

The New Jim Crow, Mass Incarceration in the Age of Colorblindness

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I History

1619 -1865 - Slavery

1865 - 13th Amendment - Abolished slavery

1865 - 1877 Reconstruction "Black Codes" - Blacks must prove employment.

1866 - 14th Amendment - Equal protection, under the law, for all citizens

1870 - 15th Amendment - The right to vote should not be denied on account of race.

1877 - Beginning of Jim Crow

1880s-1890's - Agrarian depression - Beginning of the Populist Party (1891) Set poor and working class whites and African Americans against the privileged conservatives. The strength of Jim Crow laws set whites against Blacks.

1954 – Brown vs. Board of Education – the desegregation of schools.

1964 – The Civil Right Act – Dismantled Jim Crow laws of discrimination in public accommodations, employment, voting, education, etc.

1965 – The Voting Rights Act – Got rid of many discriminatory barriers

Race could not be used explicitly by those committed to a racial hierarchy.

The public debate shifted from race to crime!

II. Getting Tough on Crime

- Great Migration – 1910 – 1970 (esp. in the 40's and later) Blacks moved to
- cities in the North, East and West to escape Jim Crow in the South.
- 1960's – Large number of young men 15-24 (from Baby Boomers)
- High crime in the 60's – sharp rise of unemployment of young black men in cities – Manufacturing jobs moved to suburbs. Black people without cars

- 1964 – Barry Goldwater coined “get tough on crime,” in his presidential campaign.
- 1968 - Richard Nixon and George Wallace preached “law and order,” in presidential campaign.
- 1971 – Nixon’s “War on Drugs” – Backlash to Civil Rights Movement
- 1982 – Reagan brought the federal government into the “War on Drugs.” Reagan brought the military into the Drug War giving weapons and other equipment for drug interdiction.
- 1985 – Crack hits streets along with joblessness in Black communities.
- 1994 – Clinton’s “3 strike and you’re out” bill (also included laws regarding domestic violence against women and a ban on assault weapons)

III. Mass Incarceration

- 1980 to 2000 incarcerations soared from 300,000 to 2 million. In 2016, there are 2.2 million people in prisons and jails.
- Eighty percent of the growth of arrests in the 90’s was for marijuana possession.
- 2007 – 7 million people were in prison, on probation or on parole.
- Police go into the “hood,” not white communities, where there might be political power.
- 14th Amendment virtually ignored – Stop and Frisk rule without cause or suspicion that someone is dangerous – (1968) Terry vs. Ohio – Need probable cause - Now, just get consent(!)
- Pretext stops were supported by the Supreme Court in 1996 in Whren vs. United States. Drug sniffing dogs not considered a search
- Federal grants given to law enforcement agencies to encourage arrests.
- Cash, cars and homes could be taken from suspects. Law agencies could keep 80% of goods.
- There were far more severe punishments for the distribution of crack, associated with blacks, than powder cocaine associated with whites.
- Investments of millions of dollars in private prisons

IV. Second-Class Citizens

- Once labeled a felon, whether imprisoned or not, the person loses many rights for the rest of his/her life.
 - Barred from public housing
 - Discriminated against by private landlords
 - Ineligible for food stamps
 - Forced to check box for felon on employment application
 - Denied licenses for many professions
 - Additional rules for probationers and parolees
- Easily sent back to prison for slightest mistake
- Debt to society **is never paid!**

V. Solution to Mass Incarceration? Release low-level offenders

- One million workers in prisons, jails and other positions within the judicial system would lose jobs.
- End “War on Drugs.” Have to clean up laws that shredded the 14th Amendment.
- Revoke financial incentives to law enforcement agencies.
- Eradicate racial profiling.
- Drug treatment on demand must be provided to all Americans. This is better than investing in prisons.
- Acknowledge that there are differences between people. That is O.K.! But live peacefully, with respect for our differences.