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ANNE BRADEN INSTITUTE
FOR SOCIAL JUSTICE RESEARCH

University of Louisville
**ANNE BRADEN INSTITUTE FOR SOCIAL
JUSTICE RESEARCH**

BOOK DISCUSSION KIT:

*The New Jim Crow: Mass Incarceration in the Age
of Colorblindness*
By Michelle Alexander

INTRODUCTION

On Thursday, Nov. 10, 2011, UofL's Anne Braden Institute is hosting the 5th Annual Anne Braden Memorial Lecture featuring Dr. Michelle Alexander, author of *The New Jim Crow: Mass Incarceration In the Age of Colorblindness*. The lecture is free and open to the public, and it will take place in the Speed Art Museum Auditorium (2035 South 3rd Street) at 6 pm.

Michelle Alexander, author of *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, argues that the racial caste system in America continues to thrive even with the elimination of Jim Crow laws. Thus, the racial caste system has redefined race as a contributing factor in the functioning of a systematically unjust criminal justice system.

The New Jim Crow is a comprehensive book that explores race as a predictor of incarceration and harsher sentencing in the United States. Alexander's book challenges readers to build dialogue about mass incarceration as part of a new movement towards racial justice in an allegedly "colorblind" United States.

This book discussion kit is designed to help facilitate a larger conversation connecting racialized mass incarceration with social justice. Additionally, we hope that book discussions will help to develop wider coalitions with other social justice activists through networking.

The Anne Braden Institute seeks to advance public understanding of the U.S. civil rights movement, both its powerful history and its unfinished agenda of racial and social justice. The Anne Braden Institute is located at the University of Louisville Ekstrom Library on the 2nd floor in Room 258. If interested in attending the lecture and/or in forming or joining the book discussion group, please contact: Tytianna N.M. Smith, Anne Braden Institute Graduate Assistant:

(502) 852-6142

tnwell01@louisville.edu

ABOUT THE AUTHOR

Dr. Michelle Alexander is a highly acclaimed civil rights lawyer, advocate, and legal scholar who currently holds a joint appointment at the Kirwan Institute for the Study of Race and Ethnicity and the Moritz College of Law at The Ohio State University. Prior to joining the Kirwan Institute, Professor Alexander was an Associate Professor of Law at Stanford Law School, where she directed the Civil Rights Clinics. She also served for several years as director of the Racial Justice Project at the ACLU of Northern California, and subsequently directed the Civil Rights Clinics at Stanford Law School. Alexander is a former law clerk for Justice Harry Blackmun on the U.S. Supreme Court and has appeared as a commentator on CNN, MSNBC, and NPR.



In 2005, she won a Soros Justice Fellowship, which supported the writing of her first book, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (The New Press, 2010). The book is considered one of the top African American books of 2010 and it won the NAACP Image Award for "outstanding literary work of non-fiction." The book has been featured on national radio and television media outlets, including *NPR*, *The Bill Moyers Journal*, the *Tavis Smiley Show*, *C-Span Washington Journal*, among others.

Alexander is a loving mother of three and a wife. *The New Jim Crow* is her first book.

BOOK SYNOPSIS

The New Jim Crow: Mass Incarceration in the Age of Colorblindness challenges the conventional wisdom that with the election of Barack Obama as president, our nation has "triumphed over race." Segregation, or "Jim Crow," laws were wiped off the books decades ago, but today an astounding percentage of the African American community is warehoused in prisons or trapped in a permanent, second-class status, much like their grandparents before them who lived under an explicit system of racial control. Alexander argues that the sudden and dramatic mass incarceration of African American men, primarily through the War on Drugs, has created a new racial under-caste – a group of people defined largely by race that is subject to legalized discrimination, scorn, and social exclusion.

BOOK DISCUSSION QUESTIONS

****Use this book discussion kit to further examine *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. It is advised that readers finish the book prior to engaging these questions. We suggest that the book be read intentionally, with the idea of broadly analyzing its key concepts.**

Question 1: *While racial discrimination is constitutionally illegal, why is it that the overwhelming majority of the prison population remains disproportionately African American?*

Points to consider:

- Reference how the history of Jim Crow and mass incarceration today as linked to racial oppression have contributed to this situation: “Deprivation of work, particularly among men, is strongly associated with depression and violence” (p. 145).
- If criminalization is based on race, then the criminal justice system is a new racist institution. According to Alexander, “This process of being made a criminal is, to a large extent, the process of “becoming” black” (p. 195).
- Reference colorblindness as a new caste system (p. 211).

Question 2: *What does the term, “New Jim Crow” suggest about this new racial order? And, what are the implications of Alexander’s specific use of this term?*

Points to consider:

- Reference the quote, “The new racial; order, known as Jim Crow- a term apparently derived from a minstrel show character- was regarded as the ‘final settlement,’ the ‘return to sanity,’ and ‘the permanent system’ (p. 35).
- Reference the history of Jim Crow in Chapter 1 (pp. 20-43, 56-57).

Question 3: *What does her comment that: “In fact, studies indicate that people become increasingly harsh when an alleged criminal is darker and more ‘stereotypically black’; they are more lenient when the accused is lighter and appears more stereotypically white” (p. 104), imply about contemporary discussions of color consciousness and the color complex even within the black community?*

Points to consider:

- According to Alexander, “The stigma of race was once the shame of the slave; then it was the shame of the second-class citizen; today the stigma of race is the shame of the criminal” (p. 192).
- Reference the War on Drugs that helped create mass incarceration. For instance, pretext or DWB (Driving While Black) stops initiated by police officers are used to perpetuate systemic racism (p. 67).
- Reference the color complex and its influence on alleged criminal behavior in Chapters 2-3, 5.

Question 4: What are the parallels between legal Jim Crow segregation and mass incarceration?*Points to consider:*

- Reference the history of both caste systems through the maintenance of white privilege that has historically legalized discrimination through the passing of political disenfranchisement laws (abridging the right to vote) without acknowledging violation of the 15th Amendment of the US Constitution. Additional references include the attainment of racial segregation and exclusion of African American representation as jurors and in the Supreme Court.
- Reference the social construction of race in the U.S.. and its role in strengthening a race-based criminal justice system.
- Reference mass incarceration as a norm that is internalized through systemic oppression (pp. 176-177).
- Reference the War on Drugs as a vehicle that drives mass incarceration. See Chapter 5 (p. 180, 185-208).

Question 5: The book states that it “focuses on the experience of African American men in the new caste system.” (p. 16). What, if any, are the implications of Alexander’s focus on African American men rather than both men and women’s experiences in the new caste system?

Points to consider:

- Reference the quote, “This books in intended to do-the only thing it is intended to do-is to stimulate a much-needed conversation about the role of the criminal justice system in creating and perpetuating racial hierarchy in the United States” (p. 16).
- Reference the purpose of the book from the introductory chapter.
- Reference sources and concepts outside the text, such as, for example, Daniel Patrick Moynihan’s “Black Matriarchy” thesis of 1965 that details a stereotyped portrait of “powerful” black women [see also Alexander’s comments on this topic in subsequent interview in this kit]
- Reference historical and contemporary representations of African American women in literature and the media and how such images work with, or against, Alexander’s male-centered focus.

Question 6: According to Alexander, a certain career path that “leads almost inevitably to jail is often understood as an unfortunate fact of life, part of what it means to be black in America” (p. 204). In contrast to this misperception, what does it truly mean to be Black in America in 2011?

Points to consider:

- Reference the quote, “Nearly one-fourth of African Americans live below the poverty line today, approximately the same as in 1968” (p. 233).
- Reference this paraphrased point from p. 207: slavery is exploitation, Jim Crow is subordination, and mass incarceration is marginalization.
- Reference the “gangsta culture” and its link to the culture of mass incarceration? (p. 166)
- Reference the “career path” in the black community discussed in Chapter 5.

Question 7: *Troy Davis was convicted in 1989 of shooting a police officer in Savannah, Georgia. According to ABC News, “No murder weapon was located, and no other physical evidence connected. Davis was executed on Wednesday, September 21, 2011. How does the chilling story of Troy Davis that made headlines in September 2011 out of a Georgia death penalty case contribute to Alexander’s discussion connecting the New Jim Crow with mass incarceration?*

Points to consider:

- On August 19, 1989, white off-duty police officer Mark MacPhail, who worked as a security guard at a Burger King in Savannah, Georgia intervened in an argument between several men in a parking lot, and was shot and killed without having drawn his gun and dies instantly. Troy Davis, a young black man was arrested, convicted and sentenced a death penalty despite the evidence of his innocence.
- What are we to make of this story? Does it matter that the policeman was white?

Question 8: *Once we understand the racialized implications of the enormous growth in the United States penal system, what is the larger mission that this book hopes to encourage?*

Points to consider:

- According to Alexander, “Challenging mass incarceration requires something civil rights advocates have long been reluctant to do: advocacy on behalf of criminals” (p. 214).
- Reference the methods used to impact social justice reform in Chapter 6.
- Brainstorm other methods of social change that might be employed using Alexander’s information.

PREVIOUS INTERVIEWS WITH MICHELLE ALEXANDER

The Sun Magazine

Article: *Throwing Away The Key: Michelle Alexander On How Prisons Have Become The New Jim Crow* by Arnie Cooper

Date: February 2011, Issue 422. Interview with Michelle Alexander by Dylan Ratigan
(For full interview, see:

http://www.thesunmagazine.org/issues/422/throwing_away_the_key)

In 1998 Michelle Alexander had just been hired by the northern-California chapter of the American Civil Liberties Union (ACLU) to head its Racial Justice Project. She was running to catch the bus to her new office when she glimpsed a bright orange poster proclaiming, “The Drug War Is The New Jim Crow.”

“Jim Crow” refers to local and state laws enacted between 1876 and 1965, mainly in the South, that mandated racial discrimination and segregation. At the time she saw the poster, Alexander considered it absurd. “I clung to the notion that the evils of Jim Crow are behind us,” she writes. But after a few years of working for the ACLU on issues of racial profiling and drug enforcement, she was forced to reevaluate: “I began awakening to the reality that this criminal-justice system is not just another institution infected with racial bias, but the primary engine of racial inequality and stratification in the U.S. today.”

Alexander now believes that the “War on Drugs” was the creation of conservative political strategists who wanted to appeal to poor and working-class whites resentful of the gains African Americans made during the civil-rights era. That it resulted in disproportionate drug-arrest rates in poor communities of color may even have been part of the plan, she says. In her book [The New Jim Crow: Mass Incarceration in the Age of Colorblindness](#) (The New Press), Alexander cites some alarming statistics: for example, in 2004, 75 percent of all people imprisoned for drug offenses were black or Latino, despite the fact that the majority of the country’s illegal-drug users and dealers are white.

The child of an interracial couple (her mother is white; her father, now deceased, was African American), Alexander witnessed directly the challenges of racial integration. After her parents had married in Chicago in 1965, Alexander’s mother was promptly disowned by her family and excommunicated from her church. The newlyweds ended up moving to Stelle, Illinois, a three-hundred-person progressive intentional community, where Alexander was born in 1967. When

she was eight, her father, who worked for IBM, was transferred to San Francisco, and the family moved to the Bay Area. Although he was one of the office's top salespeople, he was unable to climb the corporate ladder and ended up leaving his job. Alexander attended many schools, both public and private, which exposed her to people from diverse backgrounds. Later, when she saw how severely black youths are treated by the criminal-justice system, she recalled how often she'd seen white teens participate in the same criminal activities.

Alexander's maternal grandparents eventually did accept their daughter's husband and their granddaughter. Seeing them come around gave Alexander hope that society can change. "My grandfather was extremely hostile to my mother marrying my father," she says, "and he ended up voting for Jesse Jackson for president."

No longer a practicing attorney, Alexander currently teaches courses on race, civil rights, and criminal justice at Ohio State University. She stays busy caring for her three children and spreading the information in her book to those behind bars and to communities affected by mass incarceration.

Cooper: In the preface to your book you say you wrote it for "people like me — the person I was ten years ago."

Alexander: Before I began my work on criminal-justice reform at the ACLU, I believed a lot of our society's myths about drug use and crime in the black community. For example, I believed that people of color were more likely to sell drugs than whites. Not true. I believed that incarceration rates could be explained by crime rates. Not true. Only after years of working on these issues did my eyes open.

Cooper: You've written that "nearly a quarter of African Americans live below the poverty line today, approximately the same percentage as in 1968." The poverty rate among black children is actually *higher* now than it was during the civil-rights era. What went wrong?

Alexander: What happened is the movement of the 1960s was left unfinished. People assumed that mere changes to the laws would produce a major social transformation, even if our underlying consciousness didn't change. Martin Luther King Jr. repeatedly reminded us that there were going to be black mayors and legislators and other elected officials, but these developments in and of themselves would not produce the necessary social change. We need a radical restructuring of our economy and our society in order to ensure that poor people of all colors gain equal access to opportunity, jobs, housing, and healthcare.

The energy and passion of the civil-rights movement dissipated once lawyers took over and attention shifted to the enforcement of antidiscrimination laws and the implementation of affirmative action. A sprinkling of people of color throughout institutions of higher learning and in positions of power created the illusion of greater progress than had actually been made. It also helped distract us when the backlash to the civil-rights movement gave birth to the “get tough on crime” era and the rise of mass incarceration.

Cooper: But you do agree that reform had to begin with changes in the laws?

Alexander: We certainly needed antidiscrimination laws. Absolutely. It’s not as if the laws in and of themselves were a mistake. What *was* a mistake was the abandonment of the poor-people’s movement that King and others were launching at the end of his life. Civil-rights activists didn’t anticipate that the right wing and former segregationists would build a new system of control that literally locked up those who were left behind.

Cooper: You’ve said that a racial caste system — slavery — was written into the original Constitution.

Alexander: The Constitution was largely a compromise struck with the Southern states, which wanted assurance that they’d be able to retain their slaves as property. So the “three-fifths clause,” which counted each slave as three-fifths of a human being, was included in the Constitution. Without that compromise we would not have emerged as a unified nation. That racial caste system has remained with us in some form or another ever since.

Cooper: What do you say to those who view the Constitution as the final word on our freedoms?

Alexander: I believe in the Constitution as a living document. The original Constitution denied the right to vote to women, slaves, black people, and even white men who didn’t own property. That document isn’t much to be proud of, except that it contained the seed of an egalitarian democracy. It’s this seed that is deserving of our reverence and respect. But a blind loyalty to the original document amounts to a commitment to preserving the wealth and political power of a few.

Cooper: People are generally familiar with the term “Jim Crow,” but I’m not sure they know its origin.

Alexander: Jim Crow laws were state and local laws enacted after the Civil War mandating “separate but equal” status for African Americans. The most infamous example was the

segregation of public schools, public restrooms, public transportation, and so on. These laws authorized discrimination in employment, housing, education — virtually all aspects of life.

The phrase “Jim Crow” is typically attributed to “Jump Jim Crow,” a song-and-dance caricature of African Americans performed by white actors in blackface in the early nineteenth century. The laws themselves were part of an effort by the political and economic elites in the South to decimate a growing coalition between poor whites and former slaves and their descendants during the agricultural depression of the late 1800s, when the Populist movement was born. This movement challenged the corporate power of railroads and the plantation owners. It was one of the first major, meaningful political alliances between poor whites and blacks in the country, and it was having amazing success. The white ruling class was alarmed and proposed laws that would disenfranchise blacks. It waged campaigns that appealed to racial biases, resentments, and stereotypes of black people — essentially persuading poor whites not to align themselves with poor blacks, because whites were “better than that.” Poor whites also feared that the disenfranchisement laws aimed at African Americans could be aimed at them as well if they failed to distance themselves from their black allies. So many poor whites joined the effort to secure the Jim Crow laws, believing that removing blacks from politics would help facilitate economic reforms.

Cooper: Let’s talk about the “new Jim Crow”: the rising incarceration rates among young black men. In a sense this is more insidious, since it’s covert.

Alexander: Yes, during the original Jim Crow era WHITES ONLY signs hung over drinking fountains, and black people were forced to sit at the back of the bus. There was no denying the existence of the caste system. But today people in prison are largely invisible to the rest of us. We have more than 2 million inmates warehoused, but if you’re not one of them, or a family member of one of them, you scarcely notice. Most prisons are located far from urban centers and major freeways. You literally don’t see them, and when inmates return home, they’re typically returned to the segregated ghetto neighborhoods from which they came, leaving the middle class unaware of how vast this discriminatory system has become in a very short time. Adding to prisoners’ invisibility is the fact that they are erased from unemployment and poverty statistics. If you factor in prisoners, the black unemployment rate shoots up by as much as 24 percentage points.

Cooper: And this all started in the 1980s with the U.S. government’s War on Drugs?

Alexander: Yes. Most people imagine that the War on Drugs was launched in response to rising drug crime. In fact, when the drug war was officially declared in 1982 by President Ronald Reagan, drug crime was on the decline. The drug war was part of a conservative political

strategy designed to appeal to poor and working-class whites who were anxious about busing, desegregation, and affirmative action. Beginning in the 1960s, when the civil-rights movement was in full swing, segregationists and conservative politicians found that they could successfully appeal to racial resentments by using “get tough” rhetoric on issues of crime and welfare. This tactic convinced many poor and working-class whites to defect from the Democratic to the Republican Party.

Cooper: So where were the liberal Democrats at this time?

Alexander: Many liberals didn’t want to talk about crime in poor black communities because they were afraid it would distract from their antidiscrimination agenda. They were also busy pursuing affirmative action, litigation, and lobbying strategies for enforcing the gains that had been achieved. Once the get-tough movement was underway, Democrats decided they needed to use similar tactics to appeal to white swing voters, and they began competing with Republicans to see who could be tougher on crime. President Bill Clinton escalated the drug war far beyond what Reagan had done.

Cooper: Were *any* politicians on the other side of the issue?

Alexander: There were voices, but they were lonely ones. New York senator Daniel Patrick Moynihan had been maligned by the Left for his 1965 report on the state of the black family, which many believe served to reinforce the worst racial stereotypes about African Americans. But when the War on Drugs was unleashed, Moynihan foresaw the outcome and said that if this were a conspiracy, it would be one of the most brilliant ever devised: encourage people to believe that crack is the source of all social ills in the black community, offer harsh punishment as the solution, and all the while ignore the problems of poverty and despair.

Cooper: You’ve said yourself that crack was a “godsend to the Right.”

Alexander: Reagan declared his War on Drugs a few years before crack hit the streets. As soon as it emerged, the administration recognized an opportunity to build support for the drug war. They hired staff whose job was to find reports of inner-city crack users, crack dealers, crack babies, and crack whores and to feed those horror stories to the media. The media-saturation coverage of crack was no accident. It was a deliberate campaign that fueled the race to incarcerate. Legislators began passing ever harsher mandatory-minimum sentences in response to the media frenzy.

Cooper: Cocaine had an almost glamorous image in the eighties, with beautiful people snorting it through hundred-dollar bills, whereas crack, which is simply a different form of cocaine, was seen as a grimy street drug.

Alexander: That perception was directly responsible for the so-called hundred-to-one disparity in sentencing: to get a five-year sentence, you had to possess five hundred grams of powder cocaine but just *five* grams of crack. It's fair to say that crack's association with inner-city black people is what made it possible for legislators, prosecutors, and the public to agree that such sentences were reasonable. The media campaign also gave rise to a lot of misconceptions about crack and its addictiveness and the harm it caused, which served to justify the sentencing disparity. Since then science has shown that crack cocaine is not significantly more dangerous and addictive than its powder counterpart, if it's more dangerous at all. Last year the *New York Times* reported that alcohol is more harmful to a fetus than cocaine, yet the "crack baby" image is synonymous with hopeless birth defects.

Cooper: Is crack used more often by blacks than by whites?

Alexander: Studies do indicate that, although people of all races use and sell drugs at remarkably similar rates, there are slightly higher rates of crack use among African Americans and slightly higher rates of meth use among white Americans. So the drug of choice may vary somewhat by race, but in raw numbers there are more white crack users in the United States than there are black crack users.

Cooper: What are some other myths promoted by the drug war?

Alexander: A big one is that the war is aimed primarily at violent offenders and drug kingpins. In truth the drug war has primarily resulted in the incarceration of nonviolent, low-level offenders. One reason for this is that federal funding for the War on Drugs flows to state and local law-enforcement agencies based on the sheer number of drug arrests, not the "quality" of the arrests. In other words, law-enforcement agencies are rewarded as much for arresting addicts as they are for bringing down the big bosses. This gives them an incentive to go into poor communities and round up as many users as possible by employing mass stop-and-frisk operations, or by stopping cars and searching them for drugs, or by sweeping housing projects. In 2005 about four out of five drug arrests were for possession; only one in five was for sales. Almost half of all drug arrests are for marijuana offenses. In the 1990s, the period of greatest expansion in the drug war, 82 percent of the increase in drug arrests could be attributed to arrests for marijuana possession. The other big myth is that most people who use and sell drugs are African American. When we picture a drug dealer, we typically imagine an African American kid on a street corner. But studies have consistently shown that people of color are no more

likely than whites to use or sell illegal drugs. Users typically buy drugs from someone of their own race, and plenty of drugs are sold in suburbs, in rural white communities, on college campuses, and so forth. But the drug war has been waged almost exclusively in poor communities of color.

Michael Slate Interview with Michelle Alexander, author of *The New Jim Crow*

Date: May 25, 2011 The Michael Slate Show on KPFFK 90.7 FM in Los Angeles

Hear it at: <http://radio.indymedia.org/en/node/18676>

Transcription available at: <http://revcom.us/a/221/alexander-en.html>

In 1980 a half million people were in jail in the United States. By 2006 the number of prisoners had swollen to 2.3 million, an increase of over 450 percent. And this has hit Black people particularly hard. While African-Americans are 13 percent of the U.S. population, they are over 50 percent of the prison population and are incarcerated at a rate eight times higher than that of whites.

*In her book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, legal scholar and civil rights activist Michelle Alexander provides an incisive and insightful picture of how all this works today, how all the resources of the U.S. legal system have been brought to bear and adapted to carry out this unprecedented mass imprisonment of Black people, especially young Black men. Alexander details how the so-called War on Drugs was developed and shaped as part of this whole process and how it continues to play a key role today. And importantly, Alexander shows that all of this has created a new racial caste system, a New Jim Crow system of dehumanization that locks millions of Black people into the bottom of U.S. imperialist society based on their status as ex-prisoners. All this as we are continually told that this is a colorblind society.*

Michelle Alexander was a guest on The Michael Slate Show on KPFFK radio last May and this excerpt is drawn from that interview.

Michael Slate: You describe the systematic mass incarceration of Black people and brown people over the last 30 years as having created a new racial caste system. Can you explain what you mean by that?

Michelle Alexander: I believe that within a few decades after the collapse of the old Jim Crow, we as a nation have managed to recreate racial caste in America. Of course, with the election of Barack Obama, it's widely believed that we have triumphed over race. But in some major

American cities the majority of African American men are locked behind bars, or labeled felons for life. Once you're labeled a felon, you're trapped. You're trapped in a permanent second-class status, in which you may be denied the right to vote, automatically excluded from juries, and legally discriminated against in employment, housing, access to education, food stamps, public benefits.

So many of the old forms of discrimination that were supposedly left behind during the civil rights movement are suddenly legal again once you've been branded a felon. That's why I say we haven't ended racial caste in America. We've merely redesigned it by targeting African Americans, primarily through the War on Drugs, branding them felons often at young ages, before they are even of an age to vote: branding millions of young people of color as felons, often for non-violent and drug-related offenses, the very crimes that are largely ignored in middle-class white communities. We are recreating a caste system where these people are locked in a permanent second-class status for life.

Slate: I think a lot of people are a little surprised by your statement that the American penal system has emerged as a system of social control unparalleled in world history. Can you give people a sense of the scope of this?

Alexander: Consider this: Today there are more African Americans in prison or jail, on probation or parole, than were enslaved in 1850, a decade before the Civil War began. There's more African Americans under correctional control today than were enslaved. That's the scope and size of it. I think part of the problem is that, when people go to prison, they're out of sight and out of mind, so it's easy for us to be in denial about just the sheer size, scope and scale of mass incarceration, because prisons for the most part are out of public view. But the reality is that within a few decades our prison population has quintupled, not doubled or tripled, quintupled. We now have the highest rate of incarceration in the world, dwarfing rates of incarceration even in highly repressive regimes like Russia, China and Iran.

This explosion in our prison population has not been driven by crime rates. The supposedly colorblind justification for the mass incarceration of people of color is crime rate. But as I describe in some detail in my book, crime rates do not even begin to explain the astounding and rapid increase in imprisonment in African American communities. The War on Drugs is the primary cause of the prison boom, a war that has been waged almost exclusively in poor communities of color, even though studies consistently show that people of color are no more likely than whites to use *or sell* illegal drugs.

More than 30 million people have been arrested since the drug war began, the vast majority of whom are people of color. While many people assume that the drug war was declared in

response to rising drug crime in inner-city communities, it's just not true. The current drug war was officially declared by President Ronald Reagan in 1982, at a time when drug crime was actually on the decline, not on the rise. It was a couple years *before* crack hit the streets in Los Angeles, and later spread to inner-city communities across America. The drug war was declared in response to racial politics, not drug crime. It was part of the grand strategy of the Republican Party to appeal to poor and working class white voters through racially coded "get tough" appeals on issues of crime and welfare.

Republican Party strategists and pollsters found that they could be highly successful in appealing to white poor and working class folks, particularly in the South, through using racially coded "get tough" appeals on crime and welfare. In fact, H.R. Haldeman, President Richard Nixon's White House chief of staff, observed, "The whole problem is really the blacks. The key is to devise a system that recognizes this while not appearing to." So, they did.

A few years after the drug war was announced, and crack hit the streets, the Reagan administration seized on this development with glee, hiring staff whose job it was to publicize inner-city "crack babies," "crack mothers," "crack whores." The goal was to make inner-city crack abuse and violence a media sensation, bolstering public support for the drug war, so it would be possible to turn what had been a rhetorical war into a literal one. The plan worked like a charm. For more than a decade, black drug dealers and users would be regulars in newspaper stories and would saturate the evening news. Congress and state legislatures nationwide would devote billions of dollars to the drug war and pass harsh mandatory minimum sentences. Democrats began competing with Republicans to prove they could be even tougher on crime, tougher on the dark-skinned others who had been defined in the media as the source of all our social ills. Within an incredibly short period of time, not in response to crime rate—again, crime rates have fluctuated over the past 30 years and are today at historical lows. But incarceration rates have consistently soared. They've moved independently of crime rates, due to a war that has been declared, not against drugs, but against communities defined by race.

Slate: Let's talk a little more about the War on Drugs. How does it actually work in relation to all this.

Alexander: One of the biggest myths about the drug war is that it's focused on rooting out drug kingpins or violent offenders. But nothing could be further from the truth. Federal funding flows to those state and local law enforcement agencies that are willing to boost dramatically the volume of their drug arrests, the sheer numbers. The Reagan administration adopted new rules and new programs that authorized millions of dollars in federal funding to flow to agencies, some of which had initially been reluctant to wage the drug war, feeling it would be a distraction from more important crimes like murder, rape, and robbery. The way in which the Reagan

administration persuaded law enforcement agencies to get on board with the drug war was through bribes, through cash grants that were made available to law enforcement agencies that would drastically increase just the sheer volume of drug arrests.

To make matters worse, the Reagan administration managed to change federal drug forfeiture laws so that state and local law enforcement agencies could keep, for their own use, 80 percent of the cars, cash, homes seized from drug suspects, thus granting law enforcement a direct, monetary interest in the profitability of the drug market. The result has been entirely predictable. People of color are rounded up en masse. Kids are stopped and searched on the way to school. If they learn to drive a car their cars are often searched in the hopes of finding drugs, sometimes dismantled. There are sweeps of public housing projects, schools, for drugs. And again, it's not that they're looking for violent offenders or drug kingpins. They're trying to boost their numbers of drug arrests in these communities.

In 2005, for example, four out of five drug arrests were for possession. Only one out of five was for sales. Most people in state prison for drug offenses have no history of violence or even felony activity. In fact, in the 1990s, the period of the most dramatic expansion of the drug war, nearly 80 percent of the increase in drug arrests was for marijuana possession, a drug now widely believed to be less harmful than alcohol or tobacco and at least as prevalent in middle class, white communities as it is in communities of color. But the drug war has been waged almost exclusively in poor communities of color. In fact, in some states 80 to 90 percent of all drug offenders are African American.

So through financial incentives, and the Supreme Court granting law enforcement license to stop and search just about anyone, anywhere, as long as they're able to extract consent, the drug war has managed to brand millions of people felons. And once you're branded, discrimination against you is legal for the rest of your life. People who are released from prison have an extraordinarily difficult time finding jobs. They're forced to check that box on the employment application, no matter if the minor drug felony they committed was 20 years ago, still having to check that box on employment applications. States deny convicted felons professional licenses. Thousands of professional licenses are off limits to felons. In some states you can't even get a license to be a barber if you've been branded a felon.

Slate: You talk about how the War on Drugs has been used as a justification for gutting a lot of the basic constitutional rights. What does this look like, how many rights have been redefined in order to facilitate the mass incarceration of people of color?

Alexander: The U.S. Supreme Court has eviscerated, just shredded, many of the constitutional protections that once protected people from arbitrary and discriminatory police actions. Through a series of actions, the U.S. Supreme Court has made it perfectly legal for the police to stop

people on the street, question them about potential drug activity or criminal activity, frisk them. As long as the demand is phrased as a question, it's perfectly legal. So if the police say, "Will you put your arms up in the air?" and "Will you turn and face the wall so we can frisk you?" and the person complies, that's interpreted as consent. So there's no reason for law enforcement to have even reasonable suspicion of criminal activity as long as they "get consent." Now of course many people are not brave enough or foolish enough to resist the police when they say, "Will you put your hands up in the air? May I search your car?" People don't understand those to be questions. They understand them to be demands, and comply. Often when people do try to resist and refuse consent to search, they face police brutality.

So the U.S. Supreme Court really has paved the way for the roundup of millions of Americans for relatively minor drug offenses. And the Supreme Court has also made it virtually impossible to prove racial bias in the criminal justice system. People always ask me, "Well, if the system is a biased as you say it is, why don't we hear more about it in the news? Why aren't people filing lawsuits about it?"

Well, the reason there are not more lawsuits challenging racial bias in the criminal justice system is that the Supreme Court has closed the door to claims of racial bias at all stages of the criminal justice process, from stops and searches to plea bargaining and sentencing. In a series of cases beginning with *McCleskey v. Kemp*, the Supreme Court has said that no matter how severe the racial disparity, no matter how overwhelming the statistical evidence, if you can't provide proof that the law enforcement official acted out of conscious racial bias, you can't even get in the courthouse door. You can't even state a claim of discrimination. In the age of colorblindness, where everyone knows better than to say, "I stopped him because he was black," "I sought the death penalty because he was black," "I refused to give him a good plea deal because he was black," everyone knows better. So insisting on evidence of conscious racial bias, a smoking gun, guarantees that the routine discrimination that African Americans face in the criminal justice system will never be subject to judicial scrutiny.

And in this way, the mass incarceration of African Americans has been immunized from challenge in the legal system, much in the same way that the Supreme Court once protected the institutions of slavery and Jim Crow.

Slate: Something that might come as a surprise to a lot of people is that you point out that the Supreme Court has said that the police can actually use race as a factor in deciding who to stop and search or question.

Alexander: I call it the dirty little secret about racial profiling, which is that the U.S. Supreme Court has actually authorized law enforcement to use race as a factor in making decisions about who to stop and search. Now this is particularly relevant today, now that Arizona has passed a

law authorizing law enforcement to demand citizenship papers from anyone they suspect might be in the country illegally. The claim that this will inevitably lead to racial profiling is absolutely right, because the U.S. Supreme Court has said, specifically in the context of immigration but it's a decision that applies in drug law enforcement as well, that race can be used as a factor in making decisions about whom to stop and search. So many people hoped that the U.S. Supreme Court would reverse that case. In that case the court concluded that the police could take a person's Mexican appearance into account when developing reasonable suspicion that a vehicle may contain undocumented immigrants. The court said, "The likelihood that any person of Mexican ancestry is an alien is high enough to make Mexican appearance a relevant factor" in decisions about whom to stop and search.

Now that's absurd, the idea that anyone who looks Mexican [*laughing*] is a reasonable suspect as an illegal immigrant is outrageous. And today, many law enforcement agencies claim that they don't engage in racial profiling. But they make those claims with a wink and a nod. Because they know that they have been authorized by the U.S. Supreme Court to use race as a factor, as long as race isn't the *only* factor, the *only* reason for the stop, they can get away with racial profiling.

Slate: One of the ideas you wrestle with is that this is a supposedly colorblind society. One of the expressions of how this contradiction plays itself out is the cops and the prosecutors being able to say, "We're not dealing with race here," even though they clearly are. They say, "We're just using our discretion."

Alexander: On their face, drug laws are race neutral. The laws aren't written to apply differently to black people, white people, or Latinos. On their face, they appear race neutral. But they are enforced in a racially discriminatory manner. They are able to be enforced in a racially discriminatory manner because law enforcement has been granted virtually unbridled discretion in making decisions about who will be stopped and searched, who will be charged for what crimes. There is very little oversight or accountability for law enforcement decisions about who will be stopped, who will be searched.

The same goes for prosecutors. Prosecutors and police have this enormous discretion about whom on the streets to view as a suspect, who to go after, who to stop and frisk, who to let walk by. And this enormous discretion inevitably produces racial disparities. Why? Because we all have conscious as well as unconscious biases about who the criminals are. As I indicated earlier, these biases and stereotypes don't exist in our head purely by accident. They've been created by media campaigns that have been waged by politicians.

The fact that our television sets were saturated with images of black and brown drug dealers during the crack epidemic isn't an accident. The Reagan administration actually launched a

media campaign and hired people whose job it was to publicize inner-city crack users and dealers. So it's no surprise that when a survey was done in 1995, asking people, "Close your eyes for a minute and imagine a drug criminal," 95 percent of the respondents pictured an African American. Only 5 percent pictured anyone of any other race. So we now have in our public consciousness an association of crime and race that is deep and profound. The association between African Americans and drug use and drug sales is profound, even though people of color are no more likely to use or sell drugs than whites.

The Supreme Court has said, as long as law enforcement can identify some reason besides race for the stop, it's OK for them to use race as one factor. The absurdity of this logic can be evidenced by the fact that the police almost never stop someone solely because of race. A young black kid wearing baggy pants standing in front of his high school surrounded by a group of similarly dressed black friends may be stopped and searched because the police think he looks like a drug dealer. But clearly race is not the only reason for that conclusion: Gender, age, attire and location are playing a role. The police probably would ignore an 85-year-old black man standing in the same spot surrounded by a group of elderly black women. So there will always be factors that can be cited in addition to race.

The Michael Slate Show on KPFK 90.7 FM in Los Angeles
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Magazine for Convicted Felons

Article: *Prison Overpopulation – A Dylan Ratigan interview with Michelle Alexander*

Date: June 4, 2011 Interview with Michelle Alexander by Dylan Ratigan

(For full interview, see: <http://felonmag.wordpress.com/2011/06/04/prison-reform/>)

Could it be that one of the biggest human rights issues in the world is right here at home, in America's prisons? Consider these facts: we have an extraordinarily large number of people in prison, many of which are minorities that are in jail for an offense they are no more likely to commit than a white person; that is non-violent; that is the possession of small amounts of marijuana or other drugs. Many are being incarcerated and then stripped of their voting rights, their employment rights, their basic opportunity to be an equivalent citizen to any other American citizen because of, at one point or another, being incarcerated.

Michelle Alexander, associate professor of law at Ohio State University, sees this moment as an opportunity to reform our prison system. “We’ve got to... really build a movement, a grassroots movement, for the kind of reform that will dismantle the system of mass incarceration as a whole,” she says.

“We have an opportunity to exploit this budget debate to do something good which is to address the underlying racism and destruction of generations of minorities particularly in our big cities at the hands of all sorts of misguided and/or maliciously intended systems,” says Dylan.

Dramatic changes would need to happen, though. “Because we could easily downsize our prison population somewhat and still have a rate of incarceration that is three or four times greater than we had in the 1980s and still far beyond the rate of incarceration of other countries in the world. So we can’t settle for minor reforms, and we have to use this moment as an opportunity to really build public support for a larger scale restructuring of our criminal justice system,” says Michelle.

She continues, “I think the reality is that this entire system rests on a single belief which is that some folks, poor folks and poor folks of color especially, are disposable. They’re just not worthy of our care, compassion and concern. When we challenge that core belief, this whole system will fall like dominoes. Once we begin to really cultivate a sense of care, compassion and concern and build kind of a human rights consciousness that all people no matter who you are, what color you are, how rich or poor you may be, what your background is, you have basic human rights, not to be disposed of and relegated to a permanent second class status because you’re once caught with a small amount of drugs,” says Alexander.

FOR FURTHER INFORMATION ON DR. MICHELLE ALEXANDER:

Official Website for the Book: Newjimcrow.com

Contact Dr. Alexander: thenewpress.com

IF YOU WANT TO READ MORE:

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****This book discussion kit was created by Tytianna N.M. Smith****