

Review: A Nation Behind Bars - Mass incarceration in the US

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Review of James Kilgore, *Understanding Mass Incarceration: A People's Guide to the Key Civil Rights Struggle of Our Time*. New York: The New Press, 2015, 264 pages, \$17.95 paper.

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UNDERSTANDING MASS INCARCERATION by James Kilgore is the latest in a wave of publications on mass incarceration spawned by Michelle Alexander's highly influential 2009 book, *The New Jim Crow*. Alexander's book and her speaking tours helped to make mass incarceration the object of intense public debate in the same way that the Occupy movement made income inequality part of the national debate on political and social policy.

Kilgore's book covers some of the same ground as Alexander's, particularly in educating the reader on the chilling statistics of mass incarceration, its heavily racist character, its connection to the so-called "war on drugs" and its origins and progression over the last several decades as successive Democratic and Republican presidents and legislators strengthened and extended its scope, reach and destructiveness.

His book complements Alexander's by charting developments that occurred in the years between the two books, and by its thorough discussion of the ways that mass incarceration affects whole communities, especially communities of color, its huge impact on women and the ways the full force of the system falls most heavily on LGBT people, particularly transwomen of color. Perhaps most importantly, Kilgore carries out extended discussions of various programs, strategies and tactics to end mass incarceration. He also expands the discussion on mass incarceration by discussing the large number of immigrants incarcerated for immigration issues.

The tone and presentation of the book effectively advances Kilgore's goal of educating the general public on the scope and brutality of mass incarceration. At the same time he provides theoretical and practical tools for activists.

In fact, the book reads almost like a handbook; its format and attractive cover make it an ideal gift. Included are numerous sidebars and boxes, some of which present information in bullet form, while

others quote from “those who are rarely heard in mainstream sources, particularly the formerly incarcerated, their loved ones, and members of their communities.” (2)

One of Kilgore’s goals is to humanize those incarcerated. He explains that he does not use stigmatizing language in regards to prisoners and former prisoners such as convict, inmate, probationer, parolee, ex-offender, ex-prisoner (or ex anything). (3)

Complex debates are deftly presented in ways that will educate those with little knowledge of the subject, but will interest experts in the field. One of its merits is Kilgore’s presentation of the various, sometimes contradictory, approaches to ending mass incarceration. This encourages the reader to make up her or his mind. The book would be an ideal educational tool for college courses as well as activists.

Kilgore’s analytical approach is that of a radical sociologist. His writing is clear, his tone measured, but underpinned by a deep humanity and a calmly expressed moral outrage at the destruction that mass incarceration inflicts on whole communities and generations, particularly the most oppressed.

A writer, activist and educator currently based at the University of Illinois, Urbana-Champaign, Kilgore has written widely on incarceration and has authored four novels. After being involved in political violence in the 1970s, he lived underground in southern Africa for 18 years. He spent 11 of those years in South Africa, where he worked as a popular educator for trade unions and social movements. In 2002 he was captured in Cape Town, extradited and spent six-and-a-half years in state and federal prisons in California.

Since Kilgore’s release, he has focused his activism on incarceration issues. As he wrote last year in the *Chronicle of Higher Education*, “I’ve become an obsessed campaigner against incarceration, against the madness of solving social problems with concrete and steel cages. My obsession may not make me an ideal party guest, but I can’t think of a better way to spend my time.”

Incarceration Nation

The basic statistics of mass incarceration are becoming familiar to growing numbers of people. Among the most striking is the dramatic growth of the U.S. incarcerated population from 500,000 in 1980 to 2.5 million in 2014. While the country has 5% of the world’s population, it holds 25% of all its prisoners.

The racial and class dimensions of the system are also well known. In 1970, people of color made up 30% of the prison population, today that figure is 70%. In 2012, African Americans constituted 13% of the U.S. population, yet made up 40% of the prison and jail population. Latinos, who were 14% of the population at that time, made up 22% of those incarcerated.

There is likewise, a class profile to the incarcerated population. They represent, Kilgore reminds us, “the poorest, most marginalized members of the US working class.” (14)

Like Michelle Alexander and Ruth Gilmore, Kilgore traces the origins of mass incarceration to the war on drugs launched by Richard Nixon as a thinly veiled appeal to white racist sentiment. Kilgore quotes Nixon in a particularly stark expression of the philosophy of mass incarceration. “Doubling the conviction rate in this country would do more to cure crime in America than quadrupling the funds for (the) . . . war on poverty.” (18)

At a time when opinion polls showed that only 2% of the U.S. population found drugs to be a major

social problem, Reagan-era laws like the 1984 Federal Sentencing Guidelines expanded prosecutions and length of prison sentences.

Added to these keystones in the edifice of mass incarceration was the 1988 Anti-Drug Abuse Act, which imposed a five-year minimum penalty for possession of cocaine base, linking it to the “crack” cocaine found in poor communities of color.

Not to be outdone by the law-and-order right, President Bill Clinton increased penal sanctions for drug offenses. He also expanded the ways that convictions under the drug laws would continue to wreck the lives of the disproportionately Black prisoners even after they left prison. This included barring those convicted of drug offenses — or in some cases merely for an arrest — from access to federally funded public housing. This was a particularly severe measure given the large numbers of poor people caught up in the legal system who rely on publicly subsidized housing.

During this time, big business news and entertainment media played their role in constructing the image of what Alexander calls the “criminalblackman.” Linking Black men with criminality in the public imagination made it easier to gain both mass support for harsh penal measures and wage an assault on social services for the poor.

Politicians like Hillary Clinton with her reference to Black youth caught up in urban violence as “superpredators” reinforced this image. Along with the use of racially charged language that associated violence and criminality with Black youth, the rise of the so-called “victim’s rights” movement also played its role in building support for mass incarceration.

Ideological and “scholarly” justification for mass incarceration was provided by social scientists like James Q. Wilson, who argued in favor of incarceration-centered approaches to “crime” and increased policing of “high crime” (read poor communities of color) neighborhoods.

The use of “Stop and Frisk” policies by police departments and the racial profiling it entailed were given legal support by a series of judicial rulings that whittled down rights guaranteed by the Bill of Rights such as protection against unreasonable search and seizure.

The war on drugs and by extension mass incarceration was fueled by the DEA, which offered armed vehicles, helicopters and other military hardware to local police free of charge on the condition that these be used solely for drug policing. This coupled with the war on drugs and police incentives to arrest, led to more confrontations, more arrests, more prison sentences — and as the world has seen, near-daily shooting murders of African Americans by the police.

Once Released

Kilgore explains the extreme handicaps that the incarcerated face once released. Convictions can make finding employment nearly impossible. Kilgore refers to a 2002 study carried out in Chicago about employment licensing in Illinois. The study found that of the 98 occupations that required licensure, 57 banned applicants with felony convictions.

Prisoner rights activists have raised the demand to “ban the box” — a reference to the box on many job applications that ask if an applicant has a criminal conviction.

The cards are clearly stacked against those with convictions, and most of those cards have “go back to jail” written on them. Parole is now all about control and surveillance and is part of the reason for the high recidivism rate. One of the book’s most powerful boxes of concentrated information, “How

to End Up Back in Prison,” lists some of the ways that a person on parole can be sent back to prison for months or years:

- Have dinner with your brother if he has a felony conviction.
- Ride an unlicensed bicycle.
- Visit your mother if she lives in a zone where your parole conditions don’t allow you to go.
- Chop onions in the dining room with a knife that has a blade more than 2.5 inches long (you can use it only in kitchen).
- Fail to give your parole officer a monthly financial statement.
- Respond to a family emergency outside your county without permission.
- Work for an employer who refuses to allow your parole agent to search your work premises.

The Culture of Incarceration

Mass incarceration is accompanied by a social philosophy of retribution that is promoted at numerous social levels. Juveniles whose behavior is deemed “delinquent” may end up with shockingly long sentences for non-violent crimes.

The “tough love” child rearing philosophy that was in vogue in the early years of the war of drugs was extended to the world of criminal justice in the form of “three strikes, you’re out” laws resulting in life sentences for a minor offense.

Over the last several decades, the criminal justice system with mass incarceration at its center has been “normalized” through numerous TV shows about prison including the highly acclaimed “Orange is the New Black.” These condition consumers of mass culture to unquestionably view prison as a normal, acceptable, and necessary social institution.

Prison-Industrial Complex

The neoliberal assault on public services and institutions has extended to the world of prisons. Mass incarceration is big business. The provisioning of prisons with food, clothing and medical supplies, as well as the construction, upkeep and maintenance of prisons provide lucrative contracts to suppliers even when the prisons themselves are not privatized. Two large corporations have carved out a particularly large “market share” of this “industry”: Corrections Corporation of America (CCA) and GEO, both of whose stock is publicly traded on the New York Stock Exchange.

In its 2010 annual report, CCA brazenly explained to their stockholders the company’s financial interest in mass incarceration, warning that “(t)he demand for our facilities and services could be adversely affected by ... leniency in conviction or parole standards and sentencing practices.” (174)

Contracts with the federal government for immigrant detention and incarceration are particularly lucrative. In 2012, the CCA and GEO groups alone were awarded \$738 million of taxpayers’ money to lock up immigrants. Kilgore cites a 2009 study that estimated the cost to per detainee at \$164 a day or \$60,000 a year — the same cost, he points out, as a year at an Ivy league school.

Unions like AFSCME and organizations like the ACLU along with social justice advocacy groups have all documented the horrendous conditions at these private prisons. A series of lawsuits and multimillion dollar settlements against them further attest to criminal abuse by private penal corporations.

An increasingly visible feature of the criminal justice system has been the incarceration in local jails of those unable to pay fines stemming from encounters with the system. Parking fines and court costs land people unable to pay in jail. A return to the barbarous, mostly preindustrial, debtor's prison is largely a problem poor people of color face.

The Folks Left Behind

Understanding Mass Incarceration is particularly effective in explaining the ways that mass incarceration hurts whole communities. As Kilgore points out, "We often think of imprisonment as an individual experience, but the scale of mass incarceration and its concentration in poor communities of color mean that it is a social collective process rather than one person's journey through the criminal legal system." (137)

Incarceration affects the families, children, and partners, usually women of those imprisoned. As of 2014 approximately 2.7 million children had a parent incarcerated. Studies have shown that these children are more likely to experience a variety of emotional problems and declining school performance. Kilgore discusses the work of the San Francisco Partnership for Incarcerated Parents, a group that advocates for the children of incarcerated parents. (145)

The racist dimension of mass incarceration involves the political disenfranchisement of whole sections of the Black community. Prisoners are barred from voting, thereby diluting the voting strength of the urban communities from where most come.

Instead the imprisoned are counted in the rural areas where more and more prisons are located, increasing the electoral apportionment for those often rightwing leaning districts.

Once released, some states permanently strip ex-prisoners convicted of felonies of their voting rights, others merely make it difficult to apply for restoration. In some areas 20% of the African-American adult male population has lost voting rights. In the November 8, 2016 elections one out of every 13 Black adults will be ineligible to vote due to felony convictions. All this echos the way African slaves were once counted as 3/5 of a person for electoral apportionment.

Ending Mass Incarceration

For activists, perhaps the most important part of *Understanding Mass Incarceration* is its introduction to the alternatives to the current thinking and practice on crime and punishment. Kilgore guides the reader through the shift from philosophies and practices of retribution to rehabilitation and back to retribution during the growth of mass incarceration.

He charts how over the last several years more voices from the political and social establishment are questioning the practice. He quotes a May 25, 2014 *New York Times* editorial that "mass incarceration has been a moral, legal, and social, and economic disaster. It cannot end too soon."

Even the socially conservative billionaire Koch brothers have come to the conclusion that the current system of mass incarceration must be transformed. But their concerns are fiscal, rather than as

Michelle Alexander points out, from “genuine concern for the communities that have been most impacted and the families that have been destroyed by aggressive anti-drug policies.” (quoted in Kilgore, 220)

What does this mean for alliance building? Kilgore quotes voices in favor and opposed to alliances with conservative groups critical of current criminal justice practices and its costs. He notes that Right on Crime counts conservative leaders such as Newt Gingrich among its members.

Likewise, Kilgore introduces the debate over whether there should be prison reform or prison abolition. Should the left demand improvements in prison facilities? Should new, supposedly more humane prisons be built? Or do campaigns for such measures undermine ending mass incarceration?

Kilgore agrees with Alexander that it will take a mass social movement to end mass incarceration. He notes that building such a movement would involve charting a clearly defined strategic course with appropriate tactics and lays out two different strategies.

The first relies on changing laws through working to elect sympathetic politicians and relies on experts and lobbyists. The second, “while acknowledging the need for changes in law and support for political candidates, would struggle for change in the criminal justice system in the context of a broader movement for social justice.”

Such a movement would “build alliances with other social movements — climate justice, demilitarization, worker’s rights and racial and gender rights.”

Such an approach would also “involve less traditional forms of organization and process, making use of network building, decision mass by consensus, and non-hierarchical structures.” A movement of this kind would “not only end mass incarceration, but also go build a sustainable movement for a fundamentally different type of society.” (227-228)

Perhaps in the spirit of presenting a variety of viewpoints, Kilgore doesn’t explicitly acknowledge the contradictions between these two strategies. In any event, a mass movement to end mass incarceration and the violent, racist, classist practices that underpin it will require a strategic orientation based on educating and mobilizing masses of working people, particularly from communities of color, for mass protest action independent of the two establishment parties.

Restorative, Transformative, Abolitionist Alternatives

Kilgore also offers a useful introduction to alternatives to current criminal justice theories and practices. Restorative justice promotes “forgiveness and reconciliation,” a notion Kilgore points out that has been used for centuries by indigenous peoples throughout the world and promoted by such figures as the South African Nobel Peace award laureate and anti-apartheid leader Desmond Tutu. Truth and Reconciliation commissions set up in South Africa, Rwanda and El Salvador have been inspired by notions of restorative justice.

Kilgore explains that there are two versions of restorative justice. The first focuses on victims’ rights and is part of the set of retributive practices that underpins mass incarceration itself.

Much of this type of restorative justice takes place within the criminal justice system itself and is not critical of that system. Restorative justice groups of this type like Crime Victims United of California have opposed referenda to abolish the death penalty and reduce the number of offenses included in

the three-strikes law.

A second form of restorative justice, which Kilgore calls “community-based restorative justice” takes place outside the formal criminal justice system and involves setting up “alternative processes and institutions that would empower individuals and communities to resolve conflicts through their own initiatives.” (202)

A more radical and arguably more appealing alternative is transformative justice. This approach Kilgore explains “concentrates on the roots of crime and harmful actions and attempts to link the resolution of individual cases to larger issues, such as institutionalized race, gender, and class inequality.” (209)

Similarly, the Justice Reinvestment approach “would combine decarceration and alternatives to incarceration to reduce spending, and then redirect the savings into the people and communities that have been critically impacted by high incarceration rates.” (225)

The prison abolition alternative promoted most prominently by the left-wing civil rights and feminist activist and scholar Angela Davis and groups like Critical Resistance draws its inspiration from the 19th century U.S. slavery abolition movement (213-214). Prison abolitionists argue that prisons are social evils that should be abolished, not reformed. Politically, such a stand opposes the building of new prisons and jails, leading to potential friction with prison reform activists.

Capitalism and Mass Incarceration

Both Kilgore and Alexander situate mass incarceration in an historical context. For Alexander, mass incarceration represents a third form of social control of African Americans by the dominant white majority or sections of it. The first two were slavery and the Jim Crow system of legal racial segregation and discrimination. Similarly, Kilgore sees mass incarceration as the “key civil rights struggle of our times.”

These analyses are truly radical critiques of mass incarceration and the whole criminal justice system. The problem, they teach us, is not “abuses” in the system, a few bad eggs, or “widespread racial discrimination.”

The system is not “broken” as liberals and others on the left (including Bernie Sanders) argue. They both suggest that the system is working as it is designed to work and it does so in order to satisfy the interests of rich and powerful interests.

A fully Marxist account of mass incarceration and its racial and class character would analyze how the system fits in with the needs of capital, or at least some sections of it, the role of neo-liberal philosophy and policies and other social, economic, and political dimensions. It would certainly reject the retributive considerations that now hold sway over the system and in the minds of many. Understanding Mass Incarceration helps lay the foundation for such an analysis.

Keith Mann

P.S.

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<http://www.solidarity-us.org/site/node/4820>