

Prisons, Poverty And Power

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Ian F. Haney Lopez, [*Post Racial Racism: Racial Stratification and Mass Incarceration in the Age of Obama*](#), 98 **Cal. L. Rev.** 1023 (2010).

Yes, yes, I know this is the Journal of Things We Like. And I like, like, like Ian Haney Lopez's essay, "Post Racial Racism: Racial Stratification and Mass Incarceration in the Age of Obama." But to understand why I like it so much, I have to say a word about something I also liked, but not as much as I had wanted to.

A great deal of attention has been paid to Michelle Alexander's book, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. The attention is well deserved; Alexander is a great writer with an eye for a compelling narrative. But truth be told, I was left feeling a bit dissatisfied when I finished reading. How does the New Jim Crow racism actually work, structurally speaking, when it comes to mass incarceration? Is subconscious bias (by police) and naked political gain (by the architects of the war on drugs) really the entire story? Isn't there a deeper, more coherent structural story to tell here with regard to cause?

Happily, Ian Haney Lopez tells that story, in an essay published in the *California Law Review*. Written before Alexander's book was released, Ian's essay takes on the subject of mass incarceration in three parts. The first part describes the racial politics of mass incarceration. Here, Ian draws on research that traces the evolution of political rhetoric on crime control, from Southern politicians to Goldwater, LBJ and Nixon.

More importantly, Haney Lopez connects the anti-crime rhetoric to the anti-welfare rhetoric that developed during the same era. I say importantly because this double-targeting of anti-crime and anti-welfare helps to identify the structural force at work here: the move to shut down any possibility of significant redistribution of taxpayer dollars, in the form of help for communities that had been under the yoke of racial oppression.

Affirmative action was just a small part of what could have been a broader call for a Marshall-style program to aid communities (and cities) that had been the victims of racism. But anti-crime and anti-welfare rhetoric reframed the state as limited in scope, responsible for security but not for a social safety net. Whites got security, which is government's job. (Never mind that crime rates were declining.) Black and brown citizens, and not government, were responsible for their own poverty-reduction.

In the second part, Haney Lopez animates this shift in rhetoric theoretically. In particular, he uses racial stratification theory (ala Charles Tilly and Doug Massey) to explain the shift away from welfare and towards incarceration. Mass incarceration of men of color works because it has justified white *exploitation* of non-white communities. Read "exploitation," and think of things like slavery and Jim Crow sharecropping arrangements, or in modern era exploitation, low-wage labor from undocumented workers.

In this vein, Haney Lopez describes in detail the history of the convict lease system that flourished in the

South after the Civil War. After the war, the proportion of blacks in the Southern prison population skyrocketed, driven by the practice of leasing out of convicts as laborers to industrialists and farmers. In the modern era, whites still profit less directly from prisons, which are a significant source of business in many states.

In addition, racial differences in criminal justice population serve to justify white *hoarding* of previously acquired resources. As an example, Ian rehearses the argument by Loic Wacquant that mass incarceration helps whites to hoard the profits of globalization. Mass incarceration is a way to manage the large number of unskilled black and brown workers left behind by globalization and the relocation offshore of industrial jobs. One can only imagine what Occupy protests might have looked like if the ranks had been swelled with those unemployed poor and working class blacks and Latinos, who were in prison at the time.

More generally, in the third part of his essay, Ian focuses on the way in which mass incarceration of black and brown men is part of a broader contest over resources. To hold onto their monopoly of profit, power and taxpayer resources, whites have needed the machinery of the criminal justice system and of law. Among other things, whites have needed legitimate tools of violence and coercion in order to enforce exclusion and exploitation. People often push back when they are excluded or exploited. Violence is needed to preserve white dominance.

Criminal justice works, for example, giving unskilled whites a competitive advantage when black and brown felons are taken out of the job market, or are essentially handicapped on the labor market with their criminal record. Mass incarceration also advantages whites in their competition for control of the levers of state power. In prison, black and brown felon populations are in no position to politically demand for their communities “an effective jobs programs, affordable day care, decent schools and after-school programs, markets offering employment or selling healthy products at fair prices, access to mainstream financial institutions, or efficient transportation links to the broader metropolis...” (p. 1058). Felon disenfranchisement extends the problem.

It is precisely this sort of structural analysis—focusing on a larger coherent structural narrative as opposed to subconscious bias or naked partisan gain—that we see too little of in Alexander’s book. Haney Lopez’s analysis is much more specific to mass incarceration and far more well developed.

Precisely because I am a structuralist, I would have liked to hear how politicians, voters and law enforcement produce and reproduce these structural processes. (Never too much structure for me...) Still, at the end of the day, I am very happy that Haney Lopez has pushed the inquiry about mass incarceration in a very structural direction. Alexander and others writing on the subject would do well to follow his lead.

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