

## **With Liberty and Justice for All?**

*A sermon by the Rev. Molly Housh Gordon*

*Delivered at the UU Church of Columbia, MO*

*October 21, 2012*

Emily and Jeff and I became best friends in our sophomore year of high school. We sat together in Spanish class that year, and I guess you could say we bonded over conjugation. Yo soy, Tu eres, Usted es. We worked on our accents and teased each other using our Spanish class names: Emilia, Jefe, and... Molly.

We started eating lunch together and then spending our free time together, going to Wal-Mart to see who could buy the funniest thing for a dollar, hanging out in the park at dusk talking about everything in the world, making frequent evening trips to Sonic for tater tots and slushes. We always took Jeff's car, because it was nicest – a shiny new Jeep. My car was the worst, as I was driving my parents' old grey dodge caravan. We seldom thought of the privilege of having cars at all.

Jeff is one of those people who can really spin a yarn and it seemed like the craziest things were always happening to him. Witnessing embezzlement at his after-school job at McDonald's. Catching some incredibly rare bird flu, and being escorted from school by ambulance to be quarantined in the hospital for several days. The list goes on.

One day, Jeff told us about an encounter he'd had that week with the police. He'd been on his way home from work and they'd pulled him over a block away from his house, for not stopping long enough at a stop sign. They shined a flashlight in his face, and asked him to get out of the car. They asked to search his car. He allowed it. When they found nothing, they told him to put his hands on his head and stand on one foot. Presumably they were testing his sobriety, and thankfully the story ended there. Jeff said it was humiliating, though he told the story in his usual humorous way.

The thing is, though lots of unlikely things happened to Jeff, this wasn't one of them. Jeff was a black teenager in a nice car in a predominately African American part of town. Being stopped and searched by the police was entirely likely.

Jeff's story was a wake up call to me, even as it was a simple fact of life to him. It was a clear and personal example of the racially unjust society I was living amidst *without even seeing it*.

I remember my feelings at the time. Disbelief; anger at the injustice of it; and, perhaps most powerfully, shame at the privilege that made such an experience so foreign to me. I don't recall the rest of the conversation as clearly as I would wish. I think Emily and I expressed outrage, and Jeff sort of shrugged. That's life.

But I continued to think about it. I'm sure we all did, in different ways. The next time we were out in the car with Jeff, I wondered in the corner of my mind if the presence of two white girls in the car with him made him more safe or less. Thankfully, we never found out.

At the time, the phrase racial profiling came to mind, but in fact, Jeff's traffic stop was part of a much bigger picture than one police officer's conscious or unconscious racial bias.

This traffic stop was just one (thankfully mild) incident in a wider system of crime, punishment, and racial control at work in our country, a system of racially biased mass incarceration that legal scholar and civil rights advocate Michelle Alexander has powerfully called *The New Jim Crow*.

In her book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, Alexander argues that our criminal justice system as it currently functions has created a new caste system of racial control in which disproportionate number of people of color are shuttled from impoverished communities into prison, probation, and parole. Then, once they are labeled as felons, they can be legally deprived of civil rights, such as voting, jury service, and equal access the work, housing and public assistance.

In this system we have replaced “separate but equal” with “law and order.” Replaced the N- word with the F- word, felon. The system, she says, has conditioned us to consciously or unconsciously replace the image of a young black man with the word criminal.

“The new Jim Crow?” you may protest. But we have a black president! We are a color-blind society! Well, as Dr. Alexander points out in her book, it is exactly that appeal to a race-less society that makes today’s system most insidious and most tenacious. How can you argue that the deck is stacked against America’s minority population when you refuse to speak of their experience as influenced by race?

Indeed, the strategic use of explicitly “non-racial” but coded language is exactly how this system began. Starting during the election campaign of Richard Nixon, Republicans began using the phrase “tough on crime” as coded racial language meant to appeal to poor Southern whites who were disoriented and threatened by the gains in equality made by blacks in the Civil Rights Era. This was an intentional political method referred to by party leaders as “the Southern Strategy.”

It should be quickly noted that this language and corresponding “anti-crime” policy was later enthusiastically adopted by Democrats when it became politically expedient to do so. It turns out that at some point in history, each party has needed the vote of impoverished white Americans, and has cynically played upon racial fear and anxiety to gain that vote.

Years after Nixon’s election, Ronald Reagan would double down on this strategy by calling for a War on Drugs and then waging it primarily in poor communities of color.

When Reagan declared this war, drug use was actually on the decline in America, and law enforcement agencies were scratching their heads. They generally preferred to put their resources toward crimes such as murder, rape, and theft.

But not for long, as grants to drug enforcement units, financial incentives for drug arrests, and legal property seizures in drug related incidents grew and grew. Suddenly, local and state police found the War on Drugs to be very lucrative.

At the same time, Reagan hired marketing firms to bring public opinion around to his War on Drugs by publicizing the devastation of crack cocaine that was just beginning to flood into poor communities of color, one might argue as a direct result of the Iran-Contra scandal.

In the next few years under drug war policy, local police forces were militarized, drug law enforcement budgets soared, and drug treatment and rehabilitation budgets plummeted. These trends, combined with mandatory sentencing laws weighted heavily toward the crack-cocaine that began flooding into poor communities of color began to create the picture that we see today.

When Reagan announced the war on drugs, there were 300,000 people in our criminal justice system. There are now over 2 million people in that system. That's a 700% increase in the prison population in 30 years.

No other country on earth, even among the regimes we classify as most oppressive, imprisons so many of its own people.

And though rates of drug use and drug dealing are remarkably similar across racial lines, if anything slightly higher among whites, drug arrests were then and are now unmistakably and dramatically skewed toward people of color.

This country, founded upon ideals of liberty and justice for all people, imprisons a larger percentage of its black population than South Africa did at the height of apartheid, with drug convictions accounting for the majority of that number.

Though not more likely to commit drug crimes, Dr. Alexander writes, "black men have been admitted to prison on drug charges at rates twenty to fifty times greater than those of white men. [...] In major cities wracked by the drug war, as many of 80 percent of young African American men now have criminal records."

Yet we remain silent. Criminals don't deserve our voice.

Mandatory sentencing laws reinforce these numbers, punishing the possession of crack cocaine found in poor minority communities at a rate of 100 to 1 over possession of the powder cocaine found in wealthier white communities. You could be carrying 100 times more powder cocaine than crack cocaine, and receive the exact same mandatory sentence.

Yet we remain silent. Criminals don't deserve our voice.

Of the millions of people arrested on drug charges, 4 out of 5 are for small time possession charges, folks rounded up in conditions that may sound familiar.

Police are trained through a program known as Operation Pipeline to make what they call pretext traffic stops, specifically for the purpose of demanding consent to search people's vehicles.

As I later learned, the experience my friend Jeff had in Tulsa is a well known strategy. It goes like this:

Camp out at a stop sign in a poor part of town where people are less likely to challenge your actions with expensive lawsuits.

Watch people break minor traffic laws until you see someone that looks 'suspicious.'

Then stop them, and demand to search their vehicle. As long as the demand is phrased as a question, any positive response from the searchee counts as consent, thereby negating the need for reasonable suspicion.

If you are lucky and they are unlucky, they will have some small amount of drugs in their car, and you will arrest them.

Once in the system, these 'criminals' will face the specter of harsh mandatory sentences and three strikes laws, and a severe shortage of public defenders that means they may only get five minutes with a lawyer. For these reasons, 90% of these drug arrests never go to trial, and often defendants will plead guilty to crimes

they did not commit or to more severe charges than their actual crimes because a plea bargain for a shorter sentence or probation is a far better situation than they can generally expect in a justice system stacked against them.

What many don't realize is that even if they do not serve time in prison, they have entered a system they can never leave. As Dr. Alexander writes, "When a defendant pleads guilty to a minor drug offense, nobody will likely tell him that he may be permanently forfeiting his right to vote as well as his right to serve on a jury." He won't be warned that his plea will cost him access to affordable housing and a fair shot at employment. What no one speaks of in this land of liberty and justice for some is that once someone has been marked with the scarlet F, they can forever be legally discriminated against in almost every area of life.

Yet we remain silent. Criminals don't deserve our voice.

Even despite my belief that drug abuse is more a of public health crisis than a crime, the evidence seems clear to me that Drug War laws, policies and practices have created a practically racialized, though officially colorblind, system of incarceration and legal discrimination that has devastated and ravished communities of color all over this land of the free.

What is also clear to me is my complicity in this system. My silence; my blindness not to just to color but to injustice happening all around me, every single day; my failure to question a society that tells me criminals are unworthy, and people of color are criminals, and they all get what they deserve.

When we set up a massive system of oppression and control, how can we see the products of that system as anyone's failure but our own?

The great African American writer James Baldwin wrote in a letter to his nephew: "This is the crime of which I accuse my country and my countrymen, and for which neither I nor time nor history will ever forgive them, that they have destroyed and are destroying hundreds of thousands of lives and do not know it and do not want to

know it... It is their innocence which constitutes the crime... This innocent country set you down in a ghetto in which, in fact, in intended that you perish.”

We claim to be one nation, under God, indivisible, with liberty and justice for all. We profess ourselves to be responsible for one another as citizens, neighbors, and fellow human beings. Yet we have been part of a system that has destroyed and is destroying hundreds of thousands of lives. And we do not know it and do not want to know it.

That is our crime.

We can no longer plead innocence. We can no longer appeal to color-blindness. This affects us. We are one people and this system destroys all of us, bit by bit.

If this is indeed the new Jim Crow, we cannot dismantle it by ignoring race. If we insist upon the same colorblind but coded language that allowed its very creation, we are bound to fail. It is time to get real. To be brutally honest with ourselves and each other about race and racism in our society, which are very alive and well.

These conversations will be uncomfortable because our national history and contemporary situation regarding race are shameful. But avoiding the conversation is criminal.

Michelle Alexander’s prescription to us is phrased more compassionately. She writes:

“seeing race is not the problem. Refusing to care for the people we see is the problem. [...]

We should hope not for a colorblind society, but instead for a world in which we can see each other fully, learn from each other, and do what we can to respond to each other with love.

That was King’s dream – a society that is capable of seeing each of us, as we are, with love. That is a goal worth fighting for.” (231)

Hers is a Universalist message of grace and mercy – of love across every divide. Love that refuses to be silenced or blinded or made less than whole. Let us, who are Universalists, live up to that love.

Let us open our eyes, see difference, break silence, practice at last the love that knows no walls or limits.

I hope you will join me this year in reading *The New Jim Crow* as our common read. It's available in paperback at our book table, in book and audio book form at our local library, and online in ebook format. Over the remainder of the year there will be opportunities for conversation around this book, further exploration of the issues it raises, and examination of the impact of these policies in our community.

Please, please join me, in the first small step. Of learning, of breaking silence, of seeing at last what is all around us and naming it, and in so doing building our piece of the American dream, our promised land of liberty and justice for all people.

In the words of African America luminary and Joplin, Missouri native Langston Hughes, “let America be America again-- The land that never has been yet-- And yet must be--the land where *every* man is free. The land that's mine--the poor man's, Indian's, Negro's, ME-- Who made America, Whose sweat and blood, whose faith and pain, Whose hand at the foundry, whose plow in the rain, Must bring back our mighty dream again.”