



African Americans and the Criminal Justice System

The country is again struggling with disparate viewpoints on race and the criminal justice system which at times have led to confrontations in the streets. In March, the Cincinnati area League of Women Voters is encouraging its members to learn more about the historic basis for these tensions.

Slavery in the United States can be traced back to the 16th century when Spanish explorers brought African slaves with them to the New World. It lasted until the Emancipation Proclamation came into effect on January 1, 1863. On that date Texas was largely controlled by forces fighting for the Confederate States. On June 19, 1865, Union soldiers arrived to take control of Texas and enforce the emancipation of slaves in the state. In Galveston, Texas, the newly freed slaves held large public celebrations and laid the base for future Juneteenth activities. Today Juneteenth is an opportunity for people to celebrate freedom and equal rights in the United States.

2015 is the 150th anniversary of the end of the Civil War, ratification of the 13th amendment and the celebration of the 1st Juneteenth – freedom day celebration. The local Juneteenth Committee is asking its numerous partners to read and discuss the 13th amendment to the constitution and read the book or watch the documentary “Slavery By Another Name.” The League is participating by encouraging its members to read the Pulitzer Prize winning book, or view the documentary online from the PBS website, and join in the discussion at the March units.

For years the Cincinnati League has participated in the local Juneteenth Festival. We’ve registered voters, given out literature and recruited members from the primarily African American families attending the festival in the park on a summer Saturday. This year the Juneteenth Festival will be June 20-21 at DrakePark.

The book and documentary raise disturbing questions about our history and the ways slavery was continued in the United States long after the passage of the 13 Amendment. The subtitle of the book is “The Re-Enslavement of Black Americans from the Civil War to World War II.” This history sheds light on the stereotype of African Americans as criminals and current issues in the criminal justice system.

Thirteenth Amendment to the U.S. Constitution adopted in 1865

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.



Douglas Blackmon, a Wall Street Journal reporter, published the book Slavery by Another Name in 2008. The book began as an article Blackmon wrote for The Wall Street Journal detailing the use of black forced labor by U.S. Steel Corporation in Birmingham, Alabama. Seeing the strong response to the article, he began research for a more comprehensive look at the topic. The resulting book was well received by critics and became a New York Times Best Seller. In 2009, it was awarded the Pulitzer Prize for General Non-Fiction, and in 2011, was adapted into a documentary film for PBS.

View the 90 minute PBS documentary at www.pbs.org/tpt/slavery-by-another-name/watch/.

The book and documentary tell about a time in our history that has been largely hidden. The Civil War had crippled the South's economy and, with the abolishment of slavery, much of Southern planters' wealth had disappeared. Accustomed to the unpaid labor of slaves, they were now faced with the need to pay their workers — but there was little cash available. In this environment, intricate systems of forced labor, which guaranteed cheap labor and ensured white control of that labor, flourished.

After Reconstruction when the federal government pulled out, Southern states began to enforce a series of laws that unfairly penalized poor African Americans for crimes. "Pig laws" made the theft of a farm animal worth a dollar punishable by as much as five years in jail. Vagrancy statutes made it a crime not to have a job or be able to show proof of employment. While these laws did not specifically mention African Americans, they were rarely enforced for whites. The result was a huge increase in the number of blacks arrested and convicted and the rise of the labor system known as convict leasing.

Convict Leasing

Initially, to save money on prison construction and later to actually generate revenue, Southern states and counties began leasing "convicts" to commercial enterprises. Within a few years states realized they could lease out their convicts to local planters or industrialists who would pay minimal rates for the workers and be responsible for their housing and feeding, thereby eliminating costs and increasing revenue. Soon, markets for convict laborers developed, with entrepreneurs buying and selling convict labor leases. From county courthouses and jails, men were leased to local plantations, lumber camps, factories and railroads. The convict lease system became highly profitable for local governments. Revenues increased as more and more African Americans were arrested.

To employers and industrialists, these men represented cheap, disposable labor. The costs to lease a laborer were minimal, and the cost of providing housing, food, clothing and medical treatment could be kept low. Replacement costs were cheap. If a laborer died, another could be purchased from the sheriff.

But for victims and all Southern blacks, convict leasing was a horror. Prisoners were often transferred far from their homes and families. The paperwork and debt record of individual prisoners were often lost, and the men were unable to prove they had paid their debts or served their time. Working conditions at the convict leasing sites were often terrible: illness, lack of proper food, clothing, or shelter as well as cruel punishments, torture and even death.

Peonage

Another way that blacks were forced into labor was through a system known as “peonage.” Peonage, also called debt slavery or debt servitude, was a system where an employer compelled a worker to pay off a debt with work. In many cases, defendants were found guilty of real or fabricated crimes and were fined for both the crime and additional court fees. When the men were unable to pay, a local businessman would step forward to pay the fines. The convict would then sign a contract agreeing to work for him without pay until the debt was paid off.

In other cases, workers became indebted to planters (through sharecropping), merchants (through credit) or company stores (through living expenses). Workers were often unable to re-pay the debt, and found themselves in a continuous work-without-pay cycle. Often struck in remote company towns or isolated plantations, workers were prevented from escaping by chains, cells, guards, dogs and violence. If they did attempt to flee their workplace or the spurious debt, they risked a very high chance of being picked up, found guilty of abandoning their debts, fined court fees, and eventually returned to the same employer — or worse, “leased” to a convict mine.

Several Federal efforts to reform the systems of convict labor and peonage were launched in the 50 years between 1890 and 1940, but each stalled because of the strong economic and political interest in maintaining a source of cheap labor. The forced labor built many family fortunes in agriculture, the timber industry, and the coal mines that supported the Birmingham steel mills. It was not until World War II that the system was finally ended. In 1941, at the outbreak of World War II and amid fears that racial inequalities would be used as anti-U.S. propaganda, President Roosevelt issued the enforcement mandate that federal attorneys should aggressively prosecute cases of involuntary servitude or slavery. During the 80 years after the Civil War and adoption of the 13th Amendment, as many as 800,000 people were caught up in forced labor systems.

To encourage reconciliation, *Slavery by Another Name* highlights the stories of descendants of forced labor as well as those whose relatives benefitted from it – many of them had no previous knowledge of the scope or breadth of forced labor. A descendent of one particularly brutal business owner said her family always said their wealth came from the grandfather who was “a self-made man.” The descendent of white share croppers said his family was able to move into the middle class and he never before appreciated why the black share croppers couldn’t do the same. It is through these shared histories that we see the impact of uncovering the past and understanding its effect on current patterns of wealth, poverty, and upward mobility.

Criminal Justice and Race Today

So what does this history have to do with race relations in the United States today? There are still remnants of the convict leasing and peonage system in place today.¹ However, our society also is dealing with general stereotypes of African Americans as criminals, the mass incarceration of African American men often for petty crimes, and a population that does not trust law enforcement. These problems recently flared into angry confrontations in Ferguson, Missouri, and throughout the country, with several highly publicized killings of black men by police officers.

In her book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, legal scholar Michelle Alexander writes that many of the gains of the civil rights movement have been undermined by the mass incarceration of black Americans. She says that although Jim Crow laws are now off the books, millions of blacks arrested for minor crimes remain marginalized and disfranchised, trapped by a criminal justice system that has forever branded them as felons and denied them basic rights and opportunities that would allow them to become productive, law-abiding citizens. Because they are branded felons, they can be discriminated against and legally denied housing, employment, public benefits and the right to vote.

But aren't these black men dangerous criminals? According to Michelle Alexander:

“The uncomfortable truth, however, is that crime rates do not explain the sudden and dramatic mass incarceration of African Americans during the past 30 years. Crime rates have fluctuated over the last few decades -- they currently are at historical lows -- but imprisonment rates have consistently soared. Quintupled, in fact. And the vast majority of that increase is due to the War on Drugs. Drug offenses alone account for about two-thirds of the increase in the federal inmate population, and more than half of the increase in the state prison population.

The drug war has been brutal -- complete with SWAT teams, tanks, bazookas, grenade launchers, and sweeps of entire neighborhoods -- but those who live in white communities have little clue to the devastation wrought. This war has been waged almost exclusively in poor communities of color, even though studies consistently show that people of all colors use and sell illegal drugs at remarkably similar rates. In fact, some studies indicate that white youth are significantly more likely to engage in illegal drug dealing than black youth....

Most people in state prison have no history of violence or even of significant selling activity. In fact, during the 1990s -- the period of the most dramatic expansion of the drug war -- nearly 80% of the increase in drug arrests was for marijuana possession, a drug generally considered less harmful than alcohol or tobacco and at least as prevalent in middle-class white communities as in the inner city.

¹ <http://www.nytimes.com/2012/07/03/us/probation-fees-multiply-as-companies-profit.html>;
<http://www.nytimes.com/2014/08/27/opinion/thomas-edsall-the-expanding-world-of-poverty-capitalism.html>

In this way, a new racial undercaste has been created in an astonishingly short period of time -- a new Jim Crow system. Millions of people of color are now saddled with criminal records and legally denied the very rights that their parents and grandparents fought for and, in some cases, died for.”

www.huffingtonpost.com/michelle-alexander/the-new-jim-crow-how-the_b_490386.html

Trust in law enforcement is seriously eroded by the history, the family stories, and the likelihood of arrest and incarceration for minor offenses. How can this cycle be broken?

Discussion Questions

1. This film tackles a difficult part of American history with specific individual stories. *How do we reconcile difficult parts of our family history/national history? How does learning unpleasant truths about our family and national history affect our sense of identity and attitudes about current events?*
2. Nearly eighty years after the US ratified the 13th Amendment President Franklin Roosevelt issued the enforcement mandate that federal attorneys should aggressively prosecute any case of involuntary servitude or slavery. *Why do you think it took so long? What can citizens do to pressure government to act more quickly to change or enforce policy that may hurt economic interests?*
3. During the 80 years after the Civil War, as many as 800,000 people were caught up in forced labor systems. *How does this legacy affect our lives today? How does it affect our different attitudes about law enforcement and the justice system?*
4. In The New Jim Crow, Michelle Alexander writes that “Rather than rely on race, we use our criminal justice system to label people of color “criminals” and then engage in all the practices we supposedly left behind ... Once you’re labeled a felon, the old forms of discrimination—employment discrimination, housing discrimination, denial of the right to vote, denial of educational opportunity, denial of food stamps and other public benefits, and exclusion from jury service—are suddenly legal.”
What is your initial response to Alexander’s theory that a system of mass incarceration exists in the U.S.?
5. The Juneteenth Committee is hosting a series of community discussions ending with a community meeting in May: *Brainstorm some constructive suggestions for our community to address the impact of the stereotypes and beliefs about criminality and unfair criminal justice.*