

HUMAN RIGHTS SHABBAT: SERMON ON THE NEW JIM CROW
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Imagine you are Emma Faye Stewart, a 30 year old African American mother of two, arrested in a drug sweep in Hearne, Texas. All but one of the people arrested are African American. You are innocent. After a week in jail, you have no one to care for your two small children and are eager to get home. Your court-appointed attorney urges you to plead guilty to a drug distribution charge, saying the prosecutor has offered probation.

You refuse, steadfastly proclaiming your innocence. Finally, after almost a month in jail, you decide to plead guilty so you can return home to your children. Unwilling to risk a trial and years of imprisonment, you are sentenced to ten years probation and ordered to pay \$1,000 in fines, as well as court and probation costs. You are now branded a drug felon.

You are no longer eligible for food stamps; you may be discriminated against in employment; you cannot vote for at least twelve years; and, because felon cannot live in public housing, you are about to be evicted from your public housing apartment. Once homeless, your children will be taken from you and put in foster care.

Having been 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. 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.¹

This nightmarish scenario is not fiction. It is a true story quoted by Michelle Alexander in her recently published book, The New Jim Crow: Mass Incarceration in the Age of Colorblindness. Ms. Alexander, a civil rights lawyer, argues that the old Jim Crow laws, which mandated racial segregation, and resulted in racial inequality, have been replaced. The Civil Rights movement killed Jim Crow, but a new form of discrimination took its place in the form of mass incarceration which has created a racial undercaste in America.

¹ P. 2.

Alexander claims that the criminal justice system specifically targets black men and women, imprisoning them in numbers far disproportionate to crimes committed. These African Americans then lose many of their rights forever and are thus locked into permanent second class status. The problem is particularly acute for Black men the majority of whom – one fourth² -- are behind bars, on probation, or otherwise under the control of the criminal justice system. This, claims, Alexander, is a new form of racial control.

You might ask: Isn't there a simple explanation for this: Crime rates? Aren't all these people locked up because of the rise in crime? But "crime rates do not explain the dramatic rise of incarceration rates among African Americans. While crime rates have fluctuated over the past few decades, the rate of imprisonment has quintupled."³

Alexander argues that following the Civil Rights Movement, Conservative whites needed to find a new way to exert racial control without explicitly mentioning race. Politicians were able to mobilize white racial resentment as the "Civil Rights Movement began to require real sacrifices on the part of white Americans."⁴ They came up with a new slogan: Law and order, which they implemented through a new tactic: the War on Drugs. Now, as Alexander says, "Most people assume the War on Drugs was launched in response to the crisis caused by crack cocaine in inner-city neighborhoods" but that is not true.

President Ronald Reagan announced the current drug war in 1982, before crack became an issue."⁵ And, in fact, when drug use was actually on the decline. The crack epidemic occurred after the announced War on Drugs, and became a convenient media tool to sell the war on drugs. The crack epidemic was sensationalized to garner support and resources for this effort. And indeed, massive amounts of money were allocated to fight this war.

Between 1980 and 1984, FBI antidrug funding increased from \$8 million to \$95 million. Department of Defense antidrug allocations increased from \$33 million in 1981 to \$1,042 million in 1991... By contrast, funding for agencies

² P. 55

³ P. 7.

⁴ P. 54.

⁵ P. 5.

responsible for drug treatment, prevention, and education was dramatically reduced.⁶

Of course, one of the major reasons for the spread of crack was the loss of manufacturing jobs coupled with poor education leading to lack of opportunities and widespread unemployment in the inner city. “The impact of the drug war has been astounding,” she says. 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...even surpassing those highly repressive regimes like Russia, China, and Iran....No other country in the world imprisons so many of its racial and ethnic minorities. The United States imprisons a larger percentage of its black population than South Africa did at the height of apartheid.”⁷

You might argue that black people abuse drugs more than white people. But that is also false. Alexander tells us: “These stark racial disparities cannot be explained by rates of drug crime. Studies show that people of all colors use and sell illegal drugs at remarkably similar rates...[However,] in some states, black men have been admitted to prison on drug charges at rates twenty to fifty times greater than those of white men.”⁸

The result: In major US cities, “as many as 80 percent of young African American men now have criminal records and are subject to legal discrimination for the rest of their lives.”⁹ And the truth is, “The vast majority of those arrested are *not* charged with serious offenses...In 2005, for example, four out of five drug arrests were for possession...[a non-violent crime] [and] marijuana possession...accounted for nearly 80 percent of the growth of drug arrests in the 1990’s.”¹⁰

In addition to the fact that Black men are arrested in far greater numbers than whites, the vast majority of criminal defendants are poor and unable to afford a lawyer. “Yet our nation’s public defender system is woefully inadequate,” argues Alexander. “Sometimes, defenders have well over one hundred clients at a time...Too often the quality of court-appointed counsel

⁶ P. 49.

⁷ P. 6.

⁸ P. 7.

⁹ P. 7.

¹⁰ P. 59.

is poor because the miserable working conditions and low pay discourage good attorneys from participating in the system...All too often, defendants plead guilty, even if they are innocent, without really understanding their legal rights or what is occurring.”¹¹ And, “Nearly all criminal cases are resolved through plea bargaining...”¹² The reason? Defendants try to avoid tough mandatory sentences if they go to trial.

Michelle Alexander’s arguments are very persuasive. I cannot go into more details here, but it is quite clear that it is a huge problem for our society to have so many Black men imprisoned and deprived of their rights rather than having them participate as full-fledged citizens who are able to enjoy the rights the rest of us have, and are able to contribute positively to our communities.

Consider this: The U.S. spends 6 times more money on prisons than on education. In 2006, California spent 8,000 dollars on one student in the Oakland School district. The same year, California spent 216,000 dollars on one juvenile inmate. Over the course of the last 20 years, the amount of money spent on prisons increased by **570%**, while the money spent on education increased by only **33%**. Given the fact that over **75%** of inmates are illiterate at a 12th grade reading level, and that less than **20%** of inmates have their high school diploma,¹³ aren’t our priorities a little skewed? Rather than spending so many millions on imprisonment, shouldn’t we be spending that money on education, job training, drug prevention and drug treatment?

Tonight we are celebrating Human Rights Shabbat. We have recited and prayed from Jewish sources that affirm the dignity of every human being. We know that Rabbi Hillel taught that the essence of the Torah can be summarized as follows: “What is hateful to you, do not do to any other.” Deuteronomy commands us: Justice, justice shall you pursue. How can we allow a whole class of people to be deprived of their human rights as I have described? This is just plain wrong. Shame on us.

Article 28 of the Declaration of Human Rights declares: “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this declaration can be fully realized.” *Psalm 85 (11-14)* imagines such a time:

¹¹ P. 84.

¹² P. 85.

¹³ http://www.visionmagazine.com/archives/1110/1110_feature_troy_davis.html

“Loving-kindness and truth shall meet; justice and peace shall kiss. Truth will spring up from the earth; Justice will look down from heaven. God will also bestow good and our land will yield its produce. Justice will go before [all] as [they] set out on [their] way.”

Let us work to make that so. Kein yehi rason, may this be God’s will.