

Prisons

Readings: Michelle Alexander, 2012. "Introduction" from *The New Jim Crow*. Information Sheets from Critical Resistance. *Recommended:* Angela Davis, 2013. "Slavery, Civil Rights, and Abolitionist Perspectives Toward Prison", Chapter 2 of *Are Prisons Obsolete?*

1. Some Facts

- While Blacks represent only about 13% of drug users, Black people represent 38% of those arrested for drug offenses, 55% of those convicted of drug offenses, and 74% of those sent to prison. (CR)
- In 2000, 29% of Black males under 40 who had not completed high school were in prison.
- Black females are 8 times more likely, and Latina females are 4 times more likely, to be imprisoned than white females. (CR)
- 30% of the US population is Black or Latina/o; 61% of the incarcerated population is.¹
- One out of three African American men will be incarcerated in his lifetime. (SuspensionStories)
- "More than half of the young black men in any large American city are currently under the control of the criminal justice system or saddled with criminal records." (Alexander 16)
- The School-to-Prison Pipeline (SuspensionStories):
 - 68% of inmates do not have a high school diploma.
 - 40% of students expelled from school are Black.
 - Black students are 3.5 times more likely to be suspended than whites
 - Black and Latina/o students are twice as likely to not graduate high school than whites
- The US incarceration rate is 6 to 10 times greater than that of any other industrialized country (Alexander)
- "In less than thirty years, the US penal population exploded from around 300,000 to more than 2 million, with drug convictions accounting for the majority of the increase. The United States now has the highest rate of incarceration in the world, dwarfing the rates of nearly every developed country, even surpassing those in highly repressive regimes like Russia, China, and Iran. In Germany, 93 people are in prison for every 100,000 adults and children. In the United States, the rate is roughly eight times that, or 750 per 100,000." (Alexander 6)
- "Leading private prison companies essentially admit that their business model depends on high rates of incarceration. For example, in a 2010 Annual Report filed with the Securities and Exchange Commission, Corrections Corporation of America (CCA), the largest private prison company, stated: "The demand for our facilities and services could be adversely affected by . . . leniency in conviction or parole standards and sentencing practices"²

2. Two Questions

Angela Davis (26) poses two questions about the system of mass incarceration:

A: Are prisons racist institutions?

B: Is racism so deeply entrenched in the institution of the prison that it is not possible to eliminate one without eliminating the other?

¹ SuspensionStories.com

² 2011 ACLU report "Banking on Bondage"

She and Alexander agree that the answer to (A) is “yes”, and the answer to (B) is a qualified “yes”. Recall Ezorsky’s characterization of overt racism,

Overt racist action, as conceived here, takes place only if a harm is inflicted or a benefit withheld either because of the perpetrator’s racial bias against the victim or because of that perpetrator’s obliging the race prejudice of others. (9)

and institutional racism:

Institutional racism occurs when a firm uses a practice that is race-neutral (intrinsically free of racial bias) but that nevertheless has an adverse impact on blacks as a group. (9)

3. Genealogy

Davis traces the history of the US mass incarceration system to establish links to slavery.

- “The penitentiary as an institution that simultaneously punished and rehabilitated its inhabitants was a new system of punishment that first made its appearance in the United States around the time of the American Revolution.” (26)
- The Black Codes: “The new Black Codes proscribed a range of actions—such as vagrancy, absence from work, breach of job contracts, the possession of firearms, and insulting gestures or acts—that were criminalized only when the person charged was black. With the passage of the Thirteenth Amendment to the Constitution, slavery and involuntary servitude were putatively abolished. However, there was a significant exception. In the wording of the amendment, slavery and involuntary servitude were abolished ‘except as a punishment for crime, whereof the party shall have been duly convicted.’ According to the Black Codes, there were crimes defined by state law for which only black people could be ‘duly convicted.’ Thus, former slaves, who had recently been extricated from a condition of hard labor for life, could be legally sentenced to penal servitude.” (28)
- The convict lease system: “Scholars who have studied the convict lease system point out that in many important respects, convict leasing was far worse than slavery... Slave owners may have been concerned for the survival of individual slaves, who, after all, represented significant investments. Convicts, on the other hand, were leased not as individuals, but as a group, and they could be worked literally to death without affecting the profitability of a convict crew.” (32)
- “[Antiracist historians] point out—and this, [Mary Ann Curtin] says, is indeed partially true—that in the aftermath of emancipation, large numbers of black people were forced by their new social situation to steal in order to survive. It was the transformation of petty thievery into a felony that relegated substantial numbers of black people to the ‘involuntary servitude’ legalized by the Thirteenth Amendment.” (32)
- “The persistence of the prison as the main form of punishment, with its racist and sexist dimensions, has created this historical continuity between the nineteenth- and early twentieth-century convict lease system and the privatized prison business today. While the convict lease system was legally abolished, its structures of exploitation have reemerged in the patterns of privatization, and, more generally, in the wide-ranging corporatization of punishment that has produced a prison industrial complex.” (37)

How should we understand these genealogical critiques? Does the fact that an institution has roots in systems of oppression cast aspersions on it? Does the original intent matter? Might we see these sorts of historical arguments as trying to establish a link to overt racism, in Ezorsky’s sense?

4. Function

Alexander and Davis each argues that the prison system functions as an instrument of racial control:

- “What is completely missed in the rare public debates today about the plight of African Americans is that a huge percentage of them are not free to move up at all. It is not just that they lack opportunity attend poor schools, or are plagued by poverty. They are barred by law from doing so. And the major institutions with which they come into contact are designed to prevent their mobility. To put the matter starkly: The current system of control permanently locks a huge percentage of the African American community out of the mainstream society and economy. The system operates through our criminal justice institutions, but it functions more like a caste system than a system of crime control. Viewed from this perspective, the so-called underclass is better understood as an *undercaste*—a lower caste of individuals who are permanently barred by law and custom from mainstream society. Although this new system of racialized social control purports to be colorblind, it creates and maintains racial hierarchy much as earlier systems of control did. Like Jim Crow (and slavery), mass incarceration operates as a tightly networked system of laws, policies, customs, and institutions that operate collectively to ensure the subordinate status of a group defined largely by race. (Alexander 13)
- “Quite belatedly, I came to see that mass incarceration in the United States had, in fact, emerged as a stunningly comprehensive and well-disguised system of racialized social control that functions in a manner strikingly similar to Jim Crow. In my experience, people who have been incarcerated rarely have difficulty identifying the parallels between these systems of social control. Once they are released, they are often denied the right to vote, excluded from juries, and relegated to a racially segregated and subordinated existence. Through a web of laws, regulations, and informal rules, all of which are powerfully reinforced by social stigma, they are confined to the margins of mainstream society and denied access to the mainstream economy. They are legally denied the ability to obtain employment, housing, and public benefits—much as African Americans were once forced into a segregated, second-class citizenship in the Jim Crow era. (Alexander 4)
- “Michael Tonry explains in *Thinking About Crime*: ‘Governments decide how much punishment they want, and these decisions are in no simple way related to crime rates.’ This fact, he points out, can be seen most clearly by putting crime and punishment in comparative perspective. Although crime rates in the United States have not been markedly higher than those of other Western countries, the rate of incarceration has soared in the United States while it has remained stable or declined in other countries. Between 1960 and 1990, for example, official crime rates in Finland, Germany, and the United States were close to identical. Yet the U.S. incarceration rate quadrupled, the Finnish rate fell by 60 percent, and the German rate was stable in that period.’ Despite similar crime rates, each government chose to impose different levels of punishment.” (Alexander 7)
- “One of the many ruses racism achieves is the virtual erasure of historical contributions by people of color. Here we have a penal system that was racist in many respects—discriminatory arrests and sentences, conditions of work, modes of punishment—together with the racist erasure of the significant contributions made by black convicts as a result of racist coercion. Just as it is difficult to imagine how much is owed to convicts relegated to penal servitude during the nineteenth and twentieth centuries, we find it difficult today to feel a connection with the prisoners who produce a rising number of commodities that we take for granted in our daily lives. In the state of California, public colleges and universities are provided with furniture produced by prisoners, the vast majority of whom are Latino and black.” (Davis 36)

Are these arguments convincing? Where is the question of desert?

5. Iris Marion Young

Recall Young's five faces of oppression. How might we view prisons and the mass incarceration system through her lens?

- i. *Exploitation*: "a steady process of the transfer of the results of the labor of one social group to benefit another." (6) Prison labor?
- ii. *Marginalization*: when "a whole category of people is expelled from useful participation in social life and thus potentially subjected to severe material deprivation and even extermination." (9)
- iii. *Powerlessness*: "The powerless are those who lack authority or power even in this mediated sense, those over whom power is exercised without their exercising it." (10)
- iv. *Cultural Imperialism*: "To experience cultural imperialism means to experience how the dominant meanings of a society render the particular perspective of one's own group invisible at the same time as they stereotype one's group and mark it out as the Other." (12)
- v. *Systematic Violence*: "What makes violence a phenomenon of social injustice, and not merely an individual moral wrong, is its systematic character, its existence as a social practice." (13) "Violence is systemic because directed at members of groups simply because they are members of that group....The oppression of violence consists not only in direct victimization, but in the daily knowledge...that they are liable to violation solely on account of their group identity." (13)

Alexander, Michelle. "Introduction." In *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New Press, 2012. © New Press. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <http://ocw.mit.edu/help/faq-fair-use/>.

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Young, Iris Marion. "Five Faces of Oppression." Chapter 2 in *Justice and the Politics of Difference*. Princeton University Press, 2011. © Princeton University Press. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <http://ocw.mit.edu/help/faq-fair-use/>.

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