

The New Jim Crow

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Ronald Reagan: Last night, I tell you, to watch that thing on television as I did,

President Nixon: Yeah.

Ronald Reagan: To see those, those monkeys from those African countries—damn them, they're still uncomfortable wearing shoes!

President Nixon: (huge laugh)

—October 1971, the day after the UN voted to recognize the People's Republic of China

Jarvious Cotton cannot vote. Like his father, grandfather, great-grandfather, and great-great-grandfather, he has been denied the right to participate in our electoral democracy. Cotton's family tree tells the story of several generations of black men who were born in the United States but who were denied the most basic freedom that democracy promises—the freedom to vote for those who will make the rules and laws that govern one's life. Cotton's great-great-grandfather could not vote as a slave. His great-grandfather was beaten to death by the Ku Klux Klan for attempting to vote. His grandfather was prevented from voting by Klan intimidation. His father was barred from voting by poll taxes and literacy tests. Today, Jarvious Cotton cannot vote because he, like many black men in the United States, has been labeled a felon and is currently on parole.

Cotton's story illustrates, in many respects, the old adage "The more things change, the more they remain the same." In each generation, new tactics have been used for achieving the same goals—goals shared by the Founding Fathers. Denying African Americans citizenship was deemed essential to the formation of the original union. Hundreds of years later, America is still not an egalitarian democracy. The arguments and rationalizations that have been trotted out in support of racial exclusion and discrimination in its various forms have changed and evolved, but the outcome has remained largely the same. An extraordinary percentage of black men in the United States are legally barred from voting today, just as they have been throughout most of American history. They are also subject to legalized discrimination in employment, housing, education, public benefits, and jury service, just as their parents, grandparents, and great-grandparents once were.

What has changed since the collapse of Jim Crow has less to do with the basic structure of our society than with the language we use to justify it. In the era of colorblindness, it is no longer socially permissible to use race, explicitly, as a justification for discrimination, exclusion, and social contempt. So we don't. 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. Today it is perfectly legal to discriminate against criminals in nearly all the ways that it was once legal to discriminate against African Americans. **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. 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. We have not ended **racial caste** in America; we have merely redesigned it.

In his 1980 campaign for the presidency, Ronald Reagan mastered the “excision of the language of race from conservative public discourse” and thus built on the success of earlier conservatives who developed a strategy of exploiting racial hostility or resentment for political gain without making explicit reference to race. Condemning “welfare queens” and criminal “predators,” he rode into office with the strong support of disaffected whites—poor and working-class whites who felt betrayed by the Democratic Party’s embrace of the civil rights agenda. As one political insider explained, Reagan’s appeal derived primarily from the ideological fervor of the right wing of the Republican Party and “the emotional distress of those who fear or resent the Negro, and who expect Reagan somehow to keep him ‘in his place’ or at least echo their own anger and frustration.” To great effect, Reagan echoed white frustration in race-neutral terms through implicit racial appeals. His “colorblind” rhetoric on crime, welfare, taxes, and states’ rights was clearly understood by white (and black) voters as having a racial dimension, though claims to that effect were impossible to prove. The absence of explicitly racist rhetoric afforded the racial nature of his coded appeals a certain plausible deniability. For example, when Reagan kicked off his presidential campaign at the annual Neshoba County Fair near Philadelphia, Mississippi—the town where three civil rights activists were murdered in 1964—he assured the crowd “I believe in states’ rights,” and promised to restore to states and local governments the power that properly belonged to them. His critics promptly alleged that he was signaling a racial message to his audience, suggesting allegiance with those who resisted desegregation, but Reagan firmly denied it, forcing liberals into a position that would soon become familiar—arguing that something is racist but finding it impossible to prove in the absence of explicitly racist language.

Crime and welfare were the major themes of Reagan’s campaign rhetoric. According to the Edsalls, one of Reagan’s favorite and most-often-repeated anecdotes was the story of a Chicago “welfare queen” with “80 names, 30 addresses, 12 Social Security cards,” whose

“tax-free income alone is over \$150,000.” The term “welfare queen” became a not-so-subtle code for “lazy, greedy, black ghetto mother.” The food stamp program, in turn, was a vehicle to let “some fellow ahead of you buy a T-bone steak,” while “you were standing in a checkout line with your package of hamburger.” These highly racialized appeals, targeted to poor and working-class whites, were nearly always accompanied by vehement promises to be tougher on crime and to enhance the federal government’s role in combating it. Reagan portrayed the criminal as “a staring face—a face that belongs to a frightening reality of our time: the face of the human predator.” Reagan’s racially coded rhetoric and strategy proved extraordinarily effective, as 22 percent of all Democrats defected from the party to vote for Reagan. The defection rate shot up to 34 percent among those Democrats who believed civil rights leaders were pushing “too fast.”

Once elected, Reagan’s promise to enhance the federal government’s role in fighting crime was complicated by the fact that fighting street crime has traditionally been the responsibility of state and local law enforcement. After a period of initial confusion and controversy regarding whether the FBI and the federal government should be involved in street crime, **the Justice Department announced its intention to cut in half the number of specialists assigned to identify and prosecute white-collar criminals and to shift its attention to street crime**, especially drug-law enforcement. In October 1982, President Reagan officially announced his administration’s War on Drugs. At the time he declared this new war, less than 2 percent of the American public viewed drugs as the most important issue facing the nation. This fact was no deterrent to Reagan, for the drug war from the outset had little to do with public concern about drugs and much to do with public concern about race. By waging a war on drug users and dealers, Reagan made good on his promise to crack down on the racially defined “others”—the undeserving.

Practically overnight the budgets of federal law enforcement agencies soared. 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. During that same period, DEA antidrug spending grew from \$86 to \$1,026 million, and FBI antidrug allocations grew from \$38 to \$181 million. By contrast, funding for agencies responsible for drug treatment, prevention, and education was dramatically reduced. The budget of the National Institute on Drug Abuse, for example, was reduced from \$274 million to \$57 million from 1981 to 1984, and antidrug funds allocated to the Department of Education were cut from \$14 million to \$3 million.

Determined to ensure that the “new Republican majority” would continue to support the extraordinary expansion of the federal government’s law enforcement activities and that Congress would continue to fund it, the Reagan administration launched a media offensive

to justify the War on Drugs. Central to the media campaign was an effort to sensationalize the emergence of crack cocaine in inner-city neighborhoods—communities devastated by deindustrialization and skyrocketing unemployment. The media frenzy the campaign inspired simply could not have come at a worse time for African Americans.”

In the early 1980s, just as the drug war was kicking off, inner-city communities were suffering from economic collapse. The blue-collar factory jobs that had been plentiful in urban areas in the 1950s and 1960s had suddenly disappeared. Prior to 1970, inner-city workers with relatively little formal education could find industrial employment close to home. Globalization, however, helped to change that. Manufacturing jobs were transferred by multinational corporations away from American cities to countries that lacked unions, where workers earn a small fraction of what is considered a fair wage in the United States. To make matters worse, dramatic technological changes revolutionized the workplace—changes that eliminated many of the jobs that less skilled workers once relied upon for their survival. Highly educated workers benefited from the pace of technological change and the increased use of computer-based technologies, but blue-collar workers often found themselves displaced in the sudden transition from an industrial to a service economy.

The impact of globalization and deindustrialization was felt most strongly in black inner-city communities. As described by William Julius Wilson, in his book *When Work Disappears*, the overwhelming majority of African Americans in the 1970s lacked college educations and had attended racially segregated, underfunded schools lacking basic resources. Those residing in ghetto communities were particularly ill equipped to adapt to the seismic changes taking place in the U.S. economy; they were left isolated and jobless. One study indicates that as late as 1970, more than 70 percent of all blacks working in metropolitan areas held blue-collar jobs. Yet by 1987, when the drug war hit high gear, the industrial employment of black men had plummeted to 28 percent.

“The new manufacturing jobs that opened during this time period were generally located in the suburbs. The growing spatial mismatch of jobs had a profound impact on African Americans trapped in ghettos. A study of urban black fathers found that only 28 percent had access to an automobile. The rate fell to 18 percent for those living in ghetto areas”

Women fared somewhat better during this period because the social-service sector in urban areas—which employs primarily women—was expanding at the same time manufacturing jobs were evaporating. The fraction of black men who moved into so called pink-collar jobs like nursing or clerical work was negligible.

The decline in legitimate employment opportunities among inner-city residents increased incentives to sell drugs—most notably crack cocaine. Crack is pharmacologically almost identical to powder cocaine, but it has been converted into a form that can be vaporized and inhaled for a faster, more intense (though shorter) high using less of the drug—making it possible to sell small doses at more affordable prices. Crack hit the streets in 1985, a few years after Reagan’s drug war was announced, leading to a spike in violence as drug markets struggled to stabilize, and the anger and frustration associated with joblessness boiled. Joblessness and crack swept inner cities precisely at the moment that a fierce backlash against the Civil Rights Movement was manifesting itself through the War on Drugs. The Reagan administration leaped at the opportunity to publicize crack cocaine in inner-city communities in order to build support for its new war.

In October 1985, the DEA sent Robert Stutman to serve as director of its New York City office and charged him with the responsibility of shoring up public support for the administration’s new war. Stutman developed a strategy for improving relations with the news media and sought to draw journalists’ attention to the spread of crack cocaine. As Stutman recounted years later:

The agents would hear me give hundreds of presentations to the media as I attempted to call attention to the drug scourge. I wasted no time in pointing out its [the DEA’s] new accomplishments against the drug traffickers.... In order to convince Washington, I needed to make it [drugs] a national issue and quickly. I began a lobbying effort and I used the media. The media were only too willing to cooperate, because as far the New York media was concerned, crack was the hottest combat reporting story to come along since the end of the Vietnam War.

The strategy bore fruit. In June 1986, Newsweek declared crack to be the biggest story since Vietnam/Watergate, and in August of that year, Time magazine termed crack “the issue of the year.” Thousands of stories about the crack crisis flooded the airwaves and newsstands, and the stories had a clear racial subtext. The articles typically featured black “crack whores,” “crack babies,” and “gangbangers,” reinforcing already prevalent racial stereotypes of black women as irresponsible, selfish “welfare queens,” and black men as “predators”—part of an inferior and criminal subculture. When two popular sports figures, Len Bias and Don Rogers, died of cocaine overdoses in June 1986, the media erroneously reported their deaths as caused by crack, contributing to the media firestorm and groundswell of political activity and public concern relating to the new “demon drug,” crack cocaine. The bonanza continued into 1989, as the media continued to disseminate claims that crack was an “epidemic,” a “plague,” “instantly addictive,” and extraordinarily dangerous—claims that have now been proven false or highly misleading. Between October 1988 and October 1989, the Washington Post alone ran 1,565 stories about the “drug

scourge.” Richard Harwood, the Post’s ombudsmen, eventually admitted the paper had lost “a proper sense of perspective” due to such a “hyperbole epidemic.” He said that “politicians are doing a number on people’s heads.” Sociologists Craig Reinartman and Harry Levine later made a similar point: “Crack was a god-send to the Right.... It could not have appeared at a more politically opportune moment.”

In September 1986, with the media frenzy at full throttle, the House passed legislation that allocated \$2 billion to the antidrug crusade, required the participation of the military in narcotics control efforts, allowed the death penalty for some drug-related crimes, and authorized the admission of some illegally obtained evidence in drug trials. Later that month, the Senate proposed even tougher antidrug legislation, and shortly thereafter, the president signed the Anti-Drug Abuse Act of 1986 into law. Among other harsh penalties, the legislation included mandatory minimum sentences for the distribution of cocaine, including far more severe punishment for distribution of crack—associated with blacks—than powder cocaine, associated with whites.

Few criticisms of the legislation could be heard en route to enactment. One senator insisted that crack had become a scapegoat distracting the public’s attention from the true causes of our social ills, arguing: “If we blame crime on crack, our politicians are off the hook. Forgotten are the failed schools, the malign welfare programs, the desolate neighborhoods, the wasted years. Only crack is to blame. One is tempted to think that if crack did not exist, someone somewhere would have received a Federal grant to develop it.” Critical voices, however, were lonely ones.

Congress revisited drug policy in 1988. The resulting legislation was once again extraordinarily punitive, this time extending far beyond traditional criminal punishments and including new “civil penalties” for drug offenders. The new Anti-Drug Abuse Act authorized public housing authorities to evict any tenant who allows any form of drug-related criminal activity to occur on or near public housing premises and eliminated many federal benefits, including student loans, for anyone convicted of a drug offense. The act also expanded use of the death penalty for serious drug-related offenses and imposed new mandatory minimums for drug offenses, including a five-year mandatory minimum for simple possession of cocaine base—with no evidence of intent to sell. Remarkably, the penalty would apply to first-time offenders. The severity of this punishment was unprecedented in the federal system. Until 1988, one year of imprisonment had been the maximum for possession of any amount of any drug. Members of the Congressional Black Caucus (CBC) were mixed in their assessment of the new legislation—some believing the harsh penalties were necessary, others convinced that the laws were biased and harmful to

African Americans. Ultimately the legislation passed by an overwhelming margin—346 to 11. Six of the negative votes came from the CBC.

The War on Drugs proved popular among key white voters, particularly whites who remained resentful of black progress, civil rights enforcement, and affirmative action. Beginning in the 1970s, researchers found that racial attitudes—not crime rates or likelihood of victimization—are an important determinant of white support for “get tough on crime” and antiwelfare measures. Among whites, those expressing the highest degree of concern about crime also tend to oppose racial reform, and their punitive attitudes toward crime are largely unrelated to their likelihood of victimization. Whites, on average, are more punitive than blacks, despite the fact that blacks are far more likely to be victims of crime. Rural whites are often the most punitive, even though they are least likely to be crime victims. The War on Drugs, cloaked in race-neutral language, offered whites opposed to racial reform a unique opportunity to express their hostility toward blacks and black progress, without being exposed to the charge of racism.

Reagan’s successor, President George Bush Sr., did not hesitate to employ implicit racial appeals, having learned from the success of other conservative politicians that subtle negative references to race could mobilize poor and working-class whites who once were loyal to the Democratic Party. Bush’s most famous racial appeal, the Willie Horton ad, featured a dark-skinned black man, a convicted murderer who escaped while on a work furlough and then raped and murdered a white woman in her home. The ad blamed Bush’s opponent, Massachusetts governor Michael Dukakis, for the death of the white woman, because he approved the furlough program. For months, the ad played repeatedly on network news stations and was the subject of incessant political commentary. Though controversial, the ad was stunningly effective; it destroyed Dukakis’s chances of ever becoming president.

Once in the Oval Office, Bush stayed on message, opposing affirmative action and aggressive civil rights enforcement, and embracing the drug war with great enthusiasm. In August 1989, President Bush characterized drug use as “the most pressing problem facing the nation.” Shortly thereafter, a New York Times/CBS News Poll reported that 64 percent of those polled—the highest percentage ever recorded—now thought that drugs were the most significant problem in the United States. This surge of public concern did not correspond to a dramatic shift in illegal drug activity, but instead was the product of a carefully orchestrated political campaign. The level of public concern about crime and drugs was only weakly correlated with actual crime rates, but highly correlated with political initiatives, campaigns, and partisan appeals.

The shift to a general attitude of “toughness” toward problems associated with communities of color began in the 1960s, when the gains and goals of the Civil Rights Movement began to require real sacrifices on the part of white Americans, and conservative politicians found they could mobilize white racial resentment by vowing to crack down on crime. By the late 1980s, however, not only conservatives played leading roles in the get-tough movement, spouting the rhetoric once associated only with segregationists. Democratic politicians and policy makers were now attempting to wrest control of the crime and drug issues from Republicans by advocating stricter anticrime and antidrug laws—all in an effort to win back the so-called “swing voters” who were defecting to the Republican Party. Somewhat ironically, these “new Democrats” were joined by virulent racists, most notably the Ku Klux Klan, which announced in 1990 that it intended to “join the battle against illegal drugs” by becoming the “eyes and ears of the police.” Progressives concerned about racial justice in this period were mostly silent about the War on Drugs, preferring to channel their energy toward defense of affirmative action and other perceived gains of the Civil Rights Movement.

In the early 1990s, resistance to the emergence of a new system of racialized social control collapsed across the political spectrum. A century earlier, a similar political dynamic had resulted in the birth of Jim Crow. In the 1890s, Populists buckled under the political pressure created by the Redeemers, who had successfully appealed to poor and working-class whites by proposing overtly racist and increasingly absurd Jim Crow laws. Now, a new **racial caste** system—mass incarceration—was taking hold, as politicians of every stripe competed with each other to win the votes of poor and working-class whites, whose economic status was precarious, at best, and who felt threatened by racial reforms. As had happened before, former allies of African Americans—as much as conservatives—adopted a political strategy that required them to prove how “tough” they could be on “them,” the dark-skinned pariahs.

The results were immediate. As law enforcement budgets exploded, so did prison and jail populations. In 1991, the Sentencing Project reported that the number of people behind bars in the United States was unprecedented in world history, and that one fourth of young African American men were now under the control of the criminal justice system. Despite the jaw-dropping impact of the “get tough” movement on the African American community, neither the Democrats nor the Republicans revealed any inclination to slow the pace of incarceration.

To the contrary, in 1992, presidential candidate Bill Clinton vowed that he would never permit any Republican to be perceived as tougher on crime than he. True to his word, just weeks before the critical New Hampshire primary, Clinton chose to fly home to Arkansas to

oversee the execution of Ricky Ray Rector, a mentally impaired black man who had so little conception of what was about to happen to him that he asked for the dessert from his last meal to be saved for him until the morning. After the execution, Clinton remarked, “I can be nicked a lot, but no one can say I’m soft on crime.”

Once elected, Clinton endorsed the idea of a federal “three strikes and you’re out” law, which he advocated in his 1994 State of the Union address to enthusiastic applause on both sides of the aisle. The \$30 billion crime bill sent to President Clinton in August 1994 was hailed as a victory for the Democrats, who “were able to wrest the crime issue from the Republicans and make it their own.” The bill created dozens of new federal capital crimes, mandated life sentences for some three-time offenders, and authorized more than \$16 billion for state prison grants and expansion of state and local police forces. Far from resisting the emergence of the new caste system, Clinton escalated the drug war beyond what conservatives had imagined possible a decade earlier. As the Justice Policy Institute has observed, “the Clinton Administration’s ‘tough on crime’ policies resulted in the largest increases in federal and state prison inmates of any president in American history.”

Clinton eventually moved beyond crime and capitulated to the conservative racial agenda on welfare. This move, like his “get tough” rhetoric and policies, was part of a grand strategy articulated by the “new Democrats” to appeal to the elusive white swing voters. In so doing, Clinton—more than any other president—created the current racial undercaste. He signed the Personal Responsibility and Work Opportunity Reconciliation Act, which “ended welfare as we know it,” and replaced it with a block grant to states called Temporary Assistance to Needy Families (TANF). TANF imposed a five-year lifetime limit on welfare assistance, as well as a permanent, lifetime ban on eligibility for welfare and food stamps for anyone convicted of a felony drug offense—including simple possession of marijuana.

Clinton did not stop there. Determined to prove how “tough” he could be on “them,” Clinton also made it easier for federally-assisted public housing projects to exclude anyone with a criminal history—an extraordinarily harsh step in the midst of a drug war aimed at racial and ethnic minorities. In his announcement of the “One Strike and You’re Out” Initiative, Clinton explained: “From now on, the rule for residents who commit crime and peddle drugs should be one strike and you’re out.” The new rule promised to be “the toughest admission and eviction policy that HUD has implemented.” Thus, for countless poor people, particularly racial minorities targeted by the drug war, public housing was no longer available, leaving many of them homeless—locked out not only of mainstream society, but their own homes.

The law and order perspective, first introduced during the peak of the Civil Rights Movement by rabid segregationists, had become nearly hegemonic two decades later. By the mid-1990s, no serious alternatives to the War on Drugs and “get tough” movement were being entertained in mainstream political discourse. Once again, in response to a major disruption in the prevailing racial order—this time the civil rights gains of the 1960s—a new system of racialized social control was created by exploiting the vulnerabilities and racial resentments of poor and working-class whites. More than 2 million people found themselves behind bars at the turn of the twenty-first century, and millions more were relegated to the margins of mainstream society, banished to a political and social space not unlike Jim Crow, where discrimination in employment, housing, and access to education was perfectly legal, and where they could be **denied the right to vote**. The system functioned relatively automatically, and the prevailing system of racial meanings, identities, and ideologies already seemed natural. **Ninety percent** of those admitted to prison for drug offenses in many states were **black or Latino**, yet the mass incarceration of communities of color was explained in race-neutral terms, an adaptation to the needs and demands of the current political climate. The New Jim Crow was born.