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SATURDAY, NOVEMBER 24, 2012 →

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The Enduring Career of Jim Crow

On June 15, 2008, presidential candidate Barack Obama stepped to the podium of the predominantly black Apostolic Church of God in Chicago, Illinois, to give a Father's Day address.

His message was a familiar one. "Too many fathers are missing," he said, "missing from too many lives and too many homes . . . They have abandoned their responsibilities. They're acting like boys instead of men. And the foundations of our families are weaker because of it. You and I know this is true everywhere, but nowhere is this more true than in the African American community."

(Alexander, pp. 178-179)

"The media did not ask -- and Obama did not tell -- where the missing fathers might be found." (Alexander, p. 179)

In December 2006, echoing a common refrain of black women seeking life partners, *Ebony* magazine ran an article entitled "Where Have the Black Men Gone?" The question was not merely rhetorical. "In 2002 the U.S. Census Bureau reported that there were nearly three million more black adult women than men in black communities across the United States, a gender gap of twenty-six percent," three times higher than the disparity for whites.

(Alexander, p. 179)

In her devastating 2012 expose, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, Ohio State law professor Michelle Alexander not only provides the chilling answer, she crafts a searing and sobering indictment against a racially unbalanced criminal justice system which has produced a deluge of disturbing statistics.

From 1980 to 2008, the United States penal population exploded from five hundred thousand to more than two million, while its general population grew only thirty-three percent. One out of every one hundred adult Americans is currently behind bars compared to

BLOG ARCHIVE

▶ 2013 (2)

▼ 2012 (12)

▶ December (1)

▼ November (1)

The Enduring Career of Jim Crow

▶ October (1)

▶ September (1)

▶ August (1)

▶ July (1)

▶ June (1)

▶ May (1)

▶ April (1)

▶ March (1)

▶ February (1)

▶ January (1)

▶ 2011 (13)

▶ 2010 (12)

▶ 2009 (13)

▶ 2008 (12)

▶ 2007 (15)

ABOUT ME



MARC SCHEWEL

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one out of every four hundred in 1970. The U. S. incarceration rate -- the highest in the world -- exceeds that of Germany by a factor of eight, and dwarfs that of nearly every developed country, including the highly repressive regimes in Russia, China, and Iran. With five percent of the world's population, the U. S. accounts for twenty-three percent of its prisoners. (Alexander, p. 6)

Between 1960 and 1990, official crime rates in Finland, Germany, and the United States were almost identical. Yet the U. S. incarceration rate quadrupled, the Finnish rate declined sixty per cent, and the German rate was unchanged. As Michael Toury explains in *Thinking About Crime*: "Governments decide how much punishment they want, and these decisions are in no simple way related to crime rates." (Alexander, p. 7)

In the mid-seventies, U. S. criminologists were actually predicting the demise of the prison system. Prison did not deter crime significantly, they said, because people with meaningful social and economic opportunities were not inclined to breaking the law, while ex-prisoners were likely recidivists. In 1973, the National Advisory Commission on Criminal Justice Standards and Goals recommended that "no new institutions for adults should be built and existing institutions for juveniles should be closed." Its research concluded that "the prison, the reformatory, and the jail have achieved only a shocking record of failure. There is overwhelming evidence that these institutions create crime rather than prevent it." (Alexander, p. 8)

Reformers who believed that even 350,000 imprisoned were too many announced a national campaign to end prison constructions. "Supporters of the moratorium can be forgiven for being so naive," says Marc Mauer, executive director of the Sentencing Project, "since the prison expansion that was about to take place was unprecedented in human history." (Alexander, pp. 8-9)

"The racial dimension of mass incarceration is its most striking feature. No other country in the world imprisons so many of its racial or ethnic minorities" -- not even South Africa at the height of apartheid. (Alexander, p. 6)

In 2010, almost 2,100,000 males (and 200,000 females) were incarcerated in U. S., state, and local prisons, of whom 40 percent were black (over 900,000), 20 percent Hispanic (about 460,000),

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and the remainder white. Since, according to that year's census, blacks comprised only 12.6 percent of the general population (and Hispanics 16.4 percent), the disproportion is dramatic.

The figures are even more shocking when considers the rate of black males incarcerated -- 4,347 per 100,000 -- compared to the rate of white males -- 678 per 100,000 -- or the percent of the black male population in prison, five, compared to the percent of white males, seven-tenths. One in three black men between the ages of twenty and twenty-nine is under criminal justice supervision on any given day, and the same percentage can expect to spend some time behind bars during their lifetime; in Washington, D.C., that number soars to a staggering three out of four. (Alexander, p. 6)

"More African American adults are under correctional control today - in prison or jail, on probation or parole -- than were enslaved in 1850." The mass incarceration of blacks is one reason that a black child born today is less likely to be raised by both parents than one born into slavery. "The absence of black fathers from families is not simply a function of laziness, immaturity, or watching too much Sports Center," but also of the criminal justice system, which has swallowed up thousands of them. (Alexander, p. 180)

At year end 2009, almost five million adults were on probation or parole. Of those for whom their race is known or reported, about thirty percent are black. Although technically free, these convicted felons, by virtue of their criminal records, are entangled in a web of laws, rules, policies, and customs that controls them as thoroughly as if they were still in confinement, banishes them to the fringes of civil society, denies them access to the mainstream economy, and effectively consigns them to a state of second-class citizenship. (Alexander, p. 13)

According to the American Bar Association, an ex-offender "may be ineligible for many federally-funded health and welfare benefits, food stamps, public housing, and federal educational assistance. His driver's license may be automatically suspended, and he may no longer qualify for certain employment and professional licenses . . . He will not be permitted to enlist in the military, possess a firearm, or obtain a federal security clearance. If a citizen, he may lose the right to vote; if not, he becomes immediately deportable." (Alexander, p.143) If he is black, his wages will grow twenty percent slower than those of his white counterparts.

One might reasonably conclude that the rise in incarceration over the past three decades reflects a commensurate rise in crime. In fact, according to data from the Federal Bureau of Investigation and the Bureau of Justice Statistics, the total number of violent crimes in 2008 was only about three percent higher than it was in 1980, and the rate was actually lower, nineteen per one thousand people in 2008 compared to forty-nine per thousand in 1980.

The single greatest factor behind the meteoric growth in the U. S. prison population since 1980 has been the national War on Drugs, officially launched in October 1982 by President Ronald Reagan. Its relentless campaign to criminalize marijuana and cocaine users and dealers has been exacerbated by the mandatory minimum sentencing and three strikes laws enacted in the 1980's and 1990's, which require state courts to impose extended periods of incarceration to persons convicted of felonies on three or more separate occasions.

"Drug offenses alone account for two-thirds of the rise in the federal inmate population and more than half of the state increase between 1985 and 2000. Approximately half a million people are in prison for a drug offense today, compared to an estimated 41,000 in 1980." Drug arrests have tripled from ten million to thirty-one million since the war began. "There are more people in prisons and jails today just for drug offenses than were incarcerated for all reasons in 1980." (Alexander, p. 60)

Five times as many whites are using drugs as African Americans, yet the latter are sent to prison for drug offenses at ten times the rate of the former. African Americans represent twelve percent of the total population of drug users, yet thirty-eight percent of those arrested and fifty-nine percent of those incarcerated in state prisons for drug offenses. African Americans serve about as much time in prison on drug charges (58.7 months) as whites do for violent crime (61.7 months).

Professor Alexander's thesis is that the contemporary marginalization of black males by means of a misguided and discriminatory drug war is merely the third iteration of a deeply-entrenched racial caste system that originated with the institutionalization of chattel slavery in the eighteenth century and was perpetuated in form of Jim Crow segregation in the late twentieth century. Each hierarchical edifice was constructed upon the same foundation -- the racial fears and economic vulnerability of

lower-class whites, "a group which is understandably eager to ensure that it never finds itself trapped at the bottom of the American social order." (Alexander, p. 22)

Citing research by noted historians Lerone Bennett Jr. and Edmund Morgan, Alexander contends that a burgeoning demand for cheap labor for its cotton and tobacco plantations impelled the colonial aristocracy to transition from the employment of indentured servants, both black and white, to the enslavement of Africans.

In 1679, Nathaniel Bacon, a white property owner in Jamestown, Virginia, "managed to unite slaves, indentured servants, and poor whites in a revolutionary effort to overthrow the planter elite." Initially a scheme to seize more Indian land for himself, Bacon turned against the planters when they refused him militia support. (Alexander, p. 24)

The confederation of black and white bondsmen alarmed the planters. After suppressing the rebellion, to protect their status and economic position, they abandoned their heavy reliance on indentured servants in favor of importing more black slaves. In addition, they extended special prerogatives to poor whites in order to discourage any future fraternization -- granting them large portions of Indian territory, allowing them to oversee and police slaves, and eliminating competition between free and slave labor. Poor whites now had a vested interest in sustaining their racially privileged position. (Alexander, pp. 24-25)

To reconcile chattel slavery with the new nation's ideals of liberty and equality, Africans were deemed an uncivilized lesser race lacking intelligence and laudable human qualities and relegated to a bestial status even lower than that of the red-skinned native Americans.

The degradation of the black man did not end with Emancipation or Reconstruction. But whereas, under slavery, the racial order had been most effectively maintained by close contact between owners and subjects -- which maximized supervision and discipline -- ensuring a low-paid, submissive labor force in the post-bellum period would mandate a comprehensive and repressive segregated society. (Alexander, pp. 27-30)

The normalization of such a system followed a familiar pattern. The advent of the Populist Movement in the late nineteenth century -- which denounced large corporations and the wealthy as enemies of

the poor -- seemed to augur a new era in race relations. "Populists preached an 'equalitarianism of want and poverty, the kinship of a common grievance and a common oppressor,' " and a class-based unity which embraced racial integration. As C. Vann Woodward wrote in his authoritative study, *The Strange Career of Jim Crow*, "It is altogether probable that during the brief Populist upheaval . . . Negroes and native whites achieved a greater comity of mind and harmony of political purpose than ever before or since in the South." (Alexander, p. 33)

Once again an alliance between poor and working class whites and African Americans aroused fear in the hearts of southern conservative elites. In order to drive a wedge between the two groups and counter the hostility being directed toward them, raising the cry of white supremacy, they threw up a wall of discriminatory legal and extra-legal practices designed to foster lower-class whites' sense of superiority and to discourage them from joining forces with their inferiors. (Alexander, pp. 33-34)

With their partnership under siege and their political viability in jeopardy, the Populists discarded their black-skinned comrades, as did Northern liberals desiring to reconcile with the South and Southern moderates who had formerly promised to protect blacks from racial extremism. (Alexander, p. 34)

"By the turn of the twentieth century, every state in the South had laws on the books that disenfranchised blacks, discriminated against them in virtually every sphere of life, and sanctioned a racial ostracism encompassing schools, churches, housing, jobs, restrooms, hotels, restaurants, hospitals, orphanages, prisons, funeral homes, morgues, and cemeteries." Jim Crow segregation -- and permission to hate and scapegoat blacks -- was a *fait accompli*. (Alexander, p. 350)

It died a slow death.

World War II highlighted a blatant and embarrassing contradiction between America's international fight against the Nazis and its tolerance of a domestic racial caste system. Subsequently, the NAACP began to challenge Jim Crow laws in federal courts. In a series of cases beginning in 1944, the U. S. Supreme Court struck down all-white primary elections, segregated interstate buses, racially discriminatory real estate agreements, and segregated law schools in Texas and Oklahoma. In 1954, in its landmark *Brown v.*

Board of Education decision, the Court not only declared that segregated public schools were unconstitutional, by implication it undermined the rationale of legal discrimination in the South. (Alexander, p. 36)

Progress stalled, ground to a halt by Massive Resistance and intimidating violence. Only a widespread, grassroots Civil Rights Movement -- boycotts, marches, and sit-ins organized and conducted by courageous activists immune to bombings, beatings, and arrests -- could crack the monolith. "The Civil Rights Bill of 1964 formally dismantled the system of Jim Crow discrimination in public accommodations, employment, voting, education, and federally financed activities." The Voting Rights Bill of 1965 removed numerous barriers to political participation by African Americans and mandated federal review of all new voting regulations. (Alexander, pp. 37-38)

At the peak of the Movement, Civil Rights leaders, recognizing that poverty was as crippling a social problem as racism, sought to align their goals with those of poor and working class whites, who were also demanding reforms. The result was a Poor People's Movement, a multiracial coalition addressing poverty across all color lines, nothing less than a "populist crusade calling for redistribution of economic and political power." (Alexander, p. 39)

"With the success of the Civil Rights Movement and the launching of the Poor People's Movement, it was apparent that a major disruption in the nation's racial equilibrium had occurred . . . Conservative whites began to search for a new racial order that would conform to the the needs and constraints of the time . . . one that would have to be race-neutral, that is, avoid explicit or clearly intentional race discrimination." That order would be defined by the race-neutral language of "law and order." (Alexander, pp. 39-40)

The direct-action tactics employed by civil rights activists in the years following *Brown v. Board of Education* were often characterized by local and state Southern officials as criminal and indicative of a breakdown in law and order. Rising U. S. crime rates between 1960 and 1970 -- driven by a population spike in the fifteen to twenty-four year old age group and higher unemployment among black men -- coupled with the riots that swept the nation after the assassination of Martin Luther King in 1968 fueled the argument that civil rights for blacks led to rampant crime. (Alexander, pp. 41-42)

The rhetoric of law and order proved highly effective, particularly in the South, in appealing to poor and working class whites who were opposed to integration and resented the gains of African Americans, with whom they now had to compete for jobs and status.

Disenchanted by the Democratic Party's apparent support for liberal causes, many were enticed into an incongruous alliance with staunchly Republican corporate and high-income constituencies. (Alexander, p. 46)

"By 1968, eighty-one per cent of those responding to a Gallup Poll agreed that 'law and order had broken down in this country,' and the majority blamed 'Negroes who start riots' and 'Communists.' " That same year both Republican presidential candidate Richard Nixon and independent George Wallace made 'law and order' a central theme of their campaigns, and together garnered fifty-seven percent of the vote. (Alexander, p. 46)

At the heart of this new type of politics was "white racism and the self-fueling fear bred by it . . . The fear of crime became all-American; law and order emerged as the new political currency with which to unite white voters of disparate classes." Shortly before his victory in 1968, Nixon noted the power of anti-crime fearmongering and its racial content in a letter to President Eisenhower: "I have found great audience response to this theme in all parts of the country, including areas like New Hampshire where there is virtually no race problem and relatively little crime." (Parenti, p. 7)

Nixon's chief of staff, H. R. Haldeman, would later write in his diary that Nixon "emphasized that the whole problem [of leftist activism and anti-Vietnam War protests] is really the blacks. The key is to devise a system that recognizes this while not appearing to." That system would be the war on crime. (Parenti, p. 12)

"Just as race had been used at the turn of the century by Southern elites to rupture class solidarity at the bottom of the income level, race as a national issue broke up the Democratic New Deal 'bottom-up' coalition" of white and black voters at or below the median income. (Alexander, p. 47)

In 1980 Ronald Reagan rode into the presidency on the backs of disaffected whites. While ostensibly colorblind, his repeated attacks on "criminal predators" and "welfare queens" and his unabashed promotion of states' rights were tinged with racial hues -- and

usually accompanied by vehement promises to be tougher on crime and to enhance the federal government's role in combating it.

(Alexander, p. 49)

He soon fulfilled his pledge to crack down on the racially defined "others" -- the undeserving. In October 1982 he officially announced his administration's War on Drugs. At the time, less than two percent of the American public viewed drugs as the most important issue facing the nation -- hardly a deterrent since the war's victims, the minority underclass, were its true targets, rather than the product itself. Between 1981 and 1991, anti-drug spending by the Drug Enforcement Agency, the FBI, and the Department of Defense soared from one hundred sixty million dollars to one billion two hundred fifty million dollars. (Alexander, p. 49)

The campaign could not have come at a worse time. The blue-collar factory jobs that had once been plentiful in urban areas had been disappearing since the early seventies -- shipped overseas where labor costs were cheaper. Unable to adapt to the technological changes revolutionizing the workplace and lacking mobility and transportation to the suburbs where innovative or service companies might be hiring, inner city black men found themselves unemployable. Selling drugs -- particularly crack cocaine, which hit the streets in 1985, a few years after Reagan's war declaration -- became one of the few ways to earn money. It was a perfect storm. (Alexander, p. 51)

The Radical Left would argue a contrarian cause-and-effect -- that the rising numbers of impoverished low-wage workers and unemployed youth posed a challenge to the established economic, social, and racial order, a political threat that demanded defensive containment and active stabilization. In their view, the War on Drugs was implemented as a deliberate mechanism to undermine, discredit, demoralize, demonize, and ultimately incarcerate this potentially rebellious class, or more accurately, caste, as the majority were increasingly people of color. (Parenti, p. 46)

Faced with increasing rates of drug abuse and addiction, the U. S. government could have chosen the paths of treatment, education, prevention, and investment in crime-ridden communities. Instead, it chose war, and leaped at the opportunity to publicize the evils of crack cocaine.

In June 1986, *Newsweek* elevated crack to the biggest story since

Vietnam/Watergate; in August, *Time* declared it "the issue of the year." Thousands of stories about the drug scourge flooded the airwaves and newsstands -- seventy-four on the three major networks in July alone, 1565 in the *Washington Post* between October 1988 and October 1989. Their content focused on black crack whores, crack babies, and gangbangers, and reinforced prevalent stereotypes of black men and women as comprising a criminal, inferior, and irresponsible subculture. (Alexander, p. 52)

Lawmakers eager to reap the political benefits soon joined the fray. Legislation in 1986 allocated two billion dollars to the crusade, including a massive infusion of cash earmarked for new prison construction, enlisted the military in narcotics control, permitted the death penalty for certain drug-related crimes, and imposed a mandatory minimum sentence for the distribution of crack cocaine which was far more severe than the one for distributing an equal amount of powder cocaine. (Alexander, p. 53)

X Few voices were heard in opposition. One senator insisted that crack had become a scapegoat distracting attention from the true causes of society's problems "If we blame crime on crack," he argued, "our politicians are off the hook. Forgotten are the failed schools, the malign welfare programs, the desolate neighborhoods, the wasted years. Only crack is to blame. One is tempted to think that if crack did not exist, someone would have received a federal grant to invent." (Alexander, p. 53)

Two years later the Anti-Drug Abuse Act authorized the eviction from public housing of tenants who allowed criminal drug activity to be conducted on the premises, denied many public benefits, including student loans, to convicted drug offenders, and prescribed a five-year mandatory minimum sentence for simple possession of cocaine base, with no intent to sell. (Alexander, p. 53)

"The results were immediate. As law enforcements budgets exploded, so did prison populations. In 1991, the Sentencing Project reported that the number of people incarcerated in the United States was unprecedented in world history, and that one-fourth of young African American men were under the control of the criminal justice system." (Alexander, p. 56)

Between 1980 and 1990, while the African American component of the nation's population remained stable at twelve percent, its representation among all those arrested on drug charges nearly

doubled from twenty-three to forty percent, and rose to sixty percent among all those convicted of narcotics violations. (Parenti, p. 57)

Bill Clinton was determined that no Republican would be perceived as tougher on crime than he. His 1994 bill created dozens of new federal capital crimes, mandated life sentences for some three-time offenders, and committed more than sixteen billion dollars to state prisons and to the expansion of state and local police forces. His welfare reform act banned convicted drug felons from being eligible for food stamps and welfare. He made it easier for federally-funded public housing projects to exclude anyone with a criminal history. (Alexander, pp. 56-57)

Clinton once boasted that his Community Oriented Policing Services (COPS) program, which put tens of thousands of new officers on the streets, was responsible for the dramatic fifteen-year drop in violent crime which began in the 1990's. But a 2005 report by the Government Accountability Office concluded that, at best, it may have been responsible for one per cent of that reduction -- at a cost of \$8 billion. (Alexander, p. 253)

Even Barack Obama has disappointed racial justice advocates who greeted his inauguration with enthusiasm and the expectation that it portended meaningful reform. Such selections as Vice-President Joe Biden, one of the Senate's most strident drug warriors, Chief of Staff Rahm Emanuel, a major proponent of drug war expansion during the Clinton Administration, and Attorney-General Eric Holder, who espoused harsh mandatory minimums in his former position as U. S. Attorney for the District of Columbia, signaled that little relief was on the horizon. (Alexander, p. 252)

Obama not only revived Clinton's COPS program, he increased grant allocations twelvefold to state and local authorities to fund law enforcement training, SWAT teams, narcotic task forces, and highway interdiction. These measures were part of the 2009 stimulus package, a calculated strategy to save or create jobs during the economic crisis, but at a cost, according to *New York Times* columnist Charles Blow, of "ruining the lives of hundreds of thousands of black and Hispanic men and, by extension, the communities they belong to." (Alexander, p. 253)

"At the turn of the twenty-first century, more than two million people found themselves behind bars; millions more were relegated to the margins of mainstream society, banished to a political and

social space . . . where discrimination in employment, housing, and access to education was perfectly legal and where they could be denied the right to vote." The racial composition of this community of outcasts was grossly disproportionate to its percentage of the general population. (Alexander, p. 58)

The rumors of its demise having been greatly exaggerated, the strange career of Jim Crow was proving to be as enduring as a Mark Twain aphorism.

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MY OCCASIONAL PIECES

SUNDAY, DECEMBER 9, 2012

Criminal Injustice

When President Ronald Reagan inaugurated the War on Drugs in 1982, five hundred thousand Americans were incarcerated in federal and state prisons, fewer than ten percent of whom were drug offenders. Since then, that number has soared to more than two million, including 500,000 convicted of drug crimes, an increase in that category alone of more than one thousand percent.

Forty percent of those inmates are black, a statistic which translates to five percent of the male black population in the United States, compared to only seven-tenths percent of the male white population. This inordinate disparity has prompted Ohio State law professor Michelle Alexander, writing in her scathing 2012 investigative report *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, to characterize her subject as nothing less than a contemporary racial caste system, the grievous successor to eighteenth century chattel slavery and twentieth century legal segregation as a mechanism to control the black underclass.

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 (Alexander contends that) the War on Drugs is the vehicle by which extraordinary numbers of black men are forced into a cage, "a subordinate political, social, and economic position" equivalent to second-class citizenship. The three-stage entrapment (involves) facilitated law enforcement aggressiveness, discriminatory judicial processes, and post-imprisonment marginalization. (Alexander, pp. 184-185)

The absence of significant constraints on the police has made the roundup of millions of Americans for drug offenses relatively easy. Their efforts have been aided and abetted by several Supreme Court decisions which, by eviscerating Fourth Amendment protections, have granted them a pecuniary interest in the drug wars and have countenanced the search and seizure of individuals in public places. (Alexander, pp. 61, 63)

In *Florida v. Bostick*, the Court upheld the conviction for possession

BLOG ARCHIVE

- ▶ 2013 (2)
- ▼ 2012 (12)
 - ▼ December (1)
 - Criminal Injustice
 - ▶ November (1)
 - ▶ October (1)
 - ▶ September (1)
 - ▶ August (1)
 - ▶ July (1)
 - ▶ June (1)
 - ▶ May (1)
 - ▶ April (1)
 - ▶ March (1)
 - ▶ February (1)
 - ▶ January (1)
- ▶ 2011 (13)
- ▶ 2010 (12)
- ▶ 2009 (13)
- ▶ 2008 (12)
- ▶ 2007 (15)

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In *Florida v. Bostick*, the Court upheld the conviction for possession of cocaine of Terence Bostick, who allowed police to search his bag after they boarded his bus fishing for drugs. Bostick was not really "seized," concluded the court, since "a reasonable person" would have felt free to refuse the police officer's demands. "The Court made clear that its decision was to govern all future drug sweeps, regardless of the circumstances." (Alexander, pp. 64-65)

In a case appealed by two African Americans, Michael Whren and James Brown, who were found to be in possession of cocaine when their car was stopped for failure to use a turn signal, the Court ruled that minor traffic violations were a legitimate pretext to conduct drug investigations, whether or not there was evidence of illegal drug activity. (Alexander, pp. 67-68)

In *Ohio v. Robinette*, the Court struck down a lower court's ruling that an officer must advise a motorist that he is free to leave the scene before asking permission to search his vehicle. Richard Robinette had given his consent and been convicted for possession of marijuana and a single amphetamine pill after having been stopped for speeding. (Alexander, p. 68)

In order to overcome resistance to searches, the Court has authorized the jailing of motorists for minor traffic violations and the intimidating deployment of drug-sniffing dogs at airports, bus and train stations, and vehicle stops. (Alexander, p. 69)

Blessed by the Supreme Court, the Drug Enforcement Agency (DEA) launched Operation Pipeline in 1984; it trains state and local law enforcement officers to use pretextual traffic stops and consent searches on a large scale for drug interdiction. The program's success depends on the police stopping "staggering" numbers of people in shotgun fashion, interrogating them about imaginary drug activity, and harassing them into searches. It has been estimated that ninety-five percent of Pipeline stops come up empty. (Alexander, p. 71)

"The fact that police are legally allowed to engage in a wholesale roundup of nonviolent drug offenders does not answer the question of why they would choose to do so." At the time the drug war was instigated, state and local officials were reluctant to endorse and commit to it; they viewed it as an encroachment upon their street crime-fighting jurisdiction and a diversion of resources away from more serious wrongdoing, such as murder, rape, theft, and assault.

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(Alexander, pp. 72-73)

The solution was money -- huge bribes to law enforcement agencies willing to enlist. The DEA offered free training, intelligence, and technical support and the Pentagon gifted truckloads of excess firearms -- including 1.2 million pieces in 1997 alone -- to highway task forces and state patrols to combat the drug scourge. (Alexander, pp. 73-74)

Flush with cash and equipment, police departments organized paramilitary SWAT (Special Weapons and Tactics) teams, and sent them out to serve narcotics warrants, forty thousand times in 2001 compared to three thousand in 1980. Their raids were not polite encounters. They "blasted into people's homes, typically in the middle of the night, throwing grenades, shouting, and pointing guns at anyone inside, often including children." (Alexander, pp. 74-75)

As one might expect, the aggressive nature of SWAT operations produced increased violence and some tragic endings. In 1992, in Everett, Washington, a SWAT team member shot and killed twenty-eight-year-old Robin Pratt as she ran to shield her infant daughter; Pratt was not a suspect. In 1998, in Greenville, South Carolina, an unarmed man was shot and killed after an informant provided bad intelligence. In Bethlehem, Pennsylvania, SWAT officers not only killed a suspect while raiding an alleged drugs house, they inadvertently set the building on fire and burnt it down, probably due to a faulty grenade or tear gas bomb. (Parenti, pp. 125-126)

Even public high schools were not inviolate. In November 2003, responding to a principal suspicious that a student was dealing marijuana, police invaded Stratford High School in Gooses Creek, South Carolina, forced students as young as fourteen and predominantly black to their knees in handcuffs, searched their book bags with drug-sniffing dogs, and found no incriminating evidence. (Alexander, p. 76)

In 1984, Congress provided yet another financial incentive for law enforcers to prosecute the drug war -- the prerogative at the federal level to retain and use one hundred percent, and at the state and local levels up to eighty percent, of the proceeds from asset forfeitures. At the time, assets and cash could be seized on mere suspicion of drug activity, without notice or hearing, and without the owner of the property even charged with a crime. (Alexander, p. 79)

Despite a Reform Act passed in 2000, the burden still rests with the defendant to prove that he did not know of the illegal conduct involving the property or that he tried to terminate its use. And drug busts motivated by the desire to seize cash, cars, and homes are still legal. (Alexander, p. 83)

Once swept into the criminal justice system, the accused often confronts a stacked deck of unpalatable choices. If he is indigent and unable to hire an attorney -- as are eighty percent -- the court will appoint a public defender, many of whom are of inferior ability, due to low pay and the burden of overwhelming case loads. Staring at a mandatory minimum sentence -- for charges loaded up by an overly aggressive prosecutor -- he may be pressured into plea bargaining, pleading guilty in exchange for leniency and cooperation with law enforcement, when he may, in fact, be innocent. (Alexander, pp. 84-88)

Who wouldn't plea bargain when threatened with lengthy jail time for a minor drug crime? Twenty-four-year-old Marcus Boyd was sentenced to fourteen years in prison for selling 3.9 grams of cocaine to a confidential informant. After voicing his objection that what he was about to do was "unjust, cruel, and even irrational," a judge was compelled to send Weldon Angelos away for fifty-five years for three marijuana sales, during which he was found to possess a weapon. (Alexander, p. 93)

It is not an accident that Marcus Boyd and Weldon Angelos were black. "In the drug war, the enemy is racially defined." (Alexander, p. 98)

"Human Rights Watch reported in 2000 that, in seven states, African Americans constituted eighty to ninety percent of all drug offenders sent to prison. In at least fifteen states, black men are incarcerated on drug charges at a rate from twenty to fifty-seven times greater than that of white men." (Alexander, p. 98)

"The central question, then, is how exactly does a formally colorblind justice system" -- operating in an environment in which "hardly anyone advocates or engages in explicit race discrimination" -- produce such egregious inequities? (Alexander, pp. 102, 103)

Because drug use is both ubiquitous -- in that many Americans of all races have violated drug laws in their lifetime -- and consensual -- in that there is no victim or perpetrator in the commission of the act --

enforcement of the law -- whom to stop, search, arrest, and charge -- is subject to extraordinary discretion. And once crack cocaine, the black narcotic, emerged as a national menace -- a perception engendered and embedded in the public consciousness by the political rhetoric of the Reagan Administration and the attendant media frenzy -- all doubt was erased as to who the villain was and what he looked like. (Alexander, pp. 104-105)

Jerome Miller, the former executive director of the National Center for Institutions and Alternatives, described the dynamic this way: "There are certain code words that allow you never to have to say 'race,' but everybody knows that's what you mean and 'crime' is one of them." (Alexander, p. 105)

For example, for nearly three decades, news stories regarding street crime have disproportionately featured African American offenders. In one study, "sixty percent of viewers who saw a story with no image falsely recalled seeing one, and seventy percent of those viewers believed the perpetrator to be African American." (Alexander, p. 106)

Although "charged with the responsibility of protecting 'discrete and insular minorities' from the excesses of majoritarian democracy . . . when the time came for the Supreme Court to devise the legal rules that would govern the War on Drugs," it effectively maximized rather than minimized the likelihood that discrimination would occur. (Alexander, p. 108)

In 1987, Warren McCleskey, who had killed a white police officer during an armed robbery, challenged his death sentence on the grounds that Georgia's death penalty was racially biased and thus violated the Fourteenth and Eighth Amendments. (Alexander, pp. 109-110)

Despite hearing research that defendants charged with killing white victims were 4.3 times more likely to receive a death sentence than defendants charged with killing blacks, the Supreme Court rejected McCleskey's appeal. It insisted that, in order to claim unequal treatment under the law, regardless of the statistical evidence, McCleskey had to prove that the prosecutor had sought or the jury had imposed the death penalty for racial reasons. In other words, racial discrimination in the criminal justice system would be tolerated, as long as no one admitted to a bias. (Alexander, p. 111)

Lower courts have relied on *McCleskey v. Kemp* to deny pleadings that crack sentencing laws -- which, until recently revised, mandated a five-year sentence for the sale of five hundred grams of powder cocaine but the same for the sale of only five grams of crack cocaine -- are discriminatory. In a sentence that was later reversed, after imposing four years instead of the mandatory ten on eighteen-year-old Edward Clary, who was caught transporting the drug for a friend, Judge Clyde Cahill of the Federal District Court of Missouri, declared: "The 100-to-1 ratio [it's now 18-to-1] . . . has created a situation that reeks with inhumanity and injustice. If young white males were being incarcerated at the same rate as young black males, the statute would have been amended long ago." (Alexander, pp. 112-113)

Prosecutors' offices are fertile grounds for discriminatory practices. With few rules to constrain them, prosecutors may dismiss a case for any reason or no reason, increase the charges against a defendant, offer inconsistent plea deals, and transfer drug cases to more punitive federal courts. (Alexander, p. 115)

"The risk that prosecutorial discretion will be racially biased is especially acute in the context of drug enforcement, where virtually identical behavior is susceptible to a wide variety of interpretations and responses and the media imagery and political discourse have been so thoroughly racialized." (Alexander, p. 118)

Yet in the 1996 case *Armstrong v. United States*, the Supreme Court disallowed any inquiry into the reasons for or causes of racial disparities in prosecutorial decision making, unless evidence of conscious, intentional bias could be produced. Included in the material submitted by Armstrong's lawyers was a list of more than two thousand persons charged with federal crack violations over a three-year period, all but eleven of whom were black; none were white. (Alexander, pp. 116-117)

Criminal justice is equally undermined by police discretion. "From the outset, the drug war could have been waged in white suburbs and on college campuses," with officers raiding high school coke and ecstasy parties; seizing televisions, furniture, and cash from fraternity houses; or setting up undercover operations to entrap homemakers dealing prescription "uppers." (Alexander, p. 124)

Instead they chose the 'hood -- black ghettos where political backlash was minimized and outdoor drug activity was more easily

detected -- as the optimum place to unleash their SWAT teams, set up their buy-and-bust operations, and stop and frisk riders, loiterers, and transients. (Alexander, p. 124)

"Not only do police discriminate in their determinations regarding where to wage the war, but they also discriminate in their judgments regarding whom to target outside the ghetto's invisible walls." A 1990's New Jersey study showed that, while only 15 percent of drivers on the New Jersey Turnpike were racial minorities, 42 percent of all stops and 73 percent of all arrests were of black motorists -- despite the fact that blacks and whites violated traffic laws at the same rate. (Alexander, p. 133)

"In Florida a team of journalists viewed videotapes of approximately one thousand highway stops, and found that police were using traffic violations as a pretext to confiscate 'tens of thousands of dollars from motorists,' " a staggering 85 percent of whom were African American. "These operations were racist both in application and intent: a 1985 Florida Highway Patrol directive instructed troopers to focus their efforts on 'ethnic groups associated with the drug trade.'" (Parenti, pp. 53-54)

The most pernicious of these bounty hunters was Sheriff Bob Vogel of Volusia County. Between 1989 and 1992, conducting elaborate night-time stings in which they shone lights across the highway to ascertain the skin color of drivers, Vogel's deputies seized \$8 million dollars from hundreds of motorists, 85 percent of whom were African American and 75 percent of whom were never charged with a crime. (Parenti, p. 54)

In 1999, after four white New York police officers shot and killed Amadou Diallo, an unarmed African immigrant who ignored their orders to stop and be interrogated, a study commissioned by the Attorney General found that African Americans were stopped six times more frequently than whites. In 2008, the New York Police Department reported stopping 545,000 persons, of whom 80 percent were African American or Latino. (Alexander, p. 135)

The Supreme Court has actually granted law enforcement license to discriminate. In *United States v. Brignoni-Ponce*, it "concluded that the police could take a Mexican's appearance into consideration when developing reasonable suspicion that a vehicle might contain undocumented immigrants." (Alexander, pp 130-131)

It went further in 2001, ruling in the case *Alexander v. Sandoval* that Title VI of the Civil Rights Act of 1964 did not provide a "private right of action" to ordinary citizens and civil rights groups -- implying that victims of discrimination could no longer sue under the law. Prior to that, plaintiffs had been able to argue effectively that drug war tactics -- like pretextual stops and consensual searches -- had a discriminatory impact and were unlawful unless justified by necessity. (Alexander, pp. 137-138)

Serving time in this system does not exonerate the convict, especially if he is black. Once released from prison, he will be subject to a host of sanctions that virtually guarantee he will never integrate into mainstream white society. (Alexander, p. 186) Tainted with a badge of inferiority, he will be relegated to a second-class status -- not unlike "the 'coloreds' in the years following emancipation . . . deemed characterless and purposeless, deserving of contempt and disdain." (Alexander, p. 141)

Needing a place to live, he will find the doors of public housing closed to him. The Quality Housing and Work Responsibility Act of 1998 not only authorized public housing agencies to exclude and evict drug offenders and other felons, it also allowed them to ban applicants who had been arrested regardless of whether they had been convicted. (Alexander, p. 145) As a result, according to the McCormick Institute of Public Affairs, nearly a quarter of the residents of homeless shelters had been incarcerated within the previous year. (Alexander, p. 147)

Individuals with drug-related felony convictions have also been barred from receiving federally funded public assistance, including food stamps. (Alexander, p. 157)

Finding a job will not be easy for the ex-prisoner -- especially after he acknowledges his criminal record on his application. "Nearly every state allows private employers to discriminate on the basis of past convictions." In a 2002 survey of 122 California employers, less than a quarter were willing to consider hiring a drug felon. (Alexander, p. 148)

With a dearth of manufacturing and construction jobs in urban areas, an ex-offender without driving privileges or access to a car so he can commute to the suburbs faces even longer odds of employment. Even those who hope to be self-employed -- for example, as barbers, manicurists, gardeners, or counselors -- may

find themselves denied professional licenses due to their past arrests and internment. (Alexander, pp. 149-150)

In effect, by branding particular individuals as criminals, the state has legitimized their "negative credentials" as a basis for discrimination. (Alexander, p. 151)

Even a job does not ensure a functional lifestyle. Newly released prisoners are often saddled with substantial debt -- preconviction fees assessed for jail book-in, pretrial detention, and bail investigation; postconviction fees assessed for presentencing reports, public defender costs, residential or work-release programs, and parole or probation services; fees assessed for drug testing and treatment; and late fees and interest assessed for failure to pay in a timely manner. (Alexander, pp. 154-155)

Forty-eight states and the District of Columbia prohibit incarcerated felons from voting. "The vast majority continue to withhold the right to vote when prisoners are released on parole. Even after the term of punishment expires, some states deny the right to vote for a period ranging from a number of years to the rest of one's life." (Alexander, p. 158)

In many states the voting rights restoration process is so bureaucratic, confusing, onerous, and costly that many former inmates simply to choose to remain disenfranchised. (Alexander, p. 159)

Between 1982 and 1998, one in seven black men nationally had lost the right to vote, and as many as one in four in some states. These figures may actually understate the rate of felony disenfranchisement, because they do not include the millions of ex-felons who cannot vote because they cannot afford to pay the fines or fees required by some states before voting rights can be restored. (Alexander, p. 193)

Clinton Drake, a fifty-five-year-old African American from Montgomery, Alabama, was arrested for possession of marijuana in 1988, and again in 1993. Facing ten to twenty years in prison as a repeat offender, Drake, a Vietnam veteran and, at the time, a cook at the local air force base, took his public defender's advice and accepted a plea bargain to serve "only" five years. (Alexander, p. 159)

Once released, Drake found he was forbidden from voting until he

paid \$900 in court costs -- a difficult task, considering he was unemployed and likely to find only low-wage jobs. Before the 2004 presidential election, Drake said: "I put my life on the line for this country. To me, not voting is not right . . . My son's in Iraq, in the army like I was. My oldest son was a Marine, and fought in the first Persian Gulf Conflict . . . In Alabama they treat marijuana like you committed treason or something. I was on the 1965 voting rights march from Selma; I was fifteen years old. At eighteen, I was in Vietnam fighting for my country. And now? Unemployed, and they won't allow me to vote." (Alexander, pp. 159-160)

Many ex-offenders assert that even worse than the formal and legal mechanisms that marginalize them are the shame and stigma they can never escape. According to Dorsey Nunn, founder of All of Us or None, "The biggest hurdle you gotta get over when you walk out these prison gates is shame -- that shame, that stigma, that label, that thing you wear around your neck saying 'I'm a criminal.' " (Alexander, p. 162)

For many black men, the hurt and depression give way to anger. A black minister in Waterloo, Mississippi, expressing his outrage at the fate that has befallen African Americans in the post-civil rights era, says, " 'Felony' is the new n-word. They don't have to call you a nigger anymore. They just say you're a felon . . . Once you have that felony stamp, your hope for employment, for any kind of integration into society, it begins to fade out. Today's lynching is a felony charge. Today's lynching is incarceration." (Alexander, p. 164)

Even in their own communities, returning criminals are scorned and rebuffed, not only by employers, welfare workers, and housing officials, but also by neighbors, teachers, and their own family members, which only deepens their isolation, distrust, and alienation. As a means of survival they turn in frustration to gangs and fellow inmates for support, embracing their stigmatized identity in a desperate effort to regain some measure of self-esteem. Sadly, then, a sanctimonious public further demonizes them, condemns their baggy pants and jailhouse music, and hardly notices when they drift back into prison. (Alexander, pp. 165, 172)

Once one understands how the system of mass incarceration works to create and perpetuate a racial caste, several unpleasant truths become self-evident.

The first is that the purported colorblindness of mass incarceration

-- the absence of racial animus and overt racial hostility among those prosecuting the drug war -- has enabled most Americans to remain in deep denial as to its the true nature. (Alexander, p. 183)

The reality is that, contrary to conventional wisdom, racism manifests itself not only in individual attitudes and stereotypes, but also in the basic structure of a society, in the totality of its laws, institutions, and practices. In this case, racial profiling, biased sentencing policies, disenfranchisement, and legalized employment discrimination, to name a few, operate collectively to confine African Americans to the basement of a racial hierarchy. (Alexander, p. 184)

It is a system of control grounded not in old fashioned bigotry -- which tends to distract and immunize observers from the underlying issue -- but in an equally dangerous sentiment, indifference, the lack of caring and compassion about race and racial groups. (Alexander, p. 203)

The second unpleasant truth about mass incarceration is that, just like Jim Crow segregation, today's War on Drugs can impact not just a fraction of an ethnic minority but entire communities of color. In some cities the system seems more focused on the management and control of those communities than on the prevention and punishment of crime. (Alexander, p. 188)

In Illinois, for example, about 90 percent of those who go to prison for a drug offense are African American; in Chicago that number has grown two thousand percent, from 469 in 1985 to 8755 in 2005. As a result, fifty-five percent of adult black males in the city have a felony record. In 2001, there were more of them in state correctional facilities on drug charges alone than were enrolled as college undergraduates. "White drug offenders are rarely arrested, and when they are, they are treated more favorably" with regard to plea bargaining and sentencing. (Alexander, pp. 189-190)

The third unpleasant truth about mass incarceration is that thousands of whites who are not the real target of this war find themselves in prison as collateral damage. Their inclusion "is essential to preserving the images of a colorblind justice system" and a body politic that is fair and unbiased, illusions that would evaporate if the guilty were one hundred percent African Americans. (Alexander, pp. 204-205)

In his book *The Anatomy of Racial Inequality*, economist Glenn

Loury says that it is impossible to conceive of anything remotely similar to this perverse situation happening in reverse -- to imagine large numbers of young white men rounded up for minor drug offenses, placed under penal supervision, and subsequently subjected to a lifetime of discrimination and exclusion. If such a thing occurred, "it would occasion a most profound reflection upon what had gone wrong, not only with *them*, but with *us*." (Alexander, p. 205)

Consider society's drastically different response in the 1980's to the widespread problem of drunk driving as compared to crack cocaine. By the end of the decade, drunk drivers were responsible for 22,000 deaths annually, with overall alcohol-related deaths approaching 100,000, while the total of all drug-related deaths due to AIDS, overdosing, or illegal trade violence was estimated at 21,000. Yet the misdemeanor sentences imposed on drunk drivers -- seventy-eight percent of whom were white males -- in spite of vigorous advocacy campaigns mounted by organizations like Mothers Against Drunk Drivers, typically involved fines, license suspension, and community service. Meanwhile, large numbers of black drug offenders were being charged with felonies and sent to prison. (Alexander, pp. 205-207)

Similarly, during the first half of the twentieth century, when marijuana was perceived to be an evil confined to black and Mexican-American communities, first-time possession warranted two to five years in prison. By 1970, as usage proliferated among the white middle class, the Comprehensive Drug Abuse Prevention and Control Act differentiated it from other narcotics and lowered federal penalties. (Alexander, p. 207)

The fourth unpleasant truth about mass incarceration is that the threat of violent crime in poor black communities almost compels their residents to accept harsh enforcement policies as a matter of necessity. Abhorring gangs and demoralized by the insecurities of the ghetto, they want order maintained; yet they understand the tragic consequences of saddling their young men with felony convictions. Cooperation, complicity, even endorsement of the system can too easily be misconstrued as unadulterated support. (Alexander, pp. 209-210)

This predicament is not altogether different from the situation African Americans faced during the Jim Crow era, most of whom chose to accept its rules rather than flout or resist them and incur

the wrath of the Ku Klux Klan. Their behavior helps explain why leaders such as Booker T. Washington urged his fellow blacks to focus on improving themselves rather than on challenging racial discrimination and why many in the South initially resisted the Civil Rights Movement. (Alexander, p. 210)

The fifth unpleasant truth about mass incarceration is that, like Jim Crow segregation, it establishes impenetrable barriers between thousands of black people and mainstream society. It locks them in prisons hundreds of miles from their homes, in buildings far from populations centers, where they remain out of sight and out of mind. Upon release, their isolation is perpetuated, in that they usually return to a select number of urban neighborhoods -- like North Lawndale on Chicago's West Side, where seventy percent of men between eighteen and forty-five are ex-offenders, and every street corner is a minefield, since a standard condition of parole is a promise not to associate with felons. (Alexander, pp. 195-196)

The sixth unpleasant truth about mass incarceration is that it appears to be voluntary, implying that its penalties of ostracism and second-class citizenship can be avoided simply by good behavior.

The reality is that no one is without fault, including many Americans who have violated drug laws. Yet only some will be branded criminals for their actions, labeled morally inferior, and permanently marginalized. Why is the black kid selling weed on a street corner to help his mother pay the rent more culpable than the college student dealing drugs from his apartment to finance his spring break? Is the suburban high school student who drinks a six-pack of beer and then gets behind the wheel of his car any less a threat than the youthful "gangsta" carrying a gun because danger lurks at every corner of his neighborhood? (Alexander, p. 216)

"It is far more convenient to assume that a majority of young African American men freely choose a life of crime than to accept the possibility that their lives are structured in a way that virtually assures their early initiation into a system from which they can never escape." (Alexander, p. 184)

The seventh unpleasant truth about mass incarceration is that, by warehousing poor black and brown people for lengthy periods of time, it deems them irrelevant and unnecessary in a economy no longer dependent on unskilled labor. (Alexander, p. 219)

Between 1954 and 1984 -- as a result of deindustrialization, globalization, and technological advancement -- the black unemployment rate quadrupled, while the white rate remained stable. Instead of investing in education, job training, public transportation, and relocation assistance in urban communities, the U. S. government declared a War on Drugs. Unable to find jobs in factories, lower class black men were vilified in the media, denounced for their shiftlessness, and dispatched to prison. (Alexander, pp. 218-219)

The eighth unpleasant truth about mass incarceration is that it defines blackness in America; black people, especially black men, metaphorically speaking, are criminals. And they have been made criminals at drastically higher rates than white people for engaging in the same conduct -- illegal drug activity -- at no higher rates. (Alexander, p. 197)

If a black man is thus to be thought of as a criminal, to be a black criminal is to be despicable -- a social pariah. To be a white criminal is not easy, by any means, but a white criminal is not a racial outcast, although he may face many forms of legal and social exclusion. "Whiteness mitigates crime, whereas blackness defines the criminal." (Alexander, p. 199)

The obverse is also true; what it means to be a criminal in the public consciousness has become conflated with what it means to be black. When asked to envision a drug user, survey participants in overwhelming numbers have been known to respond "a black man." (Alexander, p. 198)

"This conflation provides a legitimate outlet for the expression of antiblack resentment and animus" -- a convenient release valve in an era of colorblindness when explicit forms of racial bias are forbidden. Hatred of blacks, which is no longer permissible, has simply been replaced by hatred of criminals, who are mostly black. (Alexander, p. 199)

As John Edgar Wideman points out: "It's respectable to tar and feather criminals, to advocate locking them up and throwing away the key. It's not racist to be against crime, even though the archetypal criminal in the media and in the public imagination almost always wears Willie Horton's face." (Alexander, p. 199)

Essential to the stigmatizing of black youth is their "marking" as

criminals even before they are subject to formal control. Thus, young black men must be stopped by the police, interrogated, searched, and even arrested when there is no probable or observable cause. James Forman Jr., the cofounder of the See Forever charter school for juvenile offenders in Washington, D. C., describes how these infringements "tell kids that they are pariahs, that no how hard they study, they will remain potential suspects." (Alexander, p. 200)

Reforming this structurally embedded system presents daunting challenges.

First, prisons are big business. Returning to the incarceration rates of the 1970's would require the release of four out of five persons currently behind bars, result in massive layoffs among more than 700,000 guards, administrators, and service workers, arouse panic in the rural communities that have become dependent on prisons for jobs and economic growth, and threaten the profitability of companies which build and operate prisons and have a vested interest in the health and stability of the industry. (Alexander, p. 230)

In its 2005 annual report, for example, the Corrections Corporation of America explained its priorities: "Our growth is dependent upon our ability to obtain contracts to develop and manage new correctional and detention facilities . . . The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction and sentencing practices, and the decriminalization of certain activities that are currently proscribed by our criminal laws," such as drug use. (Alexander, pp. 230-231)

Second, says Professor Alexander, the War on Drugs, which has been largely responsible for the prison boom and the sustaining of a racial undercaste, must be brought to a swift conclusion. This will be no simple task, since it involves the downsizing of an eighty billion dollar enterprise, the revoking of federal grant money and weapons transfers to local agencies, the expunging of drug forfeiture laws, and the eradication of racial profiling. (Alexander, p. 232)

Beyond these technical measures, Professor Alexander sounds the clarion call for a change in the culture of law enforcement. "Black and brown people in ghetto communities must no longer be viewed as the designated enemy." Data collection for police and prosecutors

should be implemented nationwide to minimize selective and discretionary practices. "Public defender offices should be funded at the same level as prosecutor's offices . . . Mandatory drug sentencing laws should be rescinded. Marijuana should be legalized (and perhaps other drugs as well). Meaningful re-entry programs must be adopted." Drug treatment on demand should be available to all Americans. (Alexander, p. 233)

A third challenge is overcoming the widespread perception that the system is working, that an historically low violent crime rate is the result of the current high rate of mass incarceration. Most experts, however, believe that the maximum amount of crime reduction attributable to imprisonment is twenty-five percent, and that perversely, by having passed a tipping point, the large numbers are contributing more to crime than preventing it -- "by ripping apart fragile social networks, destroying families, and creating a permanent cadre of unemployed," ill-fed, and ill-housed felons. (Alexander, pp. 236-237)

A fourth challenge is understanding that the exaggerated claims of racial progress engendered by a generation of affirmative action and diversity initiatives merely serve to mask the reality of the new Jim Crow racial caste. Such a condition seems implausible in a country where Condoleezza Rice, Colin Powell, and Barack Obama can rise to the pinnacle of power, where a vibrant black middle class can exert its own brand of influence. Given such evidence, is it not natural to conclude that their personal and cultural traits, not the structure of their environment, are responsible for so many other black men landing on the other side of the law? Their mass incarceration is compatible with the American creed of race neutrality as long as it can be interpreted as their own fault. (Alexander, pp. 246-248)

The staffing of law enforcement with minorities further reinforces the illusion that racism is an anachronism. Automatically defused are questions like, "How can you say the Oakland Police Department's raids are racist? There's a black police chief, and most of the officers participating in drug raids are black." Their quiet complicity in the roundups diminishes the possibility that inequities will be questioned, legitimizes the system, and insulates it from criticism. (Alexander, pp. 250-251)

In all fairness, Professor Alexander occasionally overlooks or downplays the limitations of her Jim Crow analogy.

First, in tracing the origins of mass incarceration to the "law and order" policies of a Nixon administration pandering to racist voters, she ignores the rise in violent crime which occurred in the late 1960's and early 1970's -- when homicide rates doubled and robbery tripled -- and fueled demands for more punitive policies. In Harlem, the NAACP Citizens' Mobilization against Crime lobbied for longer minimum prison terms for "muggers, pushers, and first degree murderers," and New York's leading black newspaper, the *Amsterdam News*, advocated mandatory life sentences for the "non-addict pusher of harsh drugs." What the activists got were some of the most stringent drug penalties in the nation, the Rockefeller laws, which mandated fifteen years in prison for possession of four ounces of heroin or cocaine. (Forman, *Boston Review*)

While Alexander would counter-argue that these laws simply underscore the futility of the drug war, that locking up exponentially more people has resulted in only a minor reduction in violent crime since the early 1990's, and that a better policy would have been prevention through "hope and economic opportunity," as recommended by President Johnson's 1967 Commission on Crime in the United States, this example of mass imprisonment's complex political and social history suggests that its evolution cannot be neatly reduced to "proponents of racial hierarchy . . . seeking to install a new racial caste system." (Forman, *Boston Review*)

Alexander's analysis of the U. S. prison boom focuses almost exclusively on drug offenders and avoids the less sympathetic violent lawbreakers, who are incarcerated more often and for longer periods of time than in any other nation. Only about twenty-five percent of all prisoners (550,000) are drug offenders, and if they were all released tomorrow, the United States would still own the world's largest penal population. (Forman, *Boston Review*) On the other hand, it is difficult to categorize how much violent crime is related to drug activity. Unquestionably, hundreds of robberies are committed every day by addicts needing money to buy their next fix, and untold numbers of shootings and homicides can be attributed to dealers protecting their turf, settling debts, and intimidating or eliminating witnesses.

While Alexander staunchly maintains that structural and environmental conditions predispose young black men to a life of crime, especially in poor urban areas, lawbreaking by any person will always be a matter of choice, as will his punishment, however

inconsistent and unjust, whereas the treatment suffered by blacks in the era of segregation was beyond their control. Alexander may also be guilty of minimizing the harm caused by crime -- especially violent crime -- whose victims are disproportionately poor, young, and black or brown. (Forman, *Boston Review*)

Finally, Alexander's claim that mass incarceration's true targets are blacks must be examined in the face of over 700,000 white inmates whom she characterizes as "collateral damage." The Sentencing Project reports that, while whites remain relatively underrepresented as drug offenders, their percent has risen since 1999 while the percent who are black has declined. And, as perhaps a sign of moral enlightenment, or a product of fiscal necessity, the same organization has documented declines in prison populations between 1999 and 2009 in four states -- New York, New Jersey, Michigan, and Kansas -- ranging from twenty to five percent, while noting that crime rates in these states were falling even as their prisons got smaller. (Forman, *Boston Review*)

Fifty years ago Martin Luther King Jr. explained why mass mobilizations were more important than lawsuits. "We're trying to win the right to vote," he said, "and we have to focus the attention of the world on that. We can't do that making legal cases. We have to make the case in the court of public opinion." (Alexander, pp. 233-234)

"In his view, it was a flawed public consciousness -- not merely flawed policy -- that was at the root of racial oppression." (Alexander, p. 234)

Today, says Professor Alexander, a flawed public consciousness lies at the core of the prevailing caste system. Because drug crime in this country is understood to be black and brown, the electorate has not much cared about drug criminals, at least not the way it would have cared had more of them been white. It is precisely this failure to care about African Americans that has fostered the creation of the new racial underclass. (Alexander, pp. 234, 241)

The governing principle of this flawed consciousness is not hostility but colorblindness. The public "purports to see black and brown men not as black and brown, but simply as men -- raceless men -- who have failed to play by the rules others follow quite naturally." It fails to see the color of those men rounded up for crimes which are largely ignored when committed by whites. It fails to see segregated

schools, segregated ghettos, and a segregated communal discourse. (Alexander, p. 241)

A final unpleasant truth, however, is that racial differences can never be obliterated. Even if the legacies of slavery, Jim Crow segregation, and mass incarceration could be completely erased, the United States would remain a nation of immigrants with racial and ethnic inequality a persistent conundrum of American life. (Alexander, p. 243)

Sometime in the future advocates may manage to convince voters and legislators that too many persons are incarcerated, that prisons are too costly to maintain, and drug use is a public health problem, not a crime. But racial caste will only be eliminated by a unified commitment to color consciousness as opposed to colorblindness, a commitment that places faith in the human capacity to show care and concern for others while it remains fully cognizant of race and possible racial differences. (Alexander, pp. 242-243)

Alexander says, "Seeing race is not the problem. Refusing to care for the people we see is the problem . . . We should not hope for a colorblind society but instead," as Martin Luther King Jr. dreamed, for a world in which we see others fully, learn from them, and respond with love. (Alexander, p. 244)

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