

Racial Profiling and Mass Incarceration:

Examining and Moving Beyond the New Jim Crow

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Michelle Alexander's book, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, has brought a critical analysis of what she calls "a system of social control unparalleled in world history" (7) to a mass audience. While Mauer (1999), Marable (2007), and Wacquant (2009) had articulated similar arguments earlier, no one has painted this historical portrait of the injustice of the US criminal justice system with the fluidity and passion of Alexander. Her book has now spent months on the New York Times bestseller list, sold at least 175,000 copies, and she has become a prominent speaker around the country presenting her New Jim Crow thesis. Her appeal has gone well beyond academic circles. She appears in churches and community halls, particularly in African-American communities. Placards bearing the phrase "No New Jim Crow" have become common place at demonstrations focusing on prison justice issues.

Alexander's carefully written treatise arrived at the right time. The paperback version was released in the midst of major fiscal crises across the country which precipitated new thinking by politicians and policy makers on the wisdom of what Tregea and Larmour (2009) refer to as the "incarceration binge" . For decades, this binge has been driven politicians across the board who voted repeatedly voted increased allocations for prison and jail construction and

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policing. Even as recently as 2007, when Governor Arnold Schwarzenegger backed a bill to build 53,000 new prison beds, the measure passed in the state assembly 70 to 1. Nothing seemed to be more in fashion than locking up the evildoers.

But things have changed. For the first time in more than three decades the total population in jails and prisons in the US has been in decline since 2009. In 2012 some fifteen states will be closing prisons. New York has already closed seven, Michigan thirteen. Governor Quinn has been pushing for closure of several facilities in Illinois as well, though it seems that politicians in his state are a little slow to read the political climate. At the same time the racialized nature of mass incarceration, which is the main focus of Alexander's work, also erupted into the headlines at the time of the release of the *New Jim Crow*. First came the killing of young Trayvon Martin on the streets of Florida. Not long after that thousands of people marched on the streets of New York to protest the "stop and frisk" policies of police which disproportionately impacted people of color.

While Alexander's work has carved out new territory for debate on criminal justice policy, her book constitutes a beginning point, not the final word on mass incarceration and race. In this paper, I would like to build on her theses, suggest some changes that have occurred in the racialized nature of mass incarceration since she did her research in the early 2000s and offer some observations about the nature of the social movement which she posits as necessary in order to reverse mass incarceration. Let me begin by summarizing her main arguments.

The overarching theme of *The New Jim Crow* holds that mass incarceration constitutes a new system of racial oppression, akin in quality and scale to two previous systems, slavery and

the old Jim Crow. Alexander traces how the ranks of the incarcerated escalated from less than half a million before 1980 to more than 2 million by 2000. (59)

She strongly emphasizes that the incarcerated population is disproportionately African-American. In 2006, 1 in 14 black men were behind bars, compared to 1 in 106 whites. (98) In terms of people doing time on drug charges, who constitute a major portion of the expanded prison and jail population, she cites a 2000 Human Rights Watch report which states that Blacks in at least fifteen states are admitted to prison on drug charges at rates from twenty to fifty-seven times greater than that of white men. All this has occurred despite research which shows drug use and sales among young blacks and young whites is relatively equal. (96)

To solidify the parallels between mass incarceration and previous systems of oppression she notes the vast array of rights denied to those with criminal records: loss of the vote, bans on access to numerous forms of state assistance, and restrictions on acquiring vocational licenses and certifications. (157-8) As she puts, “as a criminal you have scarcely more rights, and arguably less respect, than a black man living in Alabama at the height of Jim Crow.” (2) She goes on to quote an African-American minister from Mississippi who argues that “Felony is the new N-word. They don’t have to call you nigger any more.” (159). For her, these “felons” constitute a new “racial caste”, a category I shall explore further below.

Alexander adds a further nuance to her argument by labeling the post-1980 years as the era of “colorblindness”, where because of the victories of the civil rights movement, an overtly racist project was not possible. Instead, mass incarceration became racial oppression by stealth. The entire project took place in race-neutral language but was deeply racial in outcomes. Alexander cites the creation of the “criminal” as the ideological foundation for mass

incarceration. Through a set of coded words and references like “drug dealer,” “gangbanger”, “thug”, and “car jacker” which proliferated in political and media circles, gradually criminal became equated with young black male.

In Chapter One she links this imagery to the distinctly party political agenda which lurked behind mass incarceration: the mobilization of white voters, the so-called Reagan Democrats, to the Republican Party. In her view, Reagan and a cohort of ultra-conservative ideologues in the Republican Party sensed a disquiet among white voters, particularly working class whites in the South. This unease was largely seen as a response to the civil rights movement and the political uprisings of the 1960s and 70s. Fear of the implications of these rebellions became, in Alexander’s view, the “hook” which Republicans used to mobilize millions of white working class voters who had been solid Democrats since the days of the New Deal. The policy and propaganda tool for this was the “War on Drugs” launched by Reagan in 1982, a time which pre-dates the use of crack, an historical moment when Alexander notes that crime and drugs were not even high on the list of problems identified as priorities in popular opinion polls. (49) Ultimately she posits that Republicans were able to pin the tag of “party of civil rights” on the Democrats, largely because Democratic Presidents had presided over the passage of the Civil Rights Act and the Voting Rights Act as well as the desegregation of schools throughout the South.

Alexander’s powerful and enlightening arguments form a foundation for a more comprehensive analysis of race and mass incarceration. Here I will build on her thesis by focusing on three main issues: 1) the notion of racial caste 2) the shift in the target of mass incarceration since 2001 to Latinos rather than African-Americans 3) the nature of a movement which can effectively overturn mass incarceration.

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Racial Caste

Alexander's term racial caste is a compromise which both illuminates and confounds. On one level, "racial caste" clearly delineates a layer of the population of color which has been the primary target of mass incarceration. Yet, Alexander, by her own admission, bases her work almost solely on African-Americans. Statistically this makes sense, since during the period of her primary focus, 1980-2000, the rise in the incarceration rates of African-Americans was astronomical and unprecedented. However, if we examine statistics more broadly, it is not clear ultimately who this caste includes, i.e. whether Latinos, Native Americans or whites are part of this caste since all these groups experienced heightened incarceration rates 1980-2000 and also endure the stigma of "felon."

I suggest that combining her notions of "racial caste" with some class and gender analysis would enhance our understanding of mass incarceration. To begin with, let me dispel any notions of sympathies with applying the traditional Marxists term "lumpen proletariat" in this instance. Mass incarceration has been an assault on the poorest elements of the working class, primarily residents of de-industrialized inner cities driven into the category of "criminal" by a lethal combination of economic necessity, social decay, media manipulation and, most importantly, harsh sentencing laws and intensive police repression inspired by racially biased polices like "zero tolerance" and "broken windows". The mix of job losses in urban areas with increased police funding for drug squads, SWAT teams and militarized law enforcement tactics has landed hundreds of thousands of young, working class African-Americans in prison for lengthy terms, often for relatively minor drug-related offenses.

All of this points to the need for a broader perspective on notions of race and class in criminal justice. There is a need to deepen earlier analysis by people like Parenti (2000), Gilmore (2007) and Wacquant (2009) to more tightly align notions of racial caste with ideas on class, de-industrialization and the reconfiguration of the spatial dimensions of cities

Extensive research by Cardona and others at the Justice Mapping Center (2010) shows how the prosecution of mass incarceration has typically been highly concentrated in small working class areas. This narrow geographical focus has been highlighted by the concept of “million-dollar blocks” – city blocks where the state spends more than a million dollars a year incarcerating its residents. Some of the data from the Center has revealed that:

- In New York City, neighborhoods which house 18% of the city’s adult population account for more than 50% of prison admissions each year.
- In Wichita, Kansas, where probation and parole revocations account for more than two-thirds of the city’s admissions to prison each year, one-quarter of all people on probation or parole live in only 8% of the city’s neighborhoods.
- In Pennsylvania, taxpayers spend over \$40 million to imprison residents of neighborhoods in a single zip code in Philadelphia, where 38% of households have incomes under \$25,000.
- In Shreveport, Louisiana, nearly seven percent of all working age men living in the neighborhoods of a single zip code were sent to prison in 2008.

(Justice Mapping Center, retrieved August 30, 2012)

Thus, the result of mass incarceration has been the economic and social devastation of large segments of working class inner city neighborhoods. It is working class people who are

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being incarcerated, with blacks being the leading targets. Nonetheless, as Wacquant (2010) has shown, low income groupings from other segments of the population are also being caught up in the sweep. Mass incarceration remains a distant reality for those of the upper middle classes.

From the law enforcement side, this spatial element is reflected in the notion of “hot spot” policing where instead of trying to patrol the entire city, forces are concentrated in areas where crime supposedly occurs. (Battin, 2004) Of course such areas are often co-terminous with areas where working class people of color reside. In a study of hot spot policing in Memphis, Roh and Robinson (2009) concluded:

Granted that racial disparity in traffic stops at the individual level is substantially attributed to the disproportionate commitment of police resources at the community level, police agencies still need to consider if such policing strategies, often named problem-oriented policing or hot spot policing, resonate well with the ideal of democratic policing, the longstanding imperative for the American police. Democratic policing is often understood as the antonym of inequality, seeking an equal distribution of police service or police control over the public. Thus, unequal amount or different types of police recourses (sic) that are devoted to different communities may appear undemocratic. People living in disadvantaged minority communities may perceive that policing unduly targets their communities, if not minority individuals.

Research done in Champaign-Urbana, Illinois presented a much harsher picture. While police had apparently identified the primary hot spots in the largely African-American north end and dedicated increased resources there, the largest number of 9/11 calls came from the predominantly white campus area. This, coupled with the disproportionate enforcement of drug laws against African-Americans noted by Alexander, raises the specter of a racially-biased rather than evidence-based approach to defining hot spots.ⁱ

Ultimately, mass incarceration represents far more than mass imprisonment. It is also an attack on poor working class communities of color. As Heather Thompson has pointed out “mass incarceration matters” to communities as both result and cause. It is the result of the War on

Drugs and other policies but is also ultimately a cause of the decimation of communities where these million dollar blocks are located, where vast numbers of young males in their most productive years have been removed to steel and concrete boxes far from home.

To further explain this process, we need to get a clearer idea of what goes on in communities from which the young males have been removed. For not only does the removal of large swaths of the male population shift financial, emotional and social burdens onto women and children, those “left behind” often face a frontal assault of their own from the state. As Wacquant argues mass incarceration (or what he refers to as “hyperincarceration”) and the criminalization of the welfare system constitute “two sides of the same historical coin.” (2010, 84). In parallel to the mass incarceration of the 80s, which largely focused on African-American males, Reagan and his neoliberal henchmen mounted a racialized and female-focused attack on the welfare system. Using the code of the “Welfare Queen”, right wing politicians played on white resentment of an alleged mass of unwed African-American women who mothered babies in large numbers and lived off the hard-earned dollars provided by white taxpayers. (Gustafson 2003; Kohler-Hausmann 2007) As Kohler-Hausmann has pointed out these attacks “framed welfare recipients, who were already burdened in the public discourse by the intersecting stigma of race, class and gender, as deceptive criminals.” (2007, 330)

The ideological offensives on welfare mothers, who are almost universally working class and more than 60% African-American and Latino, (Office of Family Assistance 2008) provided popular support for a host of stripping away welfare provisions and increasing regulations and punishments for those receiving benefits. (Office of Family Assistance 2008) The Democrats also joined in this effort with the Clinton administration passing the Personal Responsibility and

Work Opportunity Reconciliation Act (PRWORA), fulfilling candidate Clinton's election promise to "end welfare as we have come to know it." (Clinton 1991)

This end of welfare was a new beginning for melding criminal justice and welfare policy. The new legislation provided federal law enforcement officials with access to the personal files of people receiving state benefits. This allowed them to use things like food stamp records to snare people with outstanding warrants or track down anyone who had violated their parole. Further criminalization of recipients included the taking of fingerprints and other biometric data. In a recent escalation of this practice, in 2011 Florida passed a law which subjects anyone receiving public assistance to random drug testing.

But drug usage is not the only illicit behavior on the hit list. Even child birth has been targeted. For instance, PRWORA provided states with the power to institute a "family cap" on welfare payments, denying any increase of stipend when a woman had an additional child. Essentially this amounted to financial punishment for giving birth. About twenty states currently have some form of "family cap." (National Council of State Legislatures 2009)

Likely the most effective method of criminalizing the behavior of welfare recipients has been the reduction of benefits. According to a 2010 report, 48 states have lower real benefits than in 1996. In more than 30 states the real value of Temporary Aid to Needy Families (TANF- formerly AFDC) has declined by more than 20% since 1996. (Schott and Finch 2010) This decline in benefits has been accompanied by tighter restrictions on other sources of income. Effectively, economic necessity drives people to "criminal" activity to earn enough money to survive. In this context, informal work such as baby-sitting, contract house cleaning, or selling

second hand clothes becomes illegal- leading to either a discontinuation of benefits or, in some instances, prosecution for welfare fraud.

Lastly in a fascinating intersection of mass incarceration and the criminalization of welfare noted by Alexander, Federal legislation places numerous restrictions on access to public benefits for those with felony convictions. At the most basic level, Federal law bans anyone with a drug conviction from getting SNAP (food stamps) or TANF, though a number of states have exercised the option to overrule this law. Perhaps the most destructive denial of benefits is granting local housing authorities the power to refuse people with a felony access to public housing. This not only further limits the economic opportunities and life chances of formerly incarcerated people, but also places increased burdens and risks on their family members. In some jurisdictions, a mother can be evicted from public housing (i.e. criminalized) if she offers accommodation to one of her children who has a felony conviction. Similar sanctions can be levied against women or men wanting to live with a marital partner or co-parent of their children. In essence, the very act of living as a household or in a collective grouping has been criminalized.

Hence applying a broader class and gender analysis to Alexander's "racial caste" yields a deeper understanding of the complexity of mass incarceration and its impact on inner city urban communities. But more importantly for the present work, this analysis has serious implications for what a social movement against mass incarceration would look like, a topic I will cover in the final section of the paper.

Post 2001: The New Operation Wetback

Since 2001 the most notable aspect of mass incarceration has been the increasing targeting of Latinos. From 2000-2010 the number of African-American men in prison actually declined slightly, from 572,900 to 561,400. By comparison, the ranks of Latinos (classified “Hispanics” by government statisticians) has increased by more than 50%, from 206,900 to 327,200. While the per capita incarceration rates for African-Americans remain higher, clearly a shift is taking place. Kilgore (2011) labeled this process “The New Operation Wetback”, after a massive deportation campaign initiated in the Southwest and California in the 1950s.

Two factors have contributed to this. First and most crucial is the tighter monitoring of immigrants in the wake of 9/11. This has come from a range of legal and policy changes with the Patriotic Act, Secure Communities (S-Comm), Operation Endgame and the Intensive Supervision Appearance Program (ISAP) and other initiatives providing extra resources and ideological inspiration for rounding up the undocumented. While the Obama administration has recently put in place a policy for “deferred action” for young people without papers, the overall thrust of the Democrats has been the same as the Republicans.

In more recent years, legislation like Arizona’s SB 1070 of 2010, and similar laws in Georgia and Alabama have ramped up this new dimension of mass incarceration. These legal changes encourage police to stop anyone who fits the profile of an “illegal immigrant”. Ultimately this is a license for racial profiling and the opening of a new market for jail cell occupants.

Related to this is the second factor contributing to the increase in the incarceration of Latinos- the entry of private corrections firms into the immigration detention market. While private firms like Corrections Corporation of America (CAA) and the GEO Group, control a

mere 8% of prison and jail beds across the country, their share of the immigration market is more than 40%. (Mason, 2012) Their presence in this sector has been linked to extensive lobbying for harsher immigration laws and campaign contributions to anti-immigration politicians like Governor Rick Scott of Florida. (Mason) At present while most states have stopped building new prisons and many like New York and Michigan are closing facilities, new detention centers are popping up in a variety of places, mostly projects of the private firms. In the last year alone, the Federal government has opened detention facilities in Adelanto CA (1300 beds) Newark NJ (450 beds) and Karnes City TX (608 beds). (Mason, 8) Plans to build another center at Crete IL were shelved due to community opposition.

Thus, in a sense we are now entering a second phase of mass incarceration, a phase where immigration and Latinos are beginning to supplant drugs and African-Americans as the main focus of those whose livelihoods and political agendas are tied to further increasing the number of people behind bars.

Building a Movement Against Mass Incarceration

In the *New Jim Crow*, Alexander argues that mass incarceration cannot be reversed by piecemeal reforms or “isolated victories in legislatures or courtrooms.” (218) She presses for the creation of a social movement on the scale of the civil rights mobilization of the 60s to take on this task. However, she offers little detail as to where such a movement might come from other than that it needs to be on the scale of the civil rights movement.

By unpacking some of the class, race and gender dimensions of mass incarceration above, a number of observations can be made about the sources of this social movement. First of all, it needs to be noted that the roots of this social movement already exist in the self-

organization of formerly incarcerated people, in the massive mobilizations against harsh immigration laws, and in the wide array of churches and community organizations involved in lobbying and advocacy work on mass incarceration issues.ⁱⁱ The point is to bring these groupings together and add others which seem to have a direct material interest in opposing mass incarceration but have thus far remained on the sidelines.

Key to creating a viable movement will be the participation of the incarcerated, the formerly incarcerated and their families and communities. Some moves in this direction have already taken place with the formation of All of Us or None, The Formerly Incarcerated and Convicted Peoples' Movement, and even at the local level in Champaign-Urbana with the advent of Citizens with Conviction. Moreover, for the first time in a long while, major strike action has occurred in several prisons highlighted by the work stoppage in four Georgia prisons in 2010 (Hing, 2010) and the 2011 hunger strike in the notorious Pelican Bay SHU and other California penitentiaries which spread to a number of institutions across the state. (Lovett, 2011) Formerly incarcerated people have also been active in Illinois in recent days in campaign to close Tamms Supermax prison.

However, these movements need to also locate mass incarceration in the broad shifts toward inequality and lack of state services. In Occupy actions in Chicago, some attempt was made to link the "Prison Industrial Complex" to student debt and other aspects of the economic crisis. This is a key tie, for every dollar spent on locking people up is a dollar that can't be used for education, health care, job creation, substance abuse treatment or unemployment benefits. Given the scale of prison operations in many states, incarceration has become a major drain on social services in many sectors. Those who clamor for cheaper university fees or universal health care seemingly are natural allies of the opponents of mass incarceration.

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Another key to any broadening of the movement is addressing the racial complexities to opposing mass incarceration. First and foremost is the crucial process of building unity between the two groups who are most severely impacted: African Americans and Latinos. At times this has often been a problematic relationship. Within the Latino community, especially among the youth, a public and militant opposition to harsh immigration laws has emerged. The 2007 strikes plus more recent efforts to block the passage of legislation at the state level have brought large numbers of Latinos into the fray. Yet, there is little connection between these forces and those in the African-American community beginning to mount a more explicit attack on mass incarceration.

Such an alliance has its own complexities, rooted in some historical tensions in communities and inside prisons. In California, for example, public support from some African-American leaders for Proposition 187, a measure which denied access to social services for undocumented people, created some enmity. (Garcia, 1995) More importantly perhaps is the fact that inside the prison system several Mexican groups (typically referred to as Sureños or Southerners) are permanently aligned with white supremacists against African-Americans. These tensions have spilled out onto the streets as men circulate in and out of prison, often dragging the worst elements of carceral political ideology with them.ⁱⁱⁱ

Nonetheless, people inside the prisons have begun to set some counter examples. In the 2010 strike in Georgia and the hunger strike by people in the Pelican Bay SHU 2011, former white supremacists have united with people of color. In fact, the Pelican Bay action was initiated by former white supremacists.^{iv}

A final gap in the mobilization has been the apathy and at times hostility of organized labor to the issues of mass incarceration. Much of this has to do with the political economy of prison expansion. As Gilmore (2007) and Huling (2002) have pointed out, a key aspect of carceral growth has been the propensity to build prisons in small, rural, mostly white towns. For the most part these are towns in economic decline. In this context politicians have sold prison construction and operation as an economic development model. In their marketing tracks prison purveyors promise jobs for the local unemployed and contracts to local businesses to supply goods and services. While the truth of such promises has been questionable, the rise of such “prison towns” has serious implications for a social movement wanting to reverse mass incarceration. Beyond the private corrections corporations and the high level bureaucrats there stand layers of working class men and women, overwhelmingly white, whose livelihood depends on locking up African-Americans and Latinos. As Gilmore (2007) points out, the same corporate forces of de-industrialization which have stripped major urban centers of factories and warehouses have followed a similar course in impoverishing rural towns. Yet mass incarceration has yielded very different results in these two locales. In places like Susanville CA (dubbed “Prison Town USA” in a PBS documentary) and Florence CO, the arrival of new prisons brought some kind of economic rejuvenation, while the inner cities turned into those decimated million dollar blocks which supply the human material to fuel the rural economic engine of incarceration-driven growth.

Bridging the gap between the white rural poor and urban poor people of color is a task for which a trade union is the best suited organization. Yet the response of unions has been problematic. Perhaps the most glaring example of hostility to decarceration were the actions of the American Federation of State, County and Municipal Employees (AFSCME) in responding to

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the 2012 push by human rights activists in Illinois to close the Tamms supermax prison. While organizations like the ACLU (Yohnka, 2012) and others were condemning the use of 24 hour day solitary confinement in Tamms and supporting a move by Governor Quinn to shut down the facility, AFSCME organizers and leaders were busy mobilizing to keep the supermax open in the name of preserving jobs and the economic fortune of the community where the prison is located. Even protests at the union's office by Tamms Year Ten, along with community and human rights groups had little impact. (Illinois Radio Network, 2012) The racial contradictions of these class tensions are also important as the majority of the people locked up in Tamms are African-American (likely many from those million-dollar blocks), while the majority of the residents of the local town and the prison employees are white.

If the Tamms incident is anything to go by, when it comes to protecting the jobs of members, unions are willing to turn a blind racial and human rights eye. While some unions have come out strongly on the issue of deportation and anti-immigration laws, when it comes to policies that move toward decarceration and rehabilitation, organized labor stands on the side of “lock ‘em up.”

As Alexander argues so forcefully, toppling mass incarceration will require a change in the public consciousness. Ending mass incarceration is not merely about shutting down buildings. It is about building a movement on a scale capable of shutting down a mentality, a way of thinking that denigrates, demeans and ultimately incarcerates the poorest sections of the working class. This will ultimately involve framing mass incarceration in its broadest sense-as a racialized attack on the working class with serious implications for people of color as well as gaining a legitimate place for decarceration and the rights of the convicted and formerly

incarcerated on the agenda of social justice organizations, including trade unions. There is still a long road to travel.

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ⁱ It should be noted that Champaign-Urbana is a college town, housing roughly 42,000 students in an urban area of 120,000 residents. However, while numerous informants have revealed that drug possession and usage is widespread within the student population, drug charges and aggressive policing are largely reserved for the African American community. As a result, County Records over the course of 2007-11, 54.7% of the bookings into the county jail were African-Americans, despite their overall presence of only 12% in the county population.

(Draft-not for circulation or citation)

ⁱⁱ These include policy oriented think tanks like the Sentencing Project, the Justice Policy Institute, Justice Strategies, and the Prison Policy Initiative as well as grassroots activist formations such as Critical Resistance, Californians United for a Responsible Budget, Decarcerate Pennsylvania, and Decarcerate Monroe County.

ⁱⁱⁱ Observations on gang alliances in California prisons are based on my own experience and conversations with dozens of men during my 38 in CA state prisons.

^{iv} This information from personal communication with people on the street involved in support work for the strike.