we actually spent much more money on the poor and on social policy than we do today.

And that is an argument that I think reformers sometimes find difficult to make, because a lot of our rhetoric around criminal justice reform is that it would be cheaper to do x than to do y, and I don't think that's true. In fact, if I could make the point a little bit more strongly, I think a good criminal justice system might be one in which we spend more both on social policy and on penal policy. I think prisons should be much more humane places than they are right now, and it would cost more than $40,000 to give somebody a humane prison experience.

SARAH BALDWIN: Do you think that humane prison experience includes programs to help someone re-enter society and be productive?

ADANER USMANI: Absolutely. I think that fundamentally is what a public health approach to punishment looks like. That the reason that we punish is to rehabilitate and to help reintegrate, rather than to hold people to account for something bad that they've done, which is the retributive model, which I think is has led us where we are, in some ways.

SARAH BALDWIN: Terry-Ann?

TERRY-ANN CRAIGIE: Yeah, I absolutely agree with what Adaner just said. I think that prison incarceration is just not cheap by any stretch. Comparing it to what we spend on other social services, yes, it might look that way. But I think it's relatively lower in costs because we don't spend enough on it.

And we don't address-- let me just point out one thing that Adaner didn't say-- we haven't addressed the unintended consequences incarceration has for families, for children, and for communities. We don't address any of that. So what are the consequences for children's behavioral outcomes, for their cognitive outcomes, for their future? Future generations.

We haven't said anything about that, and how that's costing the country. And so we do need to address it in that sense. Incarceration-- what we spend on punishment-- is certainly lower than it ought to be.

SARAH BALDWIN: That is something that you are measuring, right? That is being measured, those unintended consequences and costs.

TERRY-ANN CRAIGIE: Right. So my current work with the Brennan Center for Criminal Justice, we're now attempting to measure or quantify the impact of mass incarceration for wages and earnings of those who have been incarcerated. So we're about midway through that project-- maybe 3/4 of the way-- but we're trying to figure out from 1960 to present what's happening or how much somebody may have lost by just being incarcerated and alone. And we're also looking at those who have been convicted without ever being incarcerated, and what the cost to wages and earnings might be.

SARAH BALDWIN: Well, that makes me think about Ban the Box and initiatives like that. I know you've done some work with Ban the Box. Can you sort of remind us of the history? What came out of it? And the statistics are incredible-- the number.

TERRY-ANN CRAIGIE: Right. So we know, again, from the 1960s and 1970s, that there were these incredible changes in laws and policies to address the tough-on-crime sentiments, the war on drugs, and basically what happened is that we had a mushrooming of the prison population by about 500%. And because of this, we actually have an estimated population of 65 million adults with some form of criminal record in the United States.

We have 2 million people right now in jails and prisons, and we have an additional 7 million people under supervision of probation and parole. What having a criminal record does in the United States, though-- it's not just simply, OK, you've served your time or you have a record, and that's it. Unfortunately, it creates a wall of no's, and this is especially true in the formal labor market that if you have a criminal record of some sort, it's going to be incredibly difficult to find and even search for a job.

And so understanding this criminal justice, or what I call criminal record discrimination, the fact that it's so rampant across the United States. We do have advocates, we do have civil rights activists who are trying to ameliorate that. And so one group that comes to mind is the All of Us or None organization, and in 2004 they spearheaded a campaign for fair chance hiring or Ban the Box policies. So Ban the Box says to employers, you're not allowed to ask about criminal history on job application forms. Now, a common misconception about Ban the Box is that employers are never allowed to have this information.

SARAH BALDWIN: It just makes it later.

TERRY-ANN CRAIGIE: Yes, so it just defers access to this information until later in the hiring process.

SARAH BALDWIN: Like once you've established trust, or you've put your best foot forward, or you've represented yourself in all your positive qualities.

TERRY-ANN CRAIGIE: Exactly. So for most jurisdictions, it's a role in the time of the conditional job offer, and this gives everybody a level playing field. Now for most of us, we've done some pretty horrible things, or some things we would never want anybody to see, ever. And just imagine to have to put the worst moment of your life on a resume. You're going to be judged by that whether you like it or not.

And so Ban the Box activists and advocates are saying, let's take this question about "have you ever been convicted of a crime" or "have you ever been convicted of a felony" off job application forms. Create a level playing field in allowing those with criminal records to get into an interview setting, and just put their best foot forward, highlighting their skills and qualifications, before the sting of a criminal record is revealed. And so we have, currently, 33 states-- the District of Columbia, and over 150-- local jurisdictions with Ban the Box in effect right now.

And what's particularly unique about Ban the Box is that it targets public employers. So state, federal, and local governments. And so the reason they target public employers is because of the legacy of affirmative action.

So in the 1960s and 1970s, affirmative action legislation actually helped to create a legacy in which anti-discrimination or they created that recruiting, hiring, and screening platform that helped to prevent discrimination against protected classes. And so what they wanted to do is sort of use this anti-discrimination platform to help promote the employment of another group, another protected class, which is those who are justice-involved. And so all these jurisdictions target public employers, with a few that expand the policy to private employers.

A few states, I think Massachusetts, is one of them. Connecticut is one of them. I think Rhode Island is one of them, as well. But in general, they're targeting public employers in order to facilitate anti-discrimination employment of those with criminal records.

SARAH BALDWIN: I wondered why the public sector was the focus of Ban the Box. Thank you for that. And did I dream it, or are you finding that it's actually working?

TERRY-ANN CRAIGIE: Yes, I do find that it actually works. So my study looks at and tries to evaluate, on a nationwide level, Ban the Box policies, by measuring its impact on those with convictions, and their odds of getting a job in the public sector. And so I use data from 2005 to 2015 from a nationally representative survey, and I find that, because of Ban the Box policies, those with criminal records are having an improved odds of getting public sector jobs by 30%. So it's pretty huge.

SARAH BALDWIN: That's amazing.

TERRY-ANN CRAIGIE: Yes. So in general, it's working on a nationwide level. We do have some jurisdictional evidence, for instance, [INAUDIBLE] of Massachusetts and Seattle that actually either show no change or they show negative effects.

But when they find that it's not because of racial discrimination on the part of employers, what they're finding is that those with criminal records want to sort of sit back and sort of find a better job. So they're just not settling for any old job, they're trying to find better ones. And so it sort of looks on paper that it's not working, but actually, it's giving them more and more options. Right.

SARAH BALDWIN: And that leads me to another question about you two as scholars. I mean, you do incredible amounts of research and you teach. Did you go into your research fields with a mission, in a way, or a hope to inform policy? I'm very interested in this bridge between numbers and data sets and analysis and what actually happens in society, and I wonder if you could speak to that a little bit.

ADANER USMANI: Sure. So this actually is not, or was not, my major research project, my dissertation, and my original research work is on something else. But I am not from the United States. I moved here when I was 14, and over the course of my time in graduate school, this issue sort of just continually reared its head in various readings I was doing.

And it was a combination of what you are suggesting, which is that I understood that there was something really scandalous about this fact, that in the richest country in the world we also lock up the most people per capita. More than China, more than Russia, more than Cuba. More, even some people suggested, than Stalin's Russia at the height of the gulags, although that number I have since seen as contested. But still, just the fact that there is a comparison is-- so it was that fact, this sort of ethical outrage, combined with my dissatisfaction with some of, what I call, conventional wisdom in my research.

And this goes back to an issue that Terry-Ann and I don't maybe agree on exactly, but that I think there is this conventional understanding that the American criminal justice system mostly deals with people who do nonviolent drug offenses, and that, in my research, to my knowledge, is basically incorrect. Most of the prisoners who are in prison are not there for drug crimes. Only about 20% of prisoners are there in state and federal prisons are in prison for drug crimes.

And so part of what research has to do I think is inform the reform process in a way that allows us to take seriously that fact, while also proposing a whole new paradigm around punishment. It requires us to rethink how we treat people who do sometimes do awful things to other people. And this goes to what Terry-Ann was saying earlier, which is that I think our ethic-- I mean, James Forman has a very nice way of putting this, which is that our ethic around punishment in this country is that we judge people by the worst thing that they've ever done. And that, quite frankly, is not an ethical way to approach this issue. We should be much more understanding.

There is a statistic from Bruce Western's recent book that stood out to me when I read it, which was that around 42% of his sample of recently released prisoners from Massachusetts prisons, had seen someone killed in their childhood in front of them. And that very fact suggests to me that these people live lives that require a whole, total reorientation of American social policy.

SARAH BALDWIN: Right, with behavioral health, mental health.

ADANER USMANI: Everything, everything.

SARAH BALDWIN: Absolutely.

ADANER USMANI: And judging them the way that we currently judge them, I think, is completely amounts to a ludicrous public policy.

TERRY-ANN CRAIGIE: So like Adaner, when I started my dissertation, I knew exactly what I wanted to do, and I really wanted to focus on the incarceration or how incarceration affected kids. So that was the big idea I had at the time. And I've done a lot of work on that. I've done some work surrounding that when I was a postdoc at Princeton, and I reached a point in my research career that I was like, OK, we know that these are negative consequences. There's no going around that.

We have so many scholars that show that, including Chris Wildeman, Anna Haskins, for instance. Kristin Turney. And we've all shown that the father's incarceration, or a parent's incarceration, leads to adverse consequences for kids.

And I kept looking at this, I'm like, what are we doing about it? And I did not see enough research on that. And so I decided, let's see what's being done around the country, and see if I can start evaluating how some of those policies are working, and so that's when I came upon Ban the Box. And I was really just excited to see that. People on the ground just storming courthouses, saying hey, we want change, and things of that nature.

And so when I start to evaluate the policy. I was excited at first. I'm like, hey, this is awesome. But then I started to hear the negative sort of rhetoric surrounding it from economists that had found adverse consequences.

And it just struck me, I'm like, we've been fighting for equality since 1863. Since the Emancipation Proclamation, we've been fighting for equality, and we have never been met without struggle in any of these policies. No anti-discrimination policy, no equality policy, has ever been met without struggle.

And I feel like when it comes to those who have been justice-involved, we don't necessarily give them that same human response. That we don't empathize with their problems because we look at them, again, by their crime, or we define them by the worst moments of their lives. And so we have got to do better. And I think that Ban the Box is a step in the right direction. There is more to be done in terms of criminal justice reform.

And I'm going to disagree with Adaner, again. We don't actually have disproportionately more people who are incarcerated for violent offenses. Right now, it's a third for violent offenses, a third for property crime, and a third for drug crime.

But what we had in the 80s was that most people were incarcerated for violent offenses, but because of policies associated with the tough-on-crime sentiment and the war on drugs, we all what we saw was a marginal increase in the rate of incarceration for drug crimes. And so by the turn of the century what we saw is that more people were becoming-- were actually occupying prisons because of drug crimes, to the point now where incarceration rates for white women are exceeding the incarceration rates for blacks and Latinos. And so there's a lot of work to be done in terms of reforming the criminal justice system, and we do need to look at this population with empathy, with humanity, and see them as potential for productive citizens once again.

ADANER USMANI: Absolutely.

TERRY-ANN CRAIGIE: That's inarguable, I think.

ADANER USMANI: We hope.

SARAH BALDWIN: But there's this leap that needs to be made. People have to be made to care. People have to be made to understand that this person going to jail has a ripple effect on the place they live, and that person is going to come out. I have a friend and colleague who says prisoner health is community health.

And so, again, I want to come back to this question of-- I mean, you're two very humane scholars who are clearly implicated in how we live in society, but how do you get your data and your findings and your convictions in the hands of the right people? Is it making the public care so that they demand that of policymakers, or is it getting it in the hands of policymakers so they start to see that this society is being built on matchsticks? You can't just have a few healthy categories of people. So how do you-- just tell me--

TERRY-ANN CRAIGIE: I think you have to go for both. The policymakers, and the public puts pressure on the politicians, and the politicians, of course, are going to be impacted by various stakeholders, by policymakers. So it's not just one party, but we have to work together.

And what I really like about going on with criminal justice reform right now is that is bipartisan. That is amazing. We've come together to understand that it's really expensive. Incarceration is, indeed, expensive in terms of what the consequences are for the community, and for all parties involved, and so--

ADANER USMANI: I have to sound a note of dissent, here.

TERRY-ANN CRAIGIE: Go ahead.

ADANER USMANI: Which is that I, too, in some ways, I'm heartened by the fact that it's bipartisan. But this goes back to something that we were discussing at the very beginning, which I think that effective criminal justice reform ultimately doesn't look like what the right envisions. I think the best example of this is the Right on Crime movement, which Grover Norquist and some other people are involved in some way. And they fundamentally make this argument that criminal justice is very expensive, and it's dysfunctional for that reason, primarily.

And as I was arguing earlier, in my mind, a better world that can deal seriously with the problems that so many of these people have, and also with the inhumanity of our current way of imprisoning people, would be a world in which we spent more on these people, not less. And that would require a greater outlay from the government, not a smaller outlay. And that's why I'm personally very skeptical of these sorts of alliances. I mean, I would love to see them go as far as they can go, but to be honest, I don't think they can go very far.

TERRY-ANN CRAIGIE: Yeah, I agree that there is much to be done, but I think to get it done we're going to need both sides to agree.

ADANER USMANI: I mean, I would go back to something that you had alluded to earlier, and you also, Sarah, alluded to, which is that the way that I see this kind of reform happening is by channeling the energies of organizers and activists, and this sort of, let's say, new left resurgence in the United States, which demands social policy--

TERRY-ANN CRAIGIE: Oh yeah, I think they're really the backbone of criminal justice reform.

ADANER USMANI: And I see that in my students. I don't know how you see it.

SARAH BALDWIN: Yeah, I was about to ask you to talk about how you bring this into the classroom and what the reaction is.

ADANER USMANI: I mean, I would probably have to, as an economy attrition, admit that there's some sample bias. I mean, I've got students who are particularly keen on thinking about criminal justice reform. But I've been overwhelmingly impressed by my students, and impressed also by their conviction to do something about the world around them. I see my job as sort of refining or sharpening their anger and their convictions, and a lot of it involves many of the arguments that I've made to you guys today, which is that I think that violence is a bigger part of this story than we admit. I know we disagree about that.

And also, that ultimately, criminal justice reform is not going to be something that we will get because it's convenient, or because it's inexpensive, but in fact, because we have to, and we should spend more money on the poor in the society than we do. Those are the sorts of things that I've tried to argue to my students. And, you know, they're intelligent students. Some of them are receptive, some of them are not receptive because they have their own convictions, and that's part of the process of education and learning.

But overwhelmingly, I've been impressed by, as Terry-Ann was also saying earlier, the conviction of young people right now to do something about the world around them. That makes me hopeful. That makes me really hopeful. So I have maybe less optimism that policymakers or a bipartisan consensus will solve this issue, but I have a lot of optimism, let's say, that movements and young people and organizers will do something about it.

SARAH BALDWIN: Well, keep doing your good work, keep teaching, and keep doing your research and informing policy and keeping activists. I love to see that. Thank you both for coming in today.

ADANER USMANI: Thank you.

TERRY-ANN CRAIGIE: Thank you.

SARAH BALDWIN: This was great. Stay awesome.

This episode of Trending Globally was produced by Dan Richards, Jon Maza, and Alex Laferriere. Our theme music is by Henry Bloomfield. I'm your host, Sarah Baldwin.

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