

Participant's Guide



THE ANÁSTASIS CENTER
FOR CHRISTIAN EDUCATION & MINISTRY

Mako A. Nagasawa

Restoring the Captives:
Christian Study and Action Guide to Michelle Alexander's The New Jim Crow: Mass
Incarceration in the Age of Colorblindness

Revision 2.2

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A Publication of *The Anástasis Center for Christian Education and Ministry*

The Anástasis Center for Christian Education and Ministry is a Christian education organization dedicated to resourcing Christian leaders and churches with curriculum and training on restorative justice and healing atonement to holistically teach and proclaim the healing of humanity in Jesus Christ. Founded by Mako A. Nagasawa in 2014, and previously called New Humanity Institute, the team creates curriculum that brings the story of Jesus into dialogue with modern movies, songs, and art; early Christian understandings of human nature into dialogue with trauma studies and neuroscience; and Christian restorative justice into dialogue with ethnic studies, political science, and law.

Contributing Authors

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Mako is the founder and director of The Anástasis Center and has been serving in Christian ministry for over 20 years. He is the co-author of the *Lazarus at the Gate economic discipleship curriculum*, with Dr. Gary VanderPol. He contributed to the NIV *Justice Study Bible* as a commentator on *Ezekiel*. He wrote for the Christian Century on *Relational Economic Justice* and the HonorShame Network on *How Jesus Atones for My Shame*. He was a guest on the Almost Heretical podcast on the topic of atonement, called *Beyond Penal Substitution*, and the Gravity Leadership podcast on *It's All About Power: Racism Past and Present*. Since 1999, Mako, his wife Ming, and their two children John and Zoe have lived among friends in a Christian intentional community house in Dorchester, MA. They enjoy their current church, Neighborhood Church of Dorchester, and do urban community gardening. In addition to Christian ethics, theology, biblical studies, and early church history, Mako enjoys food, tea, and stories from around the world. Mako holds degrees from Stanford University in Industrial Engineering and Public Policy, with a focus on education, and received his Master's of Theological Studies from Holy Cross Greek Orthodox Seminary.

Restoring the Captives: A Christian Study and Action Guide to *The New Jim Crow* Participant's Guide

WHY:

1. To be educated about the social problems raised by Dr. Michelle Alexander.
2. To act on these issues with the hope of impacting individuals and social systems.
3. To reflect on these challenges spiritually, and to explore historical and spiritual sources comparing restorative and retributive principles of justice.

HOW & WHAT:

- Combine reflections on (1) Michelle Alexander's *The New Jim Crow* and other issues related to the American criminal justice system (e.g. violent crime and not just non-violent drug charges; privatized prisons; drug decriminalization); (2) historical and spiritual sources for comparing restorative justice and retributive justice; (3) practical steps for political advocacy.
- Leader: print out the beginning handout section of each session, for each person, and review the leader's notes

WEEK TOPIC

1 *Book Discussion Ch.1: Criminality, Scapegoating, Retribution vs. Restoration*

Goal: Understand the psychology of criminalizing the 'other' and the Southern Strategy in U.S. politics; introduce the difference between restorative and retributive justice

Sources: Which god do we imitate? Compare the Greek myth of Zeus punishing Prometheus and men, with the Hebrew myth of God exiling Adam and Eve from the garden.

Action: Find out trends in incarceration levels in your State. Or, find out the intentions of the Attorney General in the federal Department of Justice about federal drug policy and prosecution.

2 *Book Discussion Ch.2: The Lockdown*

Goal: Understand police overreach, Supreme Court rulings, police militarization, and the role of the prosecutor

Sources: Compare Jewish law with the Code of Hammurabi. Jewish law requires healing of damages, built upon the equal value of human life (Exodus 21:18 – 30; Leviticus 24:17 – 22). The Code of Hammurabi requires retribution, and human lives are not valued equally.

Action: Know your rights vis-à-vis the police; write to the White House about de-militarizing the police.

3 *Book Discussion Ch.3: The Color of Justice*

Goal: Understand how the law has made implicit racial bias acceptable in police interactions, prosecutors' treatment of offenders, and jury selection

Sources: Compared Jewish law to other Western laws. Jewish law on criminal justice involves not torturing or pressuring the accused (Leviticus 24:17 – 22). Western law codes involve applying torture because of the presumption of guilt.

Action: Write your political representatives to abolish mandatory minimums and three strikes laws.

4 *Book Discussion Ch.4: The Cruel Hand*

Goal: Understand the challenges of ex-felon reintegration in employment, benefits, fees and fines; consider ways that the Jewish law protected the vulnerable

Sources: Compare modern forms of residential segregation to the Jubilee principle in Jewish law. In Jewish law, God restores the dignity of the indebted and dismantles caste systems (Leviticus 25:1 – 55).

Action: Write your political representatives to abolish disqualifications from benefits.

5 *Book Discussion Ch.4 Recap*

Goal: Consider other challenges related to reintegration related to housing, the job market, and the financial system; understand how caste systems pose a moral and spiritual problem

Sources: Review from last week – God restores the dignity of the indebted and dismantles caste systems (Leviticus 25:1 – 55).

Action: Consider practical ways to prevent poor and vulnerable communities from being trapped in opportunity and wealth inequality.

6 *Some Problems with Prisons*

Goal: Understand how the growth of prisons, especially privatized prisons, poses a political and moral problem.

Sources: Comparison of views about human nature, and whether human nature can be healed/completed (Isaiah 59).

Action: Write your congressional representatives about privatized prisons.

7 *Consider Drug Regulation vs. Criminalization*

Goal: Understand how drug decriminalization has worked in other countries.

Sources: Further comparison of views on whether human nature can be healed/completed (Isaiah 53).

Action: Become familiar with various arguments for drug regulation.

SESSION ONE: CRIMINALITY, SCAPEGOATING, AND RETRIBUTION VS. RESTORATION

Part One: Criminality and Racial Perceptions

“White Americans overestimate the proportion of crime committed by people of color and associate people of color with criminality. For example, white respondents in a 2010 survey overestimated the actual share of burglaries, illegal drug sales and juvenile crime committed by African-Americans by 20 percent to 30 percent.”¹

“Implicit bias research has uncovered widespread and deep-seated tendencies among whites – including criminal justice practitioners – to associate blacks and Latinos with criminality.”²

“White Americans who associate crime with blacks and Latinos are more likely to support punitive policies – including capital punishment and mandatory minimum sentencing – than whites with weaker racial associations of crime.”³

“This association of crime with blacks has been noted by others. Lisa Bloom, in her book ‘Suspicion Nation,’ points out: ‘While whites can and do commit a great deal of minor and major crimes, the race as a whole is never tainted by those acts. But when blacks violate the law, all members of the race are considered suspect.’ She further says: ‘The standard assumption that criminals are black and blacks are criminals is so prevalent that in one study, 60 percent of viewers who viewed a crime story with no picture of the perpetrator falsely recalled seeing one, and of those, 70 percent believed he was African-American. When we think about crime, we ‘see black,’ even when it’s not present at all.’”⁴

Criminality, Drug-Related Facts

“The first anti-opium laws in the 1870s were directed at Chinese immigrants. The first anti-cocaine laws, in the South in the early 1900s, were directed at black men. The first anti-marijuana laws, in the Midwest and the Southwest in the 1910s and 20s, were directed at Mexican migrants and Mexican Americans. Today, Latino and especially black communities are still subject to wildly disproportionate drug enforcement and sentencing practices.”⁵

“Black youth are arrested for drug crimes at a rate ten times higher than that of whites. But new research shows that young African Americans are actually less likely to use drugs and less likely to develop substance use disorders, compared to whites, Native Americans, Hispanics and people of mixed race.”⁶

¹ The Sentencing Project, *Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies*, 2014, p.3; http://www.sentencingproject.org/doc/publications/rd_Race_and_Punishment.pdf

² Ibid, p.3

³ Ibid, p.3

⁴ Charles M. Blow, “Crime, Bias, and Statistics,” *New York Times*, September 7, 2014; citing The Sentencing Project, *Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies*, 2014. See also Kathryn Russell-Brown, *The Color of Crime: Racial Hoaxes, White Fear, Black Protectionism, Police Harassment, and Other Macroaggressions*, 2nd edition (New York: NYU Press, 2008); also supported by Ted Chiricos, Kelly Welch, Marc Gertz, “Racial Typification of Crime and Support for Punitive Measures,” *Criminology* Volume 42, Number 2, 2004; <http://www.uakron.edu/centers/conflict/docs/Chiricos.pdf>; “This paper assesses whether support for harsh punitive policies towards crime is related to the racial typification of crime for a national random sample of households (N=885), surveyed in 2002. Results from OLS regression show that the racial typification of crime is a significant predictor of punitiveness, independent of the influence of racial prejudice, conservatism, crime salience, southern residence and other factors. This relationship is shown to be concentrated among whites who are either less prejudiced, not southern, conservative and for whom crime salience is low. The results broaden our understanding of the links between racial threat and social control, beyond those typically associated with racial composition of place. They also resonate important themes in what some have termed modern racism and what others have described as the politics of exclusion.”

⁵ Drug Policy Alliance, “A Brief History of the Drug War,” <http://www.drugpolicy.org/new-solutions-drug-policy/brief-history-drug-war>

⁶ Maia Szalavitz, “Study: Whites More Likely to Abuse Drugs Than Blacks,” *Time*, November 7, 2011

“Contrary to popular assumption, at all three grade levels African American youth have substantially lower rates of use of most licit and illicit drugs than do Whites.”⁷

Politics and Racial Bribes:

Michelle Alexander argues that poor whites have repeatedly been offered ‘racial bribes.’⁸ Largely superficial privileges have been extended to poor whites in an effort to drive a wedge between them and poor blacks. Dr. Martin Luther King, Jr. made a similar observation in 1965:

‘The Southern aristocracy took the world and gave the poor white man Jim Crow. And when his wrinkled stomach cried out for the food that his empty pockets could not provide, he ate Jim Crow, a psychological bird that told him that no matter how bad off he was, at least he was a white man, better than a black man.’ (From *Address at the Conclusion of the Selma to Montgomery March*, March 25, 1965).

Republican strategist Kevin Phillips made race a political tool in 1970:

‘The more Negroes who register as Democrats in the South, the sooner the Negrophobe whites will quit the Democrats and become Republicans. That’s where the votes are.’⁹

John Ehrlichman, who was domestic policy chief to President Richard Nixon, admitted that the war on drugs was a political assault designed to help Nixon win, and keep, the White House:

‘We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin. And then criminalizing both heavily, we could disrupt those communities... We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.’¹⁰

Lee Atwater was a Republican campaign strategist who helped Reagan win in 1981. He discussed the Southern Strategy in an interview in 1981:

‘You start out in 1954 by saying [N-word, N-word, N-word]. By 1968 you can’t say [N-word] — that hurts you. Backfires. So you say stuff like forced busing, states’ rights and all that stuff. You’re getting so abstract now [that] you’re talking about cutting taxes, and all these things you’re talking about are totally economic things and a byproduct of them is [that] blacks get hurt worse than whites. And subconsciously maybe that is part of it. I’m not saying that. But I’m saying that if it is getting that abstract, and that coded, that we are doing away with the racial problem one way or the other. You follow me — because obviously sitting around saying, “We want to cut this,” is much more abstract than even the busing thing, and a hell of a lot more abstract than [N-word].’¹¹

⁷ Monitoring the Future Survey, 2004, cited by Van Jones, “ARE Blacks a Criminal Race? Surprising Statistics,” *Huffington Post*, May 25, 2011

⁸ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2011), p.40 – 58; see also <https://www.youtube.com/watch?v=WWIsS5RBxJU> (youtube ‘Michelle Alexander BCCC 2010’)

⁹ Alexander, p.44; James Boyd, ‘Nixon’s Southern Strategy: ‘It’s All in the Charts’,’ *New York Times*, May 17, 1970; <http://www.nytimes.com/packages/html/books/phillips-southern.pdf> says, ‘The Grand Old Party still lay buried under the debris of the latest Democratic landslide – 1964 – when a young, self-taught ethnologist named Kevin Phillips emerged from his charts and maps to avow to skeptical hearers that just around the corner was an inevitable cycle of Republican dominance that would begin in the late nineteen-sixties and prosper until the advent of the 21st century. To the pure of heart it all sounded spooky and a bit repugnant because it was premised on the alleged hostility of Irishmen, Italians and Poles, whose ethnic traits were conservative, toward Jews, Negroes and affluent Yankees, who history had made liberal. There were more of the former and they were ineluctably trending Republicans... Phillips had grown up in the Bronx. His observations of life had convinced him that all the talk about melting-pot America was buncombe. Most voters, he had found, still voted on the basis of ethnic or cultural enmities that could be graphed, predicted and exploited... Irish, Italian and Eastern European [communities now felt] resentment of the new immigrants – Negroes and Latinos – and against the national Democratic party, whose Great Society programs increasingly seemed to reflect favoritism for the new minorities over the old.’

¹⁰ Tom LoBianco, ‘Report: Aide Says Nixon’s War on Drugs Targeted Blacks, Hippies,’ *CNN*, March 24, 2016;

<http://www.cnn.com/2016/03/23/politics/john-ehrllichman-richard-nixon-drug-war-blacks-hippie/index.html>

¹¹ Alexander P. Lamis, *Southern Politics in the 1990’s* (Louisiana State University Press, 1999), p.7 – 8; Rick Perlstein, ‘Exclusive: Lee Atwater’s Infamous 1981 Interview on the Southern Strategy,’ *The Nation*, November 13, 2012;

<http://www.thenation.com/article/exclusive-lee-atwaters-infamous-1981-interview-southern-strategy/>. At least one person has

Ronald Reagan ran on an anti-New Deal and anti-Civil Rights platform. He leveraged white resentment against affirmative action. He famously made fun of welfare queens (which was associated with black women) and talked about 'states-rights' to appeal to working-class whites.¹² He repeatedly told the story of a 'Chicago welfare queen' with:

'eighty names, thirty addresses, [and] twelve Social Security cards [who] is collecting veteran's benefits on four non-existing deceased husbands. She's got Medicaid, getting food stamps, and she is collecting welfare under each of her names. Her tax-free cash income is over \$150,000.'¹³

George H.W. Bush turned his losing campaign around against Michael Dukakis on a 'get tough on crime' platform. He criticized Dukakis for letting out Willie Horton, a violent African-American offender. Horton had committed armed robbery and rape while out on a weekend furlough program that Dukakis had supported as governor of MA. Strategist Lee Atwater said about that, on his deathbed conversion:

"In 1988, fighting Dukakis, I said that I 'would strip the bark off the little bastard' and 'make Willie Horton his running mate,' " Mr. Atwater said in the *Life* [magazine] article. "I am sorry for both statements: the first for its naked cruelty, the second because it makes me sound racist, which I am not."¹⁴

Bill Clinton, in a game of one upmanship, campaigned on the same 'tough on crime' platform to win back the working class white vote towards Democratic in the South. He put more black men behind bars during his terms than Reagan and Bush before him, and is now sorry for it.

'Bill Clinton said Wednesday that the crime bill he signed into law as President in 1994 worsened the nation's criminal justice system by increasing prison sentences... He added: 'The good news is we had the biggest drop in crime in history. The bad news is we had a lot people who were locked up, who were minor actors, for way too long.'¹⁵

tried to exonerate Atwater from tapping into race as the silent but guiding factor in Southern politics, such as John Hinderaker, 'What Did Lee Atwater Really Say?' *Power Line Blog*, June 9, 2013; <http://www.powerlineblog.com/archives/2013/06/what-did-lee-atwater-really-say.php>. But Atwater made a confession on his deathbed about campaigning for Bush against Dukakis.

¹² Alexander, p.48; Lawrence Freedman, "Reagan's Southern Strategy Gave Rise to the Tea Party," *Salon*, October 27, 2013; http://www.salon.com/2013/10/27/reagans_southern_strategy_gave_rise_to_the_tea_party/

¹³ Ian Haney-Lopez, "The Racism at the Heart of the Reagan Presidency," *Salon*, January 11, 2014; http://www.salon.com/2014/01/11/the_racism_at_the_heart_of_the_reagan_presidency/. See also Joseph A. Aistrup, *The Southern Strategy Revisited: Republican Top-Down Advancement in the South* (University Press of Kentucky, 2015). p.44; and Lawrence Freedman, footnote 3

¹⁴ Gaius Publius, 'Lee Atwater's Infamous "N*gger, N*gger" Interview,' *America Blog*, November 8, 2012; <http://americablog.com/2012/11/audio-of-infamous-lee-atwater-interview-its-a-matter-of-how-abstract-you-handle-the-race-thing.html>

¹⁵ Ed Pilkington, 'Bill Clinton: Mass Incarceration on My Watch Put Too Many People in Prison,' *The Guardian*, April 28, 2015; <http://www.theguardian.com/us-news/2015/apr/28/bill-clinton-calls-for-end-mass-incarceration>. '[Clinton] created incentives to individual states to build more prisons, to put more people behind bars and to keep them there for longer. [He] presided over the introduction of a federal three-strikes law that brought in long sentences for habitual offenders. [Also,] states which sentenced people to long terms in prison with no chance of parole were rewarded with increased federal funds. [And] federal money was provided to states to allow them vastly to increase the number of police officers on the streets – in turn generating more arrests and more convictions.'

Part Two: Which God Do We Imitate?

Some people think we must impose maximum retributive justice. One reason why the U.S. has a prison problem is because the Puritans had the image of a retributive, punitive God, and they modeled how we punish criminals on how they thought God punishes heretics and sinners.¹⁶ So even if you are not Christian, you need to know where the roots of this view are. You may want to persuade others who are Christians, and this curriculum will be helpful towards that.

Summaries

Greek Origin Story	Hebrew Origin Story
<p>Zeus (the chief god) punished Prometheus the immortal titan for giving fire to men. Zeus chained Prometheus to a rock. He sent an eagle to rip out Prometheus' liver every day. Prometheus was immortal so his liver would regenerate every day, only to repeat the torment. Zeus punished men for receiving fire by making Pandora, the mother of all women, to cause trouble for men. (Hesiod, <i>Theogony</i> 561 – 591; 519 – 526, part of the Greek 'creation story')</p>	<p>God made the world and called Adam and Eve to bring forth more garden life and human life. Adam and Eve corrupted their own human nature. Adam blamed Eve for his own choice. God promised to send a Redeemer to heal the corruption of sin and give new life to human beings. For now, God closed access to the Garden of Eden and the Tree of Life, to prevent them from living forever in a fallen state, and making human evil stretch out for eternity. God still called human beings to bring forth more garden life and human life, but both are painful because we are alienated from God, who is the true source of life. In fact, since the Redeemer would be a human child, God called human beings to still be partners with Him in their own restoration.</p> <p>An example of early Christian interpretation: '[God] drove him out of Paradise, and removed him far from the tree of life... because He pitied him, [and did not desire] that he should continue a sinner for ever, nor that the sin which surrounded him should be immortal, and evil interminable and irremediable. But He set a bound to his [state of] sin, by interposing death, and thus causing sin to cease, putting an end to it by the dissolution of the flesh, which should take place in the earth, so that man, ceasing at length to live to sin, and dying to it, might begin to live to God.' (Irenaeus of Lyons, <i>Against Heresies</i> 3.23.6, ~130 – 202 AD)</p>

Historical and Cultural Background

- *The Greek creation story:* Composed by the Greek poet Hesiod around 700 BCE. The gods (e.g. Zeus) battle the titans (e.g. Prometheus); people are pawns. These stories probably existed orally long before.
- *The Hebrew creation story:* Perhaps compiled or collected around 1200 BCE. Adam and Eve corrupted human nature by taking into themselves the desire to define good and evil from within themselves (the tree of the knowledge of good and evil, which represented God). Not letting God define good and evil for them, they tried to become their own gods. The serpent, identified as Satan (Rev.12:9), wanted to prove to God that angels should not serve humans (Ps.91:11 – 12; 1 Cor.6:3).

¹⁶ Kaia Stern, *Voices from American Prisons: Hope, Education, and Healing* (New York: Routledge, 2015), ch.2; Timothy J. Gorrige, *God's Just Vengeance: Crime, Vengeance, and the Rhetoric of Salvation* (Cambridge: Cambridge University Press, 1996), p.140; see also Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Scottsdale, PA: Herald Press, 1990); Christopher D. Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment* (Grand Rapids, MI: Eerdmans, 2001), p.60; John Braithwaite and Heather Strang, editors, *Restorative Justice and Civil Society* (New York: Cambridge University Press, 2001); John Braithwaite and Heather Strang, editors, *Restorative Justice and Family Violence* (New York: Cambridge University Press, 2002)

Guiding Questions

1. In the Greek creation story, how does Zeus respond to Prometheus, and to men?
2. In the Hebrew creation story, why does Adam blame Eve? Why is that important to see?
3. How does God relate to Adam and Eve? Does He punish them?
4. Why does God not want Adam and Eve to live forever? Is that restorative or retributive?

Full Quotations

<p>‘[Zeus] would not give the strength of weariless fire to... mortal men who dwell on earth. But good son of Iapetos [Prometheus] deceived him, stealing the far-seen beam of weariless fire in a hollow fennel stalk. It stung anew Zeus high thunderer in his spirit, and he raged in his heart when he saw among men the far-seen beam of fire. Straightway, in return for fire he fashioned an evil for men. For the renowned Lame One [Hephaestus] molded from Gaia a likeness of majestic maiden through the plans of Kronides. Goddess gray-eyed Athena girded and dressed her in a silvery white garment. Down from her head, she drew with her hands a veil skillfully wrought, a wonder to behold. About her head Pallas Athena put fresh-budding garlands, flowers of the meadow, desirable things, around her head. About her, she put a golden band on her head that the renowned Lame One himself had made, working it with his hands, while pleasing his father Zeus. On it he had fashioned many skillful things, a wonder to behold, beasts as many as land and sea nourish, dreadful things. He put many of them on it, and grace breathed in all, wondrous, very like to living animals with voices... Wonder held immortal gods and mortal men, when they saw a sheer cunning, unmanageable for men. For from her [Pandora] is the descent of female women, for the race and tribes of women are destructive... [Zeus] bound the changeful-planning Prometheus with unbreakable fetters, painful bonds, and drove them through the middle of a pillar. And he sent a long-winged eagle upon him. Further, it ate his deathless liver, but there grew back all over during the night as much as the bird of long wings had eaten during the whole day.’ (Hesiod, <i>Theogony</i> 561 – 591; 519 – 526, part of the Greek ‘origin story’)</p>	<p>3:8 They heard the sound of the LORD God walking in the garden in the cool of the day, and the man and his wife hid themselves from the presence of the LORD God among the trees of the garden. ⁹ Then the LORD God called to the man, and said to him, ‘Where are you?’ ¹⁰ He said, ‘I heard the sound of You in the garden, and I was afraid because I was naked; so I hid myself.’ ¹¹ And He said, ‘Who told you that you were naked? Have you eaten from the tree of which I commanded you not to eat?’ ¹² The man said, ‘The woman whom You gave to be with me, she gave me from the tree, and I ate.’ ¹³ Then the LORD God said to the woman, ‘What is this you have done?’ And the woman said, ‘The serpent deceived me, and I ate.’ ¹⁴ The LORD God said to the serpent, ‘Because you have done this, cursed are you more than all cattle, and more than every beast of the field; on your belly you will go, and dust you will eat, all the days of your life; ¹⁵ and I will put enmity between you and the woman, and between your seed and her seed; he shall bruise you on the head, and you shall bruise him on the heel.’ ¹⁶ To the woman He said, [I will multiply your pain bringing forth human life] ¹⁷ Then to Adam He said, [I will multiply your pain bringing forth garden life] ²⁰ Now the man called his wife’s name Eve, because she was the mother of all the living. ²¹ The LORD God made garments of skin for Adam and his wife, and clothed them. ²² Then the LORD God said, ‘Behold, the man has become like one of Us, knowing good and evil; and now, he might stretch out his hand, and take also from the tree of life, and eat, and live forever’ – ²³ therefore the LORD God sent him out from the garden of Eden, to cultivate the ground from which he was taken. ²⁴ So He drove the man out; and at the east of the garden of Eden He stationed the cherubim and the flaming sword which turned every direction to guard the way to the tree of life. (Genesis 3:8 – 24, part of the Hebrew ‘origin story’)</p>
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SESSION TWO: BOOK DISCUSSION OF *TNJC* CHAPTER 2: THE LOCKDOWN

Part One: Legal History Regarding the War on Drugs, from Alexander, *TNJC* ch.2

The Fourth Amendment: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized. ‘Courts and scholars agree that the Fourth Amendment governs all searches and seizures by the police and that the amendment was adopted in response to the English practice of conducting arbitrary searches under general warrants to uncover seditious libels [i.e. anti-government conspiracies]. The routine police harassment, arbitrary searches, and widespread police intimidation of those subject to English rule helped to inspire the American Revolution... Until the War on Drugs, courts had been fairly stringent about enforcing the Fourth Amendment’s requirements.’¹⁷

Operation Pipeline (1984): The federal Drug Enforcement Agency (DEA) starts training over 300 state and local law enforcement agencies (over 25,000 officers by 2000) to use pretext traffic stops and very intimidating ‘consent’-obtained searches for drug searches.

The Anti-Drug Abuse Acts (1986): Federal law which established extremely long mandatory minimum prison terms for low-level drug dealing and possession of crack cocaine. This gives prosecutors enormous power in plea-bargaining. Prosecutors promise to bring lesser charges in exchange for people pleading guilty to lesser offenses, cooperating with law enforcement, and snitching.

Drug Reform Act (1986): Passage of extremely harsh mandatory sentencing for drug offenses. ‘Prior to [this Act], the longest sentence Congress had ever imposed for possession of any drug in any amount was one year... a conviction for selling a kilogram of heroin yields a mandatory ten-year sentence in U.S. federal court, compared with six months in prison in England.’¹⁸

Byrne Program (1988): Reagan requests that Congress give federal grant money to local narcotics task forces, including military equipment and intelligence. This contributes to the militarization of police and the vast expansion of SWAT teams.

Harmelin v. Michigan (1991): SCOTUS rules that three strikes sentencing is not ‘cruel and unusual punishment,’ and upholds a sentence of life imprisonment for a defendant with no prior convictions who attempted to sell 672 grams of crack cocaine.

Florida v. Bostick (1991): SCOTUS rules that police may obtain ‘consent’ from passengers on buses to search their bags. Justice Thurgood Marshall dissented: ‘The basis of the decision to single out particular passengers during a suspicionless sweep is less likely to be inarticulable than unspeakable,’ referring to racial prejudice. Of course young black men would be targeted, rather than elderly white women.

Whren v. United States (1996): Any traffic offense committed by a driver is a legitimate legal basis for a search.¹⁹

Civil Asset Forfeiture Reform Act (2000): Congress’ weak attempt to correct the financial incentive local police departments have to seize and keep property as part of the drug war (cars, houses, weapons, drug production tools, cash, etc.).

¹⁷ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2011), p.61 – 62

¹⁸ Ibid, p.90

¹⁹ “The temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment’s prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.” From Wikipedia, *Whren v. United States*.

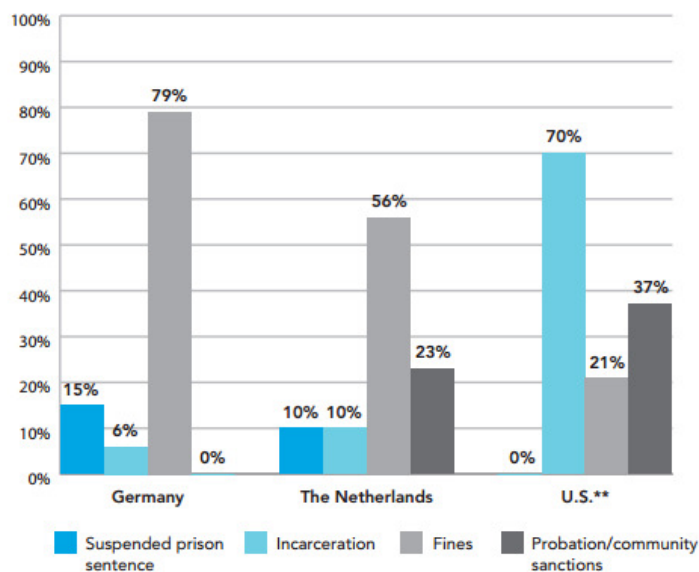
Number of People in Prisons and Jails for Drug Offenses, 1980 and 2013



Sources: Carson, E.A. (2014). *Prisoners in 2013*. Washington, D.C.: Bureau of Justice Statistics; Mauer, M. and King, R. (2007). *A 25-Year Quagmire: The War on Drugs and its Impact on American Society*. Washington, D.C.: The Sentencing Project; Glaze, L. E. and Herberman, E.J. (2014). *Correctional Populations in the United States, 2013*. Washington, D.C.: Bureau of Justice Statistics.



Figure 2. Comparison of German, Dutch, and American sanctioning practices*



*Year of data varies by country: Germany—2010, The Netherlands—2004, and U.S.—2004

**U.S. data does not add up to 100 percent because combinations of sentences are possible

Data source for Germany: Dünkel, 2013 ("Not Suspended Prison Sentence" included in "Incarceration" category)

Data source for the Netherlands: van Kalmthout and Hofstee-van der Meulen, 2007 ("Non-conditional Prison Sentence" included in "Incarceration" category; "Transactions" included in "Fines" category; "Task Penalties" and "Penal Measures" included in "Probation/Community Sanctions" category)

Data source for U.S.: Petteruti and Fenster, 2011 ("Control of Freedom" included in "Probation" category; "Community Service" included in "Probation/Community Sanctions" category)

Part Two: Inspirations for Retribution or Restoration

Once again, in addition to looking at the policy details, we have to back up and ask the bigger question of whether our justice system should be more retributive or more restorative. Which kind of justice should win? Where does our sense of justice come from? I want to look at the Jewish law because the Jewish law was interpreted badly by the Puritans, who influenced our criminal justice system. So let's look again at the Bible, at the famous 'eye for an eye' principle. Let's also compare the Jewish law to the Code of Hammurabi from nearby Babylon just to get a sense for what laws were like back then.

Guiding Questions

1. How do the two law codes compare on the value of human beings?
2. How do they compare on the issue of what the offender should do?

The Code of Hammurabi

*Persons Unequal,
Retributive Justice*

Code of Hammurabi: ¹⁹⁷ If a man has broken another man's limb, his own shall be broken. ¹⁹⁸ If a man has destroyed an eye or a limb of *a poor man*, he shall pay one maneh of silver. ¹⁹⁹ If a man has destroyed an eye or a limb of *the servant* of another man, he shall pay one-half of a mina. ²⁰⁰ If a man has made the tooth of another to fall out, one of his own teeth shall be knocked out. ²⁰¹ If the tooth be that of *a poor man*, he shall pay one-third of a maneh of silver.

Historical and Cultural Background

- *The Code of Hammurabi* comes from Babylon about 1754 BC, about 400 years before Moses. Despite the difference in time, Moses and the Israelites probably would have been aware of law codes like this.
- Judging from use of 'one third of a maneh of silver,' the amount seems non-trivial and perhaps significant for a poor person, but not enormous either.²⁰

²⁰ Converting to present dollars is difficult, but as points of comparison, within the Code, one-third of a maneh of silver was the compensatory worth of a slave fatally gored by an ox, the penalty for causing the death of a pregnant slave girl, the penalty a creditor would have to pay if he wrongfully seized collateral from a debtor, and the payment a poor man would have to pay his wife to divorce her.

The Jewish Law: *Persons Equal, Restorative Justice*

Exodus 21 ¹⁸ If men have a quarrel and one strikes the other with a stone or with his fist, and he does not die but remains in bed, ¹⁹ if he gets up and walks around outside on his staff, then he who struck him shall go unpunished; he shall only pay for his loss of time, and shall take care of him until he is *completely healed*... ²² If men struggle with each other and strike a woman with child so that she gives birth prematurely, yet there is no injury, he shall surely be fined as the woman's husband may demand of him, and he shall pay as the judges decide. ²³ But if there is any further injury, then you shall appoint as a penalty life for life, ²⁴ eye for eye, tooth for tooth, hand for hand, foot for foot, ²⁵ burn for burn, wound for wound, bruise for bruise... ²⁸ If an ox gores a man or a woman to death... the owner of the ox shall go unpunished. ²⁹ If, however, an ox was previously in the habit of goring and its owner has been warned, yet he does not confine it and it kills a man or a woman, the ox shall be stoned and its owner also shall be put to death. ³⁰ If a ransom is demanded of him, then he shall give for the redemption of his life whatever is demanded of him.

Leviticus 19

(A) ¹⁷ You shall not hate your fellow countryman in your heart;

(B) you may surely reprove your neighbor, but shall not incur sin because of him.

(A') ¹⁸ You shall not take vengeance, nor bear any grudge against the sons of your people,

(B') but you shall love your neighbor as yourself; I am the Lord.

Leviticus 24 ²² There shall be *one standard* for you; it shall be *for the stranger as well as the native*, for I am the LORD your God.

Historical and Cultural Background

- *The Jewish Law*: Jewish tradition holds that this was given by God to Moses while Israel was in the wilderness. It takes the form of case law examples based on the Ten Commandments, so principles need to be reasoned out.
- '*An eye for an eye*' is a principle in Exodus 21:23 – 25 that Jewish rabbinical commentators interpret as *not* retributive. It is an outer limit of proportionality for cases of bodily harm, meant to represent proportional financial compensation (*Talmud BavaKamma* 83b – 84a) or, in some cases, lashes (*Makot* 1:1). They actually reason that because of the possibility that the offender is already blind: One cannot blind an already blind man! So they believe that the 'eye for an eye' is meant as proportional compensation: If you blind someone's eye, *you* become his 'second eye.'²¹

²¹ This restorative justice reading is reinforced by these facts: (1) In Exodus 21:18 – 19, just before this example of bodily harm, the offender must care for the injured victim until he is 'completely healed.' (2) In Exodus 21:22 and 30, financial compensation is named there, too. (3) In Leviticus 19:17 – 18, the law instructs Israelites to 'not take vengeance.' 'The Torah's command to love one's neighbor is put in parallel with a prohibition against taking vengeance upon one's neighbor,' such that these commands are mutually interpreting. Darren W. Snyder Belousek, *Atonement, Justice, and Peace: The Message of the Cross and the Mission of the Church* (Grand Rapids, MI: Eerdmans, 2012), p.408 says, 'In fact, the text gives us parallel sets of contrasting parallels. Taking these separate, we see the contrasts: in the first set, hating a neighbor in one's heart (A) contrasts with reprovving one's neighbor (B); in the second set, taking vengeance upon a neighbor (A') contrasts with loving one's neighbor (B'). Taking these together, we see the parallels: hating one's neighbor (A) is parallel with taking vengeance upon one's neighbor (A') – and both are prohibited; likewise, reprovving one's neighbor (B) is parallel with loving one's neighbor (B') – and both are commanded. Repaying harm for harm and injury for injury in due measure, while following the rule of the law (*lex talionis*), does not fulfill God's intent for his covenant people. Not retribution but reproof fulfills the righteousness that God wills; not hate but love is the holiness that God desires.' The entire book is an argument that God's justice is not retributive but restorative, and reparative. (4) God anticipated Israel's exile from the garden land and loss of political sovereignty (Dt.27 – 28; cf. Ex.20:4 – 6), reenacting Adam and Eve's exile from their garden land (Gen.3:20 – 24); and Israel would not be able to enact capital punishment while being ruled by another nation; so the principle of restoration and compensation was important to establish from the start. Therefore, Jewish law was victim-oriented and restorative, not primarily retributive in nature.

SESSION THREE:

BOOK DISCUSSION OF *TNJC* CHAPTER 3: THE COLOR OF JUSTICE

Part One: Legal History Regarding the Acceptance of Implicit Racial Bias, from Alexander *TNJC* ch.3

Yick Wo v. Hopkins (1886): Yick Wo was convicted of running a laundry business without a license. San Francisco denied licenses to all Chinese laundry operators. It granted licenses to all other laundry operators but one. Law enforcement had arrested more than a hundred Chinese people for operating laundries without licenses. The Court overturned Wo's conviction, saying, "Though the law itself be fair on its face, and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations, between persons in similar circumstances... the denial of equal justice is still within the prohibition of the Constitution."

City of Los Angeles v. Adolph Lyons (1983): Lyons, an African-American man, was very roughly treated by white LAPD officers, placed in a chokehold, forced unconscious. SCOTUS decides he did not have the standing to challenge LAPD practice. Justice Thurgood Marshall dissented, citing chokeholds as potentially lethal – of the 16 chokehold victims who were killed by the LAPD in less than a decade, 12 were black – and officers' training being insufficient: "The officers are taught to maintain the chokehold until the suspect goes limp, despite substantial evidence that the application of a chokehold invariably induces a "flight or flee" syndrome, producing an involuntary struggle by the victim which can easily be misinterpreted by the officer as willful resistance that must be overcome by prolonging the chokehold and increasing the force applied. In addition, officers are instructed that the chokeholds can be safely deployed for up to three or four minutes. Robert Jarvis, the city's expert who has taught at the Los Angeles Police Academy for the past 12 years, admitted that officers are never told that the bar-arm control can cause death if applied for just two seconds. Of the nine deaths for which evidence was submitted to the District Court, the average duration of the choke where specified was approximately 40 seconds."²² Recall Eric Garner.

McCleskey v. Kemp (1987): Warren McCleskey, a black man, had killed a white police officer during an armed robbery in Georgia. His team appealed the death sentence on the grounds that death sentencing was too racially biased to be fair, and thus it violated the Eighth and Fourteenth Amendments. The Court accepted the statistical study about racially different outcomes as factual and true. But it ruled that unless the prosecutor had consciously and explicitly called for the death sentence for racial reasons, that the case was invalid. The Court's 5:4 majority opinion wrote, "[I]f we accepted McCleskey's claim that racial bias has impermissibly tainted the capital sentencing decision, we could soon be faced with similar claims as to other types of penalty." Justice Brennan, writing his dissent, pointed out that the Court's decision "seems to suggest a fear of too much justice."²³ *McCleskey* was named one of the worst Supreme Court decisions since World War II by a Los Angeles Times survey among legal scholars.²⁴ In a New York Times comment, Anthony Lewis charged that the Supreme Court had "effectively condoned the expression of racism in a profound aspect of our law."²⁵ Anthony G. Amsterdam, a law professor at New York University, said in speech at Columbia, "*McCleskey* is the Dred Scott decision of our time."²⁶

Armstrong v. United States (1996): Christopher Lee Armstrong was arrested for possession of and conspiracy to distribute fifty grams of crack cocaine. His federal public defenders were troubled that in the last 3 years, 48 defendants had been black, 5 were Hispanic, and none were white. Given that most crack offenders are white, they were puzzled. They suspected that whites were being diverted by federal

²² Dave Gilson, "Thurgood Marshall Blasted Police for Killing Black Men With Chokeholds," *Mother Jones*, December 4, 2014

²³ *McCleskey v. Kemp*, 481 U.S. 279, 327 (1989), Brennan, J., dissenting

²⁴ David Savage, "Roe vs. Wade? Bush vs. Gore? What are the worst Supreme Court decisions?", *Los Angeles Times*, October 23, 2008

²⁵ Anthony Lewis, "Abroad at Home: Bowing to Racism", *New York Times*, April 28, 1987

²⁶ Adam Liptak, "New Look at Death Sentences and Race," *New York Times*, April 29, 2008; as evidence of the impact of *McCleskey*, consider the Georgia Supreme Court decision in 1995: "[The Court held] that 98.4 percent of the defendants selected to receive life sentences for repeat drug offenses were black required no justification... To date, not a single successful challenge has ever been made to racial bias sentencing..." (Alexander, p.114)

prosecutors to the state system, where penalties for crack cocaine were far less severe. Armstrong's lawyers filed a motion asking the prosecutors to turn over their files to support their claim of selective prosecution under the Fourteenth Amendment. 'As in *McCleskey*, the Court did not question the accuracy of the evidence submitted, but ruled that because Armstrong failed to identify any similarly situated white defendants who should have been charged in federal court but were not, he was not entitled even to discovery on his selective-prosecution claim. With no trace of irony, the Court demanded that Armstrong produce in advance the very thing he sought in discovery: information regarding white defendants who should have been charged in federal court... The Court justified this insurmountable hurdle on the grounds that considerable deference is owed the exercise of prosecutorial discretion. Unless evidence of conscious, intentional bias on the part of the prosecutor could be produced, the Court would not allow any inquiry into the reasons for or causes of apparent racial disparities in prosecutorial decision making.'²⁷

The Courthouse doors were closed. The Court gave prosecutors full discretion to have unspoken, implicit racial bias. This reversed *Yick Wo v. Hopkins*. Racially selective enforcement was now accepted. Consequently, 'a report in 2000 observed that among youth who had never been sent to a juvenile prison before, African Americans were more than six times as likely as whites to be sentenced to prison for *identical crimes*. A study sponsored by the U.S. Justice Department and several of the nation's leading foundations, published in 2007, found that the impact of biased treatment is magnified with each additional step into the criminal justice system.'²⁸

Purkett v. Elm (1995): About 30% of black men are already ineligible for jury service for life because of the legal status attributed to their criminal background. And in many previous cases, the Supreme Court had already upheld convictions of black defendants by all-white juries in situations where the exclusion of black jurors was obvious. But *Purkett* went a step further. The prosecution used 'jury shuffling' to reduce the number of black jurors, and used different questions of juror candidates based on race. But as long as race was never explicitly stated, the Court upheld whatever reason the prosecutors gave for not selecting a particular juror. In *Purkett*, the prosecutor used the following explanation for why he struck black jurors from being empaneled: 'I struck [juror] number twenty-two because of his long hair. He had long curly hair. He had the longest hair of anybody on the panel by far. He appeared not to be a good juror for that fact... Also, he had a mustache and a goatee type beard. And juror number twenty-four also had a mustache and goatee beard... And I don't like the way they looked, with the way the hair is cut, both of them. And the mustache and the beards look suspicious to me.'²⁹

Alexander v. Sandoval (2001): The Alabama Department of Public Safety decided to administer state driver's license tests only in English. The plaintiffs argued that non-English speakers were then discriminated against. SCOTUS concluded that ordinary citizens and civil rights groups claiming discrimination by state/federal agencies can no longer sue those agencies. This includes for reasons of racially disparate impacts. 'The system of mass incarceration is now, for all practical purposes, thoroughly immunized from claims of racial bias.'³⁰

Matthew Fogg, a former US Marshal, and DEA agent of 32 years, said (see the 2 minute video from Brave New Films where Matthew Fogg is interviewed: <https://www.youtube.com/watch?v=8ImeWd5gFT0>):

"We were jumping on guys in the middle of the night, all of that. Swooping down on folks all across the country, using these sorts of attack tactics that we went out on, that you would use in Vietnam, or some kind of war-torn zone. All of the stuff that we were doing, just calling it the war on drugs. And there wasn't very many black guys in my position. So when I would go into the war room, where we were setting up all of our drug and gun and addiction task force determining what cities we were going to hit, I would notice that most of the time it always appeared to be urban areas. That's when I asked the question, well, don't they sell drugs out in Potomac and Springfield, and places like that? Maybe you all think they don't, but statistics show they use more drugs out in those areas than anywhere. The special agent in charge, he says 'You know, if we go out there and start messing with those folks, they know judges, they know lawyers, they know politicians. You start locking their kids up; somebody's going to jerk our chain.' He said, 'they're going to call us on it,

²⁷ Alexander, p.117

²⁸ Ibid, p.118

²⁹ Ibid, p.122, citing *Purkett v. Elm*, 514 U.S. 765, 771 n.4 (1995) Stevens, J., dissenting and quoting prosecutor

³⁰ Ibid, p.139

and before you know it, they're going to shut us down, and there goes your overtime.' What I began to see is that the drug war is totally about race. If we were locking up everybody, white and black, for doing the same drugs, they would have done the same thing they did with prohibition."³¹

³¹ John Vibes, "DEA Agent Speaks Out: We Were Told Not to Enforce Drug Laws In Rich Communities," *Free Thought Project*, March 10, 2015; <http://thefreethoughtproject.com/dea-agent-drug-laws-intentionally-rich-communities/>.

Part Two: Jewish Law vs. Other Law Codes: A Comparison on Criminal Justice

Equality of People Under the Law

Should your punishment be based on how wealthy or poor your victim was?

<i>Goal: Punishment or Payment</i> <i>Person's Worth: Based on Wealth</i>	<i>Goal: Healing</i> <i>Person's Worth: Equal</i>
Code of Hammurabi: ¹⁹⁷ If a man has broken another man's limb, his own shall be broken. ¹⁹⁸ If a man has destroyed an eye or a limb of a <i>poor man</i> , he shall pay one maneh of silver. ¹⁹⁹ If a man has destroyed an eye or a limb of <i>the servant</i> of another man, he shall pay one-half of a mina. ²⁰⁰ If a man has made the tooth of another to fall out, one of his own teeth shall be knocked out. ²⁰¹ If the tooth be that of a <i>poor man</i> , he shall pay one-third of a maneh of silver.	Exodus 21 ¹⁸ If men have a quarrel and one strikes the other with a stone or with his fist... he shall only pay for his loss of time, and shall take care of him until he is <i>completely healed</i> ... ³⁰ If a ransom is demanded of him, then he shall give for the redemption of his life whatever is demanded of him. Leviticus 24 ²² There shall be <i>one standard</i> for you; it shall be <i>for the stranger as well as the native</i> , for I am the LORD your God.

Judicial Torture and Self-Incrimination

What kind of procedures are fair?

Western Law	Jewish Law
<p><i>Ancient Greece:</i> 'In the fourth century BCE, Aristotle listed five different ways to prove guilt that may be used in legal proceedings and he included torture among them. In general, torture was used by the Greeks only when it came to the testimony of slaves and, in certain situations, foreigners.'³²</p> <p><i>Ancient Rome:</i> 'Early Roman law is similar to Greek law in that it also limited torture to slaves... The institution of torture...was eventually expanded to include free men... Between the second and fourth centuries the institution was expanded to include new types of people and situations. The various emperors had the power to authorize torture for new cases and were responsible for expanding the institution of torture in Roman law.'³³</p> <p><i>Pre-Modern and Modern Europe:</i> Roman law experienced a revival in Europe in the twelfth century, which included torture. 'By the sixteenth century a substantially similar law of torture was in force from the Kingdom of Sicily north to Scandinavia, from Iberia across France and the German Empire to the Slavic East. Well into the eighteenth century the law of torture was still current everywhere, and it survived into the nineteenth century in some corners of central Europe.'³⁴</p> <p><i>England:</i> 'According to available records, between 1540 and 1640 the Privy Council or the monarch ordered torture in eighty-one cases. Many of these cases involved political crimes, such as treason; but more than a quarter involved 'ordinary' crimes such as murder, robbery, burglary and horse stealing.'³⁵</p>	<p>'Jewish law has never authorized judicial torture. In fact, judicial torture of an accused would serve no purpose in Jewish law because even voluntary confessions are inadmissible as evidence [because of the two eyewitness requirement of Deuteronomy 17:16; 19:15]... <i>Jewish law's rejection of judicial torture is unique in Western civilization, especially because it is so ancient.</i>' 'The law against self-incrimination relates to the accused's vulnerability.'³⁶</p> <p>'Jewish law's criminal law paradigm is based on the Biblical verse, "And the congregation shall save" [Num.35:25]. According to the Talmud, this verse establishes a principle, in terms of which one of the key responsibilities of any criminal court is to protect the interests of the accused by finding legally acceptable ways to "save" him from conviction.'³⁷</p>

³² Rabbi Dr. Warren Goldstein, *Defending the Human Spirit: Jewish Law's Vision for a Moral Society* (New York: Feldham, 2006), p.225

³³ Ibid, p.226 – 228

³⁴ Ibid, p.230, quoting John Langbein, *Torture and the Law of Proof*, 3

³⁵ Ibid, p.234

³⁶ Ibid, p.237, 240 italics mine

³⁷ Ibid, p.264 – 265

SESSION FOUR: HOW TO RESTORE DIGNITY

Part One: Legal History Regarding Reintegration of Ex-Offenders, from Alexander *TNJC* ch.4

Housing

The Anti-Drug Abuse Act of 1988: Called for ex-criminals to be denied public housing assistance. The act gave public housing agencies the authority to evict any tenant, household member, or guest, engaged in *any* criminal activity, *on or near* public housing premises.

The Quality Housing and Work Responsibility Act of 1998: Permitted agencies to bar applicants believed to be using illegal drugs or abusing alcohol, regardless of whether they had been convicted of a crime. President Clinton proposed a 'one strike and you're out' legislation such that even if a guest is convicted of using illegal drugs, the tenant will be evicted from public housing.

Rucker v. Davis (2002): Perlie Rucker was evicted following the arrest of her daughter for possession of cocaine a few blocks from home. Rucker was thrown out of public housing. (Also, William Lee and Barbara Hill were evicted after their grandsons were charged with smoking marijuana in a parking lot near their apartments. Herman Walker was evicted after police found cocaine on his caregiver.) SCOTUS upheld these evictions.

'More than 650,000 people are released from prison each year, and for many, finding a new home appears next to impossible, not just in the short term, but for the rest of their lives.'³⁸

Work

'A 2002 survey of 122 California employers revealed that although most employers would consider hiring someone convicted of a misdemeanor offense, the numbers dropped dramatically for those convicted of felonies. Less than a quarter of employers were willing to consider hiring someone convicted of a drug-related felony; the number plummeted to 7 percent for a property-related felony; and less than 1 percent for a violent felony.'³⁹

'About 70 percent of offenders and ex-offenders are high school dropouts, and according to at least one study, about half are functionally illiterate.'⁴⁰ 'Nearly one-third of young black men in the United States today are out of work. The jobless rate for young black male dropouts, including those incarcerated, is a staggering 65 percent.'⁴¹

The Equal Employment Opportunity Commission (EEOC) says to employers that flat bans on job applicants with a criminal record 'may be illegal,'⁴² but many employers still turn away anyone with a record. Many 'Ban the Box' campaigns are underway in various cities. Boston has already adopted a public ordinance where a person's criminal record cannot be considered until after the applicant has been identified as a serious candidate for a position in the private or public sector.

Debt

'Throughout the United States, newly released prisoners are required to make payments to a host of agencies, including probation departments, courts, and child-support enforcement offices. In some jurisdictions, ex-offenders are billed for drug testing and even for the drug treatment they are supposed to receive as a condition of parole. These fees, costs, and fines are generally quite new – created by law within the past twenty years – and are associated with a wide range of offenses. Every state has its own rules and regulations governing their imposition. Florida, for example, has added more than twenty new categories of financial obligations for criminal defendants since 1996, while eliminating most exemptions

³⁸ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2011), p.148

³⁹ Ibid, p.149

⁴⁰ Ibid, p.150

⁴¹ Ibid, p.152

⁴² Ibid, p.153

for those who cannot pay... [Interest on debt is also charged; for example,] Alabama charges a 30 percent collection fee, and Florida allows private debt collectors to tack on a 40 percent surcharge to the underlying debt.’⁴³

Food Stamps

The Temporary Assistance for Needy Family Program (1996) is passed by Clinton. It required states to permanently bar people with drug-related felony convictions from receiving federally funded assistance. ‘Most states have partially opted out, affording exceptions for people in drug treatment, for example. It remains the case, however, that thousands of people... are deemed ineligible for food stamps for the rest of their lives, including pregnant women, people in drug treatment or recovery, and people suffering from HIV/AIDS – simply because they were once caught with drugs.’⁴⁴

Voting Rights

‘The vast majority of states continue to withhold the right to vote when prisoners are released on parole. Even after the term of punishment expires, some states deny the right to vote for a period ranging from a number of years to the rest of one’s life. This is far from the norm in other countries – like Germany, for instance, which allows (and even encourages) prisoners to vote. In fact, about half of European countries allow all incarcerated people to vote, while others disqualify only a small number of prisoners from the polls... No other country in the world disenfranchises people who are released from prison in a way even remotely resembling the United States. In fact, the United Nations Human Rights Committee has charged that U.S. disenfranchisement policies are discriminatory and violate international law.’⁴⁵ Even veterans convicted of minor drug possession charges (e.g. marijuana) are unable to vote. ‘Had the 600,000 former felons who had completed their sentence in Florida been allowed to vote, Al Gore would have been elected president of the United States rather than George W. Bush.’⁴⁶ ‘Research indicates that a large number of close elections would have come out differently if felons had been allowed to vote, including at least seven senatorial races between 1980 and 2000.’⁴⁷

This resembles the old Jim Crow where blacks were barred from voting by literacy tests, poll taxes, arbitrary quizzes (e.g. recite the Constitution of South Carolina by memory), and other forms of voter intimidation, like KKK retaliation.

Effect: A New Racial Caste (Case Study: Chicago)

‘About 90 percent of those sentenced to prison for a drug offense in Illinois are African American. White drug offenders are rarely arrested, and when they are, they are treated more favorably at every stage of the criminal justice process, including plea bargaining and sentencing. Whites are consistently more likely to avoid prison and felony charges, even when they are repeat offenders. Black offenders, by contrast, are routinely labeled felons and released into a permanent racial undercaste. The total population of black males in Chicago with a felony record (including both current and ex-felons) is equivalent to 55 percent of the black adult male population and an astonishing 80 percent of the adult black male workforce in the Chicago area... From the Chicago region alone, the number of those annually sent to prison for drug crimes increased about 2,000 percent, from 469 in 1985 to 8,755 in 2005.’⁴⁸ ‘Just 992 black men received a bachelor’s degree from Illinois state universities in 1999, while roughly 7,000 black men were released from the state prison system the following year just for drug offenses.’⁴⁹

⁴³ Ibid, p.155

⁴⁴ Ibid, p.157 – 158

⁴⁵ Ibid, p.158

⁴⁶ Ibid, p.160

⁴⁷ Ibid, p.161

⁴⁸ Ibid, p.189, citing Alden Loury, “Black Offenders Face Stiffest Drug Sentences,” *Chicago Reporter*, Sep.12, 2007

⁴⁹ Ibid, p.190

Part Two: The Restoration of Dignity in Jewish Law

<p>John D. Rockefeller: ‘The major fortunes in America have been made in land.’</p> <p>‘[Nicholas Kristof has] taken on a particularly unpopular task: trying to convince whites who’ve often inherited opportunity that America has just as systematically passed on disadvantage to blacks. “One element of white privilege today,” Kristof wrote..., “is obliviousness to privilege, including a blithe disregard of the way past subjugation shapes present disadvantage.”’⁵⁰</p> <p>‘Residential segregation is the institutional apparatus that supports other racially discriminatory processes and binds them together into a coherent and uniquely effective system of racial subordination. Until the black ghetto is dismantled as a basic institution of American urban life, progress ameliorating racial inequality in other arenas will be slow, fitful, and incomplete.’⁵¹</p>	<p>¹⁰ You shall thus consecrate the fiftieth year and proclaim a release through the land to all its inhabitants. <i>It shall be a jubilee for you, and each of you shall return to his own property, and each of you shall return to his family...</i> ¹³ <i>On this year of jubilee each of you shall return to his own property...</i></p> <p>²³ <i>The land, moreover, shall not be sold permanently, for the land is Mine; for you are but aliens and sojourners with Me.</i> ²⁴ Thus for every piece of your property, you are to provide for the redemption of the land. ²⁵ If a fellow countryman of yours becomes so poor he has to sell part of his property, then his nearest kinsman is to come and buy back what his relative has sold. ²⁶ Or in case a man has no kinsman, but so recovers his means as to find sufficient for its redemption, ²⁷ then he shall calculate the years since its sale and refund the balance to the man to whom he sold it, and so return to his property. ²⁸ But if he has not found sufficient means to get it back for himself, then what he has sold shall remain in the hands of its purchaser until the year of jubilee; but at the jubilee it shall revert, <i>that he may return to his property...</i></p> <p>³⁹ If a countryman of yours becomes so poor with regard to you that he sells himself to you, you shall not subject him to a slave’s service. ⁴⁰ He shall be with you as a hired man, as if he were a sojourner; he shall serve with you until the year of jubilee. ⁴¹ He shall then go out from you, he and his sons with him, and shall go back to his family, <i>that he may return to the property of his forefathers.</i> ⁴² For they are My servants whom I brought out from the land of Egypt; they are not to be sold in a slave sale... ⁵⁴ Even if he is not redeemed by these means [his relatives pay his debt], <i>he shall still go out in the year of jubilee, he and his sons with him.</i> ⁵⁵ For the sons of Israel are My servants; they are My servants whom I brought out from the land of Egypt. I am the LORD your God. (Leviticus 25)</p>
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Historical and Cultural Background

- *Jubilee as Reintegration*: Recall that Israel saw a parallel between their own existence and God’s original plan for humanity: Adam and Eve spreading a garden over the earth with God. God invited Israel to come out of slavery in Egypt and live in another garden land with Him.
- *Was Israel a Racial or Religious Caste?*: No. Israel was a faith community which people could join. They would be incorporated into households through adoption, marriage, and/or hired help for farming.⁵²

⁵⁰ Emily Badger, ‘Nicholas Kristof On What ‘Whites Just Don’t Get’ About Racial Inequality,’ *Washington Post*, November 20, 2014; <https://www.washingtonpost.com/news/wonk/wp/2014/11/20/nicholas-kristof-on-what-whites-just-dont-get-about-racial-inequality/>

⁵¹ Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Making of an Underclass* (Cambridge, MA: Harvard University Press, 1993), p.8. They also write on p.2, ‘Black segregation is not comparable to the limited and transient segregation experienced by other racial and ethnic groups, now or in the past. No group in the history of the United States has ever experienced the sustained high level of residential segregation that has been imposed on blacks in large American cities for the past fifty years. This extreme racial isolation did not just happen; it was manufactured by whites through a series of self-conscious actions and purposeful institutional arrangements that continue today.’

⁵² In *Genesis*, each son of Jacob married Canaanite women except Joseph, who married an Egyptian woman. In *Exodus*: Other people joined Israel in Egypt. Passover observance was open to others (Ex.12:7 – 13). ‘A mixed multitude’ from Egypt accompanied Israel during the Exodus (Ex.12:38). An Israelite woman is noted in passing to have married an Egyptian man (Lev.24:10). Caleb, one of Moses’ two servants, was a Kenizzite, one of the Canaanite tribes (Num.32:12; Gen.15:19)! In *Joshua*: The Canaanite woman Rahab and her whole household joined Israel (Josh.6:17 – 25). Rahab married Salmon – of the tribe of Judah. The entire Gibeonite tribe became part of Israel and God protected them from attacks by other Canaanites (Josh.9 – 11). In *Ruth*: Ruth was a Moabitess

- *Could Israel Forcibly Enslave Other People?:* No, because God commanded Israel to never kidnap anyone (Ex.21:16; Dt.24:7) and help runaway slaves run away (Dt.23:15 – 16)! In all ethical and legal dimensions, Israelites were to treat foreigners the same way they treated fellow Israelites (Lev.24:22). So in Lev.25:44 – 46, the Jewish law was referring to hired help. Contracts could be maintained even through the jubilee year. In that sense, their labor (not their personhood or their bodies per se) could be their ‘possession.’

Guiding Questions

1. What happened in Israel every jubilee year (50th year)?
2. In Israel, how did God care about children and grandchildren who weren’t there yet?
3. For those of you know the story of Adam and Eve in the garden, before they fell into sin: How did God set Israel up to be like Adam and Eve in the garden land?

who married Boaz – who was of the tribe of Judah (Ruth 4:13) – and became an ancestor of Jesus (Mt.1:5). In 2 *Samuel*: Bathsheba the Hittite became a wife of King David (2 Sam.11 – 12). God’s design for Israel was to be a microcosm of all humanity, so Jesus could be multi-ethnic and represent all humanity. He was born from the most diverse tribe (Judah) and had Tamar, Rahab, Ruth, and Bathsheba as ancestors (Mt.1:5 – 6).

SESSION FIVE: GOD DISMANTLES CASTE SYSTEMS

Part One: The Restoration of Dignity in Jewish Law

<p>Michelle Alexander: 'We have not ended racial caste in America; we have merely redesigned it.'</p> <p>'[Nicholas Kristof has] taken on a particularly unpopular task: trying to convince whites who've often inherited opportunity that America has just as systematically passed on disadvantage to blacks. "One element of white privilege today," Kristof wrote..., "is obliviousness to privilege, including a blithe disregard of the way past subjugation shapes present disadvantage."' ⁵³</p> <p>'Residential segregation is the institutional apparatus that supports other racially discriminatory processes and binds them together into a coherent and uniquely effective system of racial subordination. Until the black ghetto is dismantled as a basic institution of American urban life, progress ameliorating racial inequality in other arenas will be slow, fitful, and incomplete.' ⁵⁴</p>	<p>¹⁰ You shall thus consecrate the fiftieth year and proclaim a release through the land to all its inhabitants. <i>It shall be a jubilee for you, and each of you shall return to his own property, and each of you shall return to his family...</i> ¹³ On this year of jubilee each of you shall return to his own property...</p> <p>²³ The land, moreover, shall not be sold permanently, for the land is Mine; for you are but aliens and sojourners with Me. ²⁴ Thus for every piece of your property, you are to provide for the redemption of the land. ²⁵ If a fellow countryman of yours becomes so poor he has to sell part of his property, then his nearest kinsman is to come and buy back what his relative has sold. ²⁶ Or in case a man has no kinsman, but so recovers his means as to find sufficient for its redemption, ²⁷ then he shall calculate the years since its sale and refund the balance to the man to whom he sold it, and so return to his property. ²⁸ But if he has not found sufficient means to get it back for himself, then what he has sold shall remain in the hands of its purchaser until the year of jubilee; but at the jubilee it shall revert, <i>that he may return to his property...</i></p> <p>³⁹ If a countryman of yours becomes so poor with regard to you that he sells himself to you, you shall not subject him to a slave's service. ⁴⁰ He shall be with you as a hired man, as if he were a sojourner; he shall serve with you until the year of jubilee. ⁴¹ He shall then go out from you, he and his sons with him, and shall go back to his family, <i>that he may return to the property of his forefathers.</i> ⁴² For they are My servants whom I brought out from the land of Egypt; they are not to be sold in a slave sale... ⁵⁴ Even if he is not redeemed by these means [his relatives pay his debt], <i>he shall still go out in the year of jubilee, he and his sons with him.</i> ⁵⁵ For the sons of Israel are My servants; they are My servants whom I brought out from the land of Egypt. I am the LORD your God. (Leviticus 25)</p>
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Historical and Cultural Background

- **Jubilee as Reintegration:** Recall that Israel saw a parallel between their own existence and God's original plan for humanity: Adam and Eve spreading a garden over the earth with God. God invited Israel to come out of slavery in Egypt and live in another garden land with Him.

⁵³ Emily Badger, 'Nicholas Kristof On What 'Whites Just Don't Get' About Racial Inequality,' *Washington Post*, November 20, 2014; <https://www.washingtonpost.com/news/wonk/wp/2014/11/20/nicholas-kristof-on-what-whites-just-dont-get-about-racial-inequality/>

⁵⁴ Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Making of an Underclass* (Cambridge, MA: Harvard University Press, 1993), p.8. They also write on p.2, 'Black segregation is not comparable to the limited and transient segregation experienced by other racial and ethnic groups, now or in the past. No group in the history of the United States has ever experienced the sustained high level of residential segregation that has been imposed on blacks in large American cities for the past fifty years. This extreme racial isolation did not just happen; it was manufactured by whites through a series of self-conscious actions and purposeful institutional arrangements that continue today.' See my collection of articles under "Race and Housing Discrimination" at <https://www.anastasiscenter.org/race-land-housing-white-segregation>, including: Ta-Nehisi Coates, "The Ghetto is Public Policy," *The Atlantic*, March 19, 2013; Nikole Hannah-Jones, "The Missionary," *NPR This American Life Radio*, November 22, 2013 about George Romney's attempt to reverse housing discrimination as Secretary of HUD; Melissa Harry-Perry, "Imagining a U.S. With Fair Housing," *MSNBC*, July 11, 2015

- *Was Israel a Racial or Religious Caste?:* No. Israel was a faith community which people could join. They would be incorporated into households through adoption, marriage, and/or hired help for farming.⁵⁵
- *Could Israel Forcibly Enslave Other People?:* No, because God commanded Israel to never kidnap anyone (Ex.21:16; Dt.24:7) and help runaway slaves run away (Dt.23:15 – 16)! In all ethical and legal dimensions, Israelites were to treat foreigners the same way they treated fellow Israelites (Lev.24:22). So in Lev.25:44 – 46, the Jewish law was referring to hired help. Contracts could be maintained even through the jubilee year. In that sense, their labor (not their personhood or their bodies per se) could be their ‘possession.’ The Hebrew word *ebed* is translated *slave* in some English translations, but its meaning was very different.⁵⁶

Possible Policy Inspirations from the Relationship between God and Israel in Scripture

It is not straightforward or easy to translate the vision of life in Old Testament Israel into modern day life.⁵⁷ We have to do some serious biblical and sociological analysis to understand the major institutions in Israel’s life. Yet we find that God did want the Gentile nations around Israel to be inspired by principles found in Israel’s law (Dt.4:6 – 8).

Leviticus 25 placed each individual and family into God’s vision from creation, where each person had dignity because s/he was made in the image of God. Furthermore, Israel’s laws placed the crime of theft into a restorative justice framework. Thieves had to repay their victims two to five times the amount they stole (Ex.22:1 – 14). This served to restore trust between victim and offender, and deter other theft, of course. Jesus seemed to honor that principle when he commended Zaccheus for his repentance from theft and desire to restore relationship (Lk.19:1 – 10). If we are to glean principles from the Jewish law, especially in light of the problem of mass incarceration in the U.S., what might we take away?

If our goal today is to restore ex-convicts to community, we can:

Re-enfranchise ex-offenders: Michelle Alexander points out that stripping ex-cons of their voting rights amounts to a type of poll tax in the old Jim Crow. President Obama called for full voting rights to be restored to people who served their time in prison.

Part Two: Reenvisioning Land, Finance, Labor

But is that enough? Note that if we go beyond the immediate issue of mass incarceration and consider the bigger question of caste systems, as well as restoration for past injustice done against the black community for centuries, the restorative vision illustrated in Jewish law is powerful.

‘For the past 25 years, Congressman John Conyers Jr., who represents the Detroit area, has marked every session of Congress by introducing a bill calling for a congressional study of slavery and its lingering effects as well as recommendations for “appropriate remedies.” A country curious about how reparations might actually work has an easy solution in Conyers’s bill, now called HR 40, the Commission to Study Reparation Proposals for African Americans Act. We would support this bill, submit the question to study, and then assess the possible solutions...

⁵⁵ In *Genesis*, each son of Jacob married Canaanite women except Joseph, who married an Egyptian woman. In *Exodus*: Other people joined Israel in Egypt. Passover observance was open to others (Ex.12:7 – 13). ‘A mixed multitude’ from Egypt accompanied Israel during the Exodus (Ex.12:38). An Israelite woman is noted in passing to have married an Egyptian man (Lev.24:10). Caleb, one of Moses’ two servants, was a Kenizzite, one of the Canaanite tribes (Num.32:12; Gen.15:19)! In *Joshua*: The Canaanite woman Rahab and her whole household joined Israel (Josh.6:17 – 25). Rahab married Salmon – of the tribe of Judah. The entire Gibeonite tribe became part of Israel and God protected them from attacks by other Canaanites (Josh.9 – 11). In *Ruth*: Ruth was a Moabitess who married Boaz – who was of the tribe of Judah (Ruth 4:13) – and became an ancestor of Jesus (Mt.1:5). In 2 *Samuel*: Bathsheba the Hittite became a wife of King David (2 Sam.11 – 12). God’s design for Israel was to be a microcosm of all humanity, so Jesus could be multi-ethnic and represent all humanity. He was born from the most diverse tribe (Judah) and had Tamar, Rahab, Ruth, and Bathsheba as ancestors (Mt.1:5 – 6).

⁵⁶ For a lengthy explanation, see my paper, *Slavery in the Bible*, and for a short explanation, see my worksheet, *Slavery in the Bible Worksheet*. Both are found here: <https://www.anastasiscenter.org/race-slavery-belief-systems>.

⁵⁷ For an excellent study, see Christopher J.H. Wright, *Old Testament Ethics for the People of God* (Downers Grove, IL: InterVarsity Press, 2004)

Charles Ogletree, the Harvard Law School professor, argues for... a program of job training and public works that takes racial justice as its mission but includes the poor of all races.⁵⁸

Break up into three groups. Each group take one section below. Please read through the section. For 15 minutes, discuss among yourselves how you can see the principles of Leviticus 25 showing through (regarding labor, land ownership, finance). Give a 3 – 5 minute presentation on your topic to the other groups.

⁵⁸ Ta-Nehisi Coates, “The Case for Reparations,” *The Atlantic*, June 2014; see also Blair L.M. Kelley, ““The Case for Reparations’ Reignited an Important and Long-Standing Debate,” *The Root*, May 24, 2014

(GROUP 1) Reduce Residential Segregation; Create More Affordable Housing and Livable Spaces

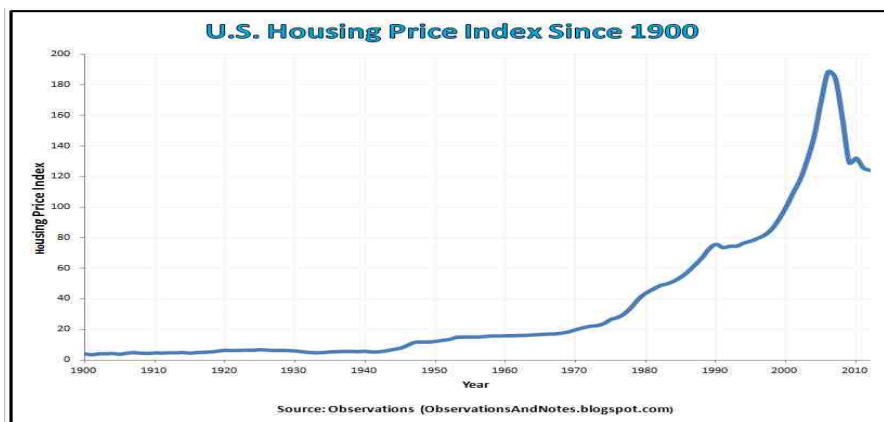
The laws of Israel cared about living space and rootedness for all people, as a connection to the original garden of Adam and Eve. But the U.S. has always had a racist approach to residential segregation, which exacerbated inequalities in education, health, public transportation, home equity asset growth, and law enforcement.

*Make ex-offenders eligible for public assistance, like Section 8 housing assistance and food stamps.*⁵⁹ Currently, keeping ex-felons ineligible for this assistance hurts them in many ways, including not being able to be reunited with a significant other and/or children. HUD is pursuing the question of housing discrimination against people with criminal records.⁶⁰

Fund more Housing First initiatives: “Through Housing First programs, chronically homeless individuals [families needs more work] are using fewer hospital resources, spending less time in costly incarceration and requiring fewer emergency room visits. Studies in New York City and in Utah have shown that every homeless person housed in programs such as Housing First saves taxpayers \$10,000 and \$8,000 a year, respectively. A research study at University of Northern Carolina also reported that a housing project for the chronically homeless called Moore Place had saved the county \$2.4 million.”⁶¹ HUD reported a 30% drop in chronically homeless individuals from 2005 to 2007.

Create more low and moderate income housing in mixed income areas: “The Housing Act of 1949 [called] for the government to realize “as soon as feasible . . . the goal of a decent home and a suitable living environment for every American family.” Federal legislation over the next several decades continued to support public housing and the government’s role in maintaining it. By 1973, the US had more than 1.5 million units of subsidized housing, a threefold increase from 1961... Between 1980 and 1988, the Reagan administration decreased funding for [HUD]... by 76%. Predictably, when the government began to starve public housing programs of necessary resources, public housing infrastructure deteriorated and quality of life for many residents declined.”⁶²

Change banking laws to reduce private debt and segregation by the wealthy. In the 1970’s, two changes occurred: (1) Bank mortgage lending laws took 2 incomes rather than just 1; (2) Federal tax code deducted interest on mortgages. Real estate developers simply built bigger, more expensive houses. Banks charged more for them.⁶³



1950: 983 square feet
1960: ~1200
1970: ~1400
1980: almost 1800
1990: ~2100
2000: almost 2400
2008: 2519

⁵⁹ See Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Era of Colorblindness* (New York, The New Press, 2011), ch.4

⁶⁰ Camila Domonoske, ‘Denying Housing Over Criminal Record May Be Discrimination, Feds Say,’ *NPR*, April 4, 2016

⁶¹ Wikipedia, ‘Housing First’; last accessed April 28, 2016

⁶² Tiffany M. Gardner, Alec Irwin, and Curtis W. Peterson, “No Shelter From the Storm: Reclaiming the Right to Housing and Protecting the Health of Vulnerable Communities in Post-Katrina New Orleans,” *Health and Human Rights Journal*, August 29, 2013

⁶³ Average home size data distilled from <http://www.census.gov/const/C25Ann/sfttotalmedavgsqft.pdf>; http://switchboard.nrdc.org/blogs/kbenfield/us_home_size_preferences_final.html; compare to Germany’s housing policy: Eamonn Fingleton, “In World’s Best-Run Economy, House Prices Keep Falling -- Because That’s What House Prices Are Supposed To Do,” *Forbes*, February 2, 2014

(GROUP 2) Make Financial Laws That Serve the Poor, Including Ex-Convicts

In the Ancient Near East, debt, especially exorbitant interest rates on loans, was the chief cause of people being sold into slavery.⁶⁴ Israel saw interest rate lending as taking advantage of someone else's vulnerability (Lev.25:36 – 38) and a form of slavery. An Israelite might have fallen on hard times and 'sold' family land or become an indentured servant in another household (Lev.25:23 – 34; the Israelite would have had to work in someone else's household, since there was no transportation system for commuting). God commanded the Israelites to be generous to the needy (Lev.25:35; Dt.15:7 – 10), to forgive debts after seven years (Dt.15:1 – 2) or on the jubilee year (Lev.25:13), when land returned to its original family boundaries. Thieves had to repay 2 – 5 times the value they stole (Ex.22:1 – 14) to re-establish healthy relationships.

Abolish fees and penalties that lead to re-imprisonment: Alexander also points out that drug offenders are often made to pay for their own drug testing, drug treatment (which is required as a condition for parole), public defender recoupment fees, probation service fees, accumulated child support, and frequently, the interest on all these fees and penalties!⁶⁵

Stop the most egregious financial exploitation of the poor: high interest loans. Nina McCarthy took out a loan which she normally was able to pay on time. But the interest was 24.9%, and one missed payment quickly got out of control. 'She went to her pastor, Rodney Hunter, at Wesley Memorial United Methodist Church in Richmond. Hunter helped her borrow \$700 so she could make a dent in paying off her mounting credit card debt, then about \$8,000. Here's how it worked: McCarthy's church offered funds as collateral so that she could qualify for a loan through the Virginia United Methodist Credit Union. McCarthy agreed to repay the loan at an annualized interest rate of about 6 percent – meaning monthly payments of \$25 for about 2 1/2 years, drawn right out of her bank account... The program is called the Jubilee Assistance Fund. In 7 1/2 years, it has helped parishioners of the United Methodist Church secure 14 loans – from \$500 to \$8,800. Similar initiatives run by faith-based organizations across the country are shifting the way churches approach charity. These programs offer parishioners an alternative to commercial lending agencies, which often charge triple-digit annualized interest rates.'⁶⁶

Reform our approach to higher education and student debt. Student debt is a major social problem. 'A report from the Federal Reserve Bank of New York suggests that federal student aid programs are doing more harm than good... [U]niversities respond by raising tuition to collect the newly available cash...: The researchers found that each additional dollar of Pell Grant or subsidized student loan money translates to a tuition jump of 55 or 65 cents, respectively. Of course, the higher tuition also applies to students who don't receive federal aid, making college less affordable across the board. The report also found that subsidized federal loans do not appear to increase enrollment. "[W]hile one would expect a student aid expansion to benefit recipients," the study authors wrote, "the subsidized loan expansion could have been to their detriment, on net, because of the sizable and offsetting tuition effect."⁶⁷ We might have to limit administrative costs, as with health insurance companies. Many European universities are almost fully funded publicly. Germany, Austria, and Switzerland use apprenticeships quite successfully.⁶⁸

⁶⁴ T. Desmond Alexander and David W. Baker, editors, 'Slavery', in *Dictionary of the Old Testament Pentateuch* (Downers' Grove, IL: InterVarsity Press, 2003)

⁶⁵ Michelle Alexander, *The New Jim Crow*, p.154 – 158

⁶⁶ Rebecca Robbins, "Churches Step In With Alternative to High-Interest, Small-Dollar Lending Industry," *Washington Post*, January 9, 2015. See also Aaron Souppouris, "The Church of England Wants to Oust Loan Sharks By Competing with Them," *The Verge*, July 26, 2013; Jamie Doward, "Church of England Launches Credit Union Network In Payday Loans Fight," *The Guardian*, February 22, 2014; Aaron Weaver, "Religious Groups Announce Coalition to Combat Predatory Lending," *Cooperative Baptist Fellowship*, May 14, 2015; Tom Strode, "Payday Loans Targeted by ERLC, Others in Coalition," *Baptist Press*, May 15, 2015

⁶⁷ Bonnie Kristian, "Study: Federal Student Loans Increase Tuition, Not Enrollment," *The Week*, July 7, 2015; Paul F. Campos, "The Real Reason College Tuition Costs So Much," *NY Times*, April 4, 2015 blames bloated college administration costs but not pressure on students to gamble by investing in a college education (information asymmetry); Susan Dynarski, "Why Federal College Ratings Won't Rein in Tuition," *NY Times*, September 20, 2014.

⁶⁸ Eric Westervelt, "The Secret to Germany's Low Youth Unemployment," *NPR*, April 4, 2012; Bielefeld, "What Germany Offers the World," *The Economist*, April 14, 2012; Natalia Aivazova, "Role of Apprenticeships in Combating Youth Unemployment in Europe and the United States," *Petersen Institute for International Economics*, August 2013

(GROUP 3) Spread Work Opportunities

In Israel, land was wealth but also the opportunity and obligation to work. Hence God gave the Israelites a baseline share of land as a way to participate with Him in cultivating life, advancing goodness in the earth, and making something beautiful. He restored people to land, the dignity of work, and the capacity to produce wealth. Dr. Martin Luther King, Jr. said: ‘Our needs are identical with labor’s needs. Decent wages, fair working conditions, livable housing, old-age security, health and welfare measures, conditions in which families can grow, have education for their children and respect in their community.’ And at a speech before the Illinois AFL-CIO: ‘The labor movement was the principal force that transformed misery and despair into hope and progress. Out of its bold struggles, economic and social reform gave birth to unemployment insurance, old age pensions, government relief for the destitute, and, above all, new wage levels that meant not mere survival but a tolerable life.’⁶⁹

Reduce discrimination against ex-offenders: ‘Ban the box’ (<http://bantheboxcampaign.org/>) on forms that require job applicants to check a box for having a felony record (especially for non-violent offenses).

Tie worker and executive salaries together: We might give higher priority to workers’ wages over CEO’s wages and shareholders’ earnings, and probably in trade negotiations with other countries. ‘According to the [Bureau of Labor Statistics], only 27 percent of us need college degrees for our jobs. Yet, 47 percent of the workforce currently has a college degree.’⁷⁰ Making the cost of living possible for people in vocational trades (electricians, plumbers, etc.) is therefore vital.

Even though this proposal did not pass, it’s worth noting. ‘Voters in Switzerland rejected a referendum that would have limited executive pay at Swiss companies to 12 times that of the company’s lowest-paid employees... 65 percent of Swiss voters said thanks but no thanks to the measure, even though they voted earlier this year to clamp down on CEO pay in other ways, banning so-called “golden parachutes” and giving shareholders more power to veto executive pay packages. Those pushing for the so-called 1:12 initiative said they did so because, in the last three decades, the ratio in pay between the highest and lowest-paid Swiss citizens has increased from 6-to-1 to 43-to-1. For CEOs, the ratio is even higher: The average Swiss CEO makes about 148 times that of the average worker, with some companies clearing 200-to-one. But those ratios are tame compared to what’s going on in the United States. Here, the average CEO makes an eye-popping 354 times the pay of the average worker’⁷¹

‘Market Basket’s formula proves that executives and managers and cashiers can all profit, together. Employees get the benefits of a 15 percent profit sharing plan provided by Market Basket, while the groceries the store sells are less expensive, on average, than Walmart’s... Stories include [Arthur T.] granting months of paid sick leave to cancer-stricken workers. Arthur S.? Notably less generous. In one instance, after Arthur T. replenished nearly \$50 million in employee profit shares that bottomed out in 2008, the Arthur S. contingent cried foul. A comparable dispute came last year when, to his cousin’s consternation, Arthur S. moved to pay out \$300 million in dividends to shareholders. Protesting employees fear that losing Arthur T. will lead to liquidation and, then, an erosion of Market Basket’s benevolent company culture. Part of that culture, for example, is ensuring guaranteed annual raises, a high starting salary, vacation time and a profit sharing plan for employees at the supermarket. And those protestors are probably right. As was just reported this past Friday, Arthur S. has entertained a sale to the private equity behemoth Cerberus, which already owns such major grocery store chains as Shaw’s, Safeway, Star Market, Acme, Jewel-Osco, and Albertsons.’⁷²

Tie labor and capital together: Dudley Dough pizza shop in Roxbury, MA is using the ‘worker-owned company’ or ‘worker cooperatives’ model. Adam Smith believed in that model, as do other ‘libertarian

⁶⁹ U.S. Secretary of Labor Thomas E. Perez, “All Labor Has Dignity: King’s Other Legacy,” *Huffington Post*, January 16, 2015

⁷⁰ Anthony Carnevale, et.al., “Too Many College Grads – Or Too Few?” *PBS*, February 21, 2014

⁷¹ Pat Garofalo, “What We Can Learn From Switzerland’s CEO Pay Cap Vote,” *U.S. News*, November 25, 2013

⁷² Chris Faraone, “The Last Stand for the Middle Class Is Taking Place in a Parking Lot in Massachusetts,” *Esquire*, July 29, 2014

socialists' like Proudhon and Bakunin (peers of Karl Marx who critiqued him for suggesting the state should own the means of production instead of workers) and modern thinkers like Noam Chomsky, Ron Paul, and Yanis Varoufakis. It corrects the incentives of capital investors *and* workers to use the corporation for their short term gain.

'Smith, indeed, predicted what might happen in the *Wealth of Nations*, when he supported the idea of private companies (or copartneries) against joint stock companies, the equivalent of today's limited liability firm. In the former, Smith said, each partner was "bound for the debts contracted by the company to the whole extent of his fortune", a potential liability that tended to concentrate the mind. In joint stock companies, Smith said, shareholders tended to know little about the running of the company, raked off a half-yearly dividend and, if things went wrong, stood only to lose the value of their shares. "This total exemption from trouble and from risk, beyond a limited sum, encourages many people to become adventurers in joint stock companies who would, upon no account, hazard their own fortunes in any private copartnery. The directors of such companies, however, being the managers rather of other people's money than their own, it cannot well be expected that they should watch over it with the same anxious vigilance with which the partners in a private copartnery frequently watch over their own."⁷³

'Researchers and practitioners conservatively estimate that there are over 350 democratic workplaces in the United States, employing over 5,000 people and generating over \$500 million in annual revenues.'⁷⁴

'Worker-owned cooperatives are rare in the United States, but in Spain, where they are much more established, they're often followed closely by a whole community. One study looked at the retail chain Eroski, which has both worker-run and traditional stores, and found that the worker-run Eroski stores grew "sales significantly faster" than those not run by workers. The reason? "Compared to workers in other firms, cooperative members have opportunities for substantial employee involvement and training and also strong incentives because they have a large financial stake in the firm," the researchers concluded.'⁷⁵

⁷³ Larry Elliott, "Plc: Prerogative of the Unaccountable Few," *The Guardian*, July 9, 2007

⁷⁴ *U.S. Federation of Worker Cooperatives* website; last accessed April 26, 2016

⁷⁵ Alana Semuels, "Getting Rid of Bosses," *The Atlantic*, July 8, 2015

SESSION SIX: SOME PROBLEMS WITH PRISONS

Part One: Origins and Trends

Prisoners for Profit: Spending Less on Prisoner Well-Being

'In the 1980s and early 1990s, South Carolina did a reasonably good job of caring for its mentally ill prisoners. That changed in the mid 1990s. Michael Moore, a renowned prison administrator, came from Texas and implemented a series of harsh reforms that vitiated mental health services for inmates. Jobs for prison psychiatrists were cut. Programs that had helped the mentally ill were shelved. And conditions, predictably, got worse in a hurry... One mentally ill inmate, James Wilson, was kept in solitary confinement for at least 2,491 consecutive days. [A]n intellectually disabled (and schizophrenic) man named Jerome Laudman was abused and neglected, and then left to rot in his own feces and vomit, until he died of a heart attack. [F]orce was used 81 times on a severely mentally ill inmate named James Howard. [S]ome mentally ill inmates were restrained at length in what they called a "crucifix position." [S]ome mentally ill prisoners were "routinely placed" naked "in shower stalls, 'rec cages', interview booths, and holding cells for hours and even days at a time." [S]uicidal prisoners who were supposed to be receiving anti-psychotic medication were not receiving them. No surprise, the judge wrote, since SCDC's "computer system cannot retrieve the names or numbers of all inmates referred" for mental health treatment, "the number of inmates who have made serious suicide attempts; or the number of inmates whose psychotropic medications have expired without being timely renewed." [M]entally ill inmates are routinely caged for days in their own feces and urine, having to eat literally where they shit. Judge Baxley wrote that "the deposition testimony of some psychiatrists reveals an alarming lack of knowledge about the policies and procedures at SCDC." And even if the mental health professionals knew what they were doing, they wouldn't have been able to do much. The ratio of inmates needing treatment to professionals able to provide it was astronomically high.'⁷⁶

- Watch John Oliver, *Prison*, 4:25 min mark to 14:30 min:
<https://www.youtube.com/watch?v=Pz3syET3DY>

Prisoners for Profit: Using Prisoners as Near-Free Labor

'On average, prisoners work 8 hours a day, but they have no union representation and make between .23 and \$1.15 per hour, over 6 times less than federal minimum wage. These low wages combined with increasing communication and commissary costs mean that inmates are often released from correctional facilities with more debt than they had on their arrival. Meanwhile, big businesses receive tax credits for employing these inmates in excess of millions of dollars a year. While almost every business in America uses some form of prison labor to produce their goods, here are just a few of the companies who are helping prisoners 'pay off their debt to society,' so to speak.

- Whole Foods... purchases artisan cheese and fish prepared by inmates who work for private companies. The inmates are paid .74 cents a day to raise tilapia that is subsequently sold for \$11.99 a pound.
- McDonald's... purchases a plethora of goods manufactured in prisons, including plastic cutlery, containers, and uniforms. The inmates who sew McDonald's uniforms make even less money by the hour than the people who wear them.
- Wal-Mart... states that "forced or prison labor will not be tolerated by Wal-Mart", [but] basically every item in their store has been supplied by third-party prison labor factories. Wal-Mart purchases its produce from prison farms where laborers are often subjected to long, arduous hours in the blazing heat without adequate sunscreen, water, or food.
- Victoria's Secret. Female inmates in South Carolina sew undergarments and casual-wear. In the late 1990's, 2 prisoners were placed in solitary confinement for telling journalists that they were hired to replace "Made in Honduras" garment tags with "Made in U.S.A." tags. [VS] declined to comment.
- Aramark... which provides food to colleges, public schools and hospitals, has a monopoly on foodservice in about 600 prisons in the U.S. Despite this, Aramark has a history of poor foodservice, including a massive food shortage that caused a prison riot in Kentucky in 2009.

⁷⁶ Andrew Cohen, "When Good People Do Nothing: The Appalling Story of South Carolina's Prisons," *The Atlantic*, January 10, 2014

- AT&T... laid off thousands of telephone operators—all union members—in order to increase their profits. [T]hey have consistently used inmates to work in their call centers since '93, barely paying them \$2 a day.
- BP... spilled 4.2 million barrels of oil into the Gulf coast, [then] sent a workforce of almost exclusively African-American inmates to clean up the toxic spill while community members, many of whom were out-of-work fisherman, struggled to make ends meet. BP's decision to use prisoners instead of hiring displaced workers outraged the Gulf community, but the oil company did nothing.⁷⁷

Prisoners for Profit: Extortion via Phone Calls

Phone calls for prisoners: <http://www.truth-out.org/news/item/20759-fifteen-things-that-we-learned-about-the-prison-industrial-complex-in-2013>, scroll down to the video, under point #6

Prisoners for Profit: Keep Capacity Filled in Private Prisons

'California guarantees that prisons will be filled to 70% capacity at all times. Arizona promises almost 100% occupancy.'⁷⁸

The Political Economics of Prison Expansion: California in the 1980s and 1990s as an Early Case Study

- 'The Census Bureau counts imprisoned individuals as residents of the jurisdiction in which they are incarcerated. [W]hite, rural communities benefit from inflated population totals at the expense of the urban, overwhelmingly minority communities from which the prisoners come. This has enormous consequences for the redistricting process.'⁷⁹
- 'A Republican parochial inclination to punish combined with high visibility locations of the racial demographic transition [rural central and southern CA counties with sizable ethnic minority immigration] during the last decades of the twentieth century played significant roles in the selection of California counties for appropriations to fund prison construction.'⁸⁰ '[T]he death penalty solved this problem for local politicians because state and federal governments paid for the capital trials and executions. The use of bonds for state prison construction similarly contributed to resolving this contradiction by deferring and externalizing costs of imprisonment. [...] Lease revenue bonds [LRBs] originally were designed to fund projects with a revenue stream – parking garages, toll roads, and parking meters – to make the interest payments. They converted the leases to ownership following debt repayment. Of course, a prison generates costs rather than revenue. The entrepreneurial "repurposing" of LRBs was made possible in this era of de-regulation by having the [CA Dept of Corrections and Rehabilitation] lease the prisons to the state and by covering the interest payments from the corrections budget. The innovation involved the creation of a stream of revenue from an annual appropriation in a state budget and was highly unorthodox. [...] *Business Week's* Suzanne Woolley (1992) called... LRBs an "End Run Around the Taxpayer."⁸¹

Comparison: Germany and the U.S.

'Earlier this summer, we led a delegation of people concerned about the United States criminal justice system to visit some prisons in Germany and observe their conditions. What we saw was astonishing. The men serving time wore their own clothes, not prison uniforms. When entering their cells, they slipped out of their sneakers and into slippers. They lived one person per cell. Each cell was bright with natural light, decorated with personalized items such as wall hangings, plants, family photos and colorful linens

⁷⁷ Kelley Davidson, "These 7 Household Names Make a Killing Off of the Prison-Industrial Complex," *U.S. Uncut*, August 30, 2015 writes, 'From dentures to shower curtains to pill bottles, almost everything you can imagine is being made in American prisons. Also implicit in the past and present use of prison labor are Microsoft, Nike, Nintendo, Honda, Pfizer, Saks Fifth Avenue, JCPenney, Macy's, Starbucks, and more. For an even more detailed list of businesses that use prison labor, visit buycott.com, but the real guilty party here is the United States government. UNICOR, the corporation created and owned by the federal government to oversee penal labor, sets the condition and wage standards for working inmates.'

⁷⁸ M. David, "Private Prisons Threaten to Sue States Unless They Get More Inmates For Free Labor," *Countercurrent News*, June 24, 2015

⁷⁹ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2011)

⁸⁰ John Hagan, Gabriele Plickert, Alberto Palloni, Spencer Headworth, "Making Punishment Pay: The Political Economy of Revenue, Race, and Regime in the California Prison Boom," *Du Bois Review*, 12:1 (2015) p.97

⁸¹ Ibid, p.102

brought from home. Each cell also had its own bathroom separate from the sleeping area and a phone to call home with. The men had access to communal kitchens, with the utensils a regular kitchen would have, where they could cook fresh food purchased with wages earned in vocational programs. [...] Truly transformative change in the United States will require us to fundamentally rethink values. How do we move from a system whose core value is retribution to one that prioritizes accountability and rehabilitation? In Germany we saw a potential model: a system that is premised on the protection of human dignity and the idea that the aim of incarceration is to prepare prisoners to lead socially responsible lives, free of crime, upon release.’⁸²

⁸² Nicholas Turner and Jeremy Travis, “What We Learned From German Prisons,” *New York Times*, August 6, 2015

Part Two: God Takes a Restorative Approach to Human Evil

Isaiah 59:1 – 21

- ^{59:1} Behold, the LORD'S hand is not so short that it cannot save;
Nor is His ear so dull that it cannot hear.
- ² But your iniquities have made a separation between you and your God,
And your sins have hidden His face from you so that He does not hear.
- ³ For your hands are defiled with blood
And your fingers with iniquity;
Your lips have spoken falsehood,
Your tongue mutters wickedness.
- ⁴ No one sues righteously and no one pleads honestly.
They trust in confusion and speak lies;
They conceive mischief and bring forth iniquity.
- ⁵ They hatch adders' eggs and weave the spider's web;
He who eats of their eggs dies,
And from that which is crushed a snake breaks forth.
- ⁶ Their webs will not become clothing,
Nor will they cover themselves with their works;
Their works are works of iniquity,
And an act of violence is in their hands.
- ⁷ Their feet run to evil,
And they hasten to shed innocent blood;
Their thoughts are thoughts of iniquity,
Devastation and destruction are in their highways.
- ⁸ They do not know the way of peace,
And there is no justice in their tracks;
They have made their paths crooked,
Whoever treads on them does not know peace.
- ⁹ Therefore justice is far from us,
And righteousness does not overtake us;
We hope for light, but behold, darkness,
For brightness, but we walk in gloom.
- ¹⁰ We grope along the wall like blind men,
We grope like those who have no eyes;
We stumble at midday as in the twilight,
Among those who are vigorous we are like dead men.
- ¹¹ All of us growl like bears,
And moan sadly like doves;
We hope for justice, but there is none,
For salvation, but it is far from us.
- ¹² For our transgressions are multiplied before You,
And our sins testify against us;
For our transgressions are with us,
And we know our iniquities:
- ¹³ Transgressing and denying the LORD,
And turning away from our God,
Speaking oppression and revolt,
Conceiving in and uttering from the heart lying words.
- ¹⁴ Justice is turned back,
And righteousness stands far away;
For truth has stumbled in the street,
And uprightness cannot enter.
- ¹⁵ Yes, truth is lacking;
And he who turns aside from evil makes himself a prey.

Now the LORD saw,
And it was displeasing in His sight that there was no justice.
¹⁶ And He saw that there was no man,
And was astonished that there was no one to intercede;
Then His own arm brought salvation to Him,
And His righteousness upheld Him.
¹⁷ He put on righteousness like a breastplate,
And a helmet of salvation on His head;
And He put on garments of vengeance for clothing
And wrapped Himself with zeal as a mantle.
¹⁸ According to their deeds, so He will repay,
Wrath to His adversaries, recompense to His enemies;
To the coastlands He will make recompense.
¹⁹ So they will fear the name of the LORD from the west
And His glory from the rising of the sun,
For He will come like a rushing stream
Which the wind of the LORD drives.
²⁰ 'A Redeemer will come to Zion,
And to those who turn from transgression in Jacob,' declares the LORD.
[*He will remove ungodliness from Jacob,* (quoted by Paul in Romans 11:26)]
²¹ 'As for Me, this is My covenant with them,' says the LORD:
'My Spirit which is upon you,
And My words which I have put in your mouth
Shall not depart from your mouth,
Nor from the mouth of your offspring,
Nor from the mouth of your offspring's offspring,' says the LORD, 'from now and forever.'

Historical and Cultural Background

- *Isaiah*: A poetic preacher who lived in around 800 BC, in the Southern Kingdom of Judah (after the nation Israel split into two kingdoms). He is among the 'Hebrew prophets' who put their hope in God to bring about a worldwide change through the Jewish Messiah (final king).
- *The Redeemer*: The title comes from Israel's history of needing a champion from God who would rescue and deliver them out of the hand of a foreign power, so they could live under God's reign. The note at verse 20 reflects a subtle but fascinating difference in ancient manuscript families.

Guiding Questions

1. In this passage, God is interested in rehabilitation of people, not just punishing them. Does that surprise you?
2. If God had said that He was just going to isolate people and forget about them, how would that feel different than what He says here?
3. How does God get personally involved?
4. Did God *need* to be personally involved in order to solve this problem?

SESSION SEVEN: CONSIDER DRUG REGULATION VS. CRIMINALIZATION

Part One: Arguments for Regulation, Not Criminalization

Article 1: Jimmy Carter, ‘Call Off the Global Drug War,’ *New York Times*, June 16, 2011

In an extraordinary new initiative announced earlier this month, the Global Commission on Drug Policy has made some courageous and profoundly important recommendations in a report on how to bring more effective control over the illicit drug trade. The commission includes the former presidents or prime ministers of five countries, a former secretary general of the United Nations, human rights leaders, and business and government leaders, including Richard Branson, George P. Shultz and Paul A. Volcker.

The report describes the total failure of the present global antidrug effort, and in particular America’s “war on drugs,” which was declared 40 years ago today. It notes that the global consumption of opiates has increased 34.5 percent, cocaine 27 percent and cannabis 8.5 percent from 1998 to 2008. Its primary recommendations are to substitute treatment for imprisonment for people who use drugs but do no harm to others, and to concentrate more coordinated international effort on combating violent criminal organizations rather than nonviolent, low-level offenders.

These recommendations are compatible with United States drug policy from three decades ago. In a message to Congress in 1977, I said the country should decriminalize the possession of less than an ounce of marijuana, with a full program of treatment for addicts. I also cautioned against filling our prisons with young people who were no threat to society, and summarized by saying: “Penalties against possession of a drug should not be more damaging to an individual than the use of the drug itself.”

These ideas were widely accepted at the time. But in the 1980s President Ronald Reagan and Congress began to shift from balanced drug policies, including the treatment and rehabilitation of addicts, toward futile efforts to control drug imports from foreign countries.

This approach entailed an enormous expenditure of resources and the dependence on police and military forces to reduce the foreign cultivation of marijuana, coca and opium poppy and the production of cocaine and heroin. One result has been a terrible escalation in drug-related violence, corruption and gross violations of human rights in a growing number of Latin American countries.

The commission’s facts and arguments are persuasive. It recommends that governments be encouraged to experiment “with models of legal regulation of drugs ... that are designed to undermine the power of organized crime and safeguard the health and security of their citizens.” For effective examples, they can look to policies that have shown promising results in Europe, Australia and other places.

But they probably won’t turn to the United States for advice. Drug policies here are more punitive and counterproductive than in other democracies, and have brought about an explosion in prison populations. At the end of 1980, just before I left office, 500,000 people were incarcerated in America; at the end of 2009 the number was nearly 2.3 million. There are 743 people in prison for every 100,000 Americans, a higher portion than in any other country and seven times as great as in Europe. Some 7.2 million people are either in prison or on probation or parole — more than 3 percent of all American adults!

Some of this increase has been caused by mandatory minimum sentencing and “three strikes you’re out” laws. But about three-quarters of new admissions to state prisons are for nonviolent crimes. And the single greatest cause of prison population growth has been the war on drugs, with the number of people incarcerated for nonviolent drug offenses increasing more than twelvefold since 1980.

Not only has this excessive punishment destroyed the lives of millions of young people and their families (disproportionately minorities), but it is wreaking havoc on state and local budgets. Former California Gov. Arnold Schwarzenegger pointed out that, in 1980, 10 percent of his state’s budget went to higher

education and 3 percent to prisons; in 2010, almost 11 percent went to prisons and only 7.5 percent to higher education.

Maybe the increased tax burden on wealthy citizens necessary to pay for the war on drugs will help to bring about a reform of America's drug policies. At least the recommendations of the Global Commission will give some cover to political leaders who wish to do what is right.

A few years ago I worked side by side for four months with a group of prison inmates, who were learning the building trade, to renovate some public buildings in my hometown of Plains, Ga. They were intelligent and dedicated young men, each preparing for a productive life after the completion of his sentence. More than half of them were in prison for drug-related crimes, and would have been better off in college or trade school.

To help such men remain valuable members of society, and to make drug policies more humane and more effective, the American government should support and enact the reforms laid out by the Global Commission on Drug Policy.⁸³

For more information, read the 2011 Report of the Global Commission on Drug Policy,⁸⁴ supported by President Jimmy Carter.

**Article 2:
Samuel Oakford,
'Portugal's Example: What Happened After It Decriminalized All Drugs, From Weed to Heroin,'
Vice News, April 19, 2016**

"Today, Portuguese authorities don't arrest anyone found holding what's considered less than a 10-day supply of an illicit drug — a gram of heroin, ecstasy, or amphetamine, two grams of cocaine, or 25 grams of cannabis. Instead, drug offenders receive a citation and are ordered to appear before so-called "dissuasion panels" made up of legal, social, and psychological experts. Most cases are simply suspended. Individuals who repeatedly come before the panels may be prescribed treatment, ranging from motivational counseling to opiate substitution therapy.

Though often narrowly assessed in reference to its decriminalization law, Portugal's experience over the last decade and a half speaks as much to its free public health system, extensive treatment programs, and the hard to quantify trickle down effects of the legislation. In a society where drugs are less stigmatized, problem users are more likely to seek out care. Police, even if they suspect someone of using drugs, are less likely to bother them. Though at least 25 countries have introduced some form of decriminalization, Portugal's holistic model and its use of dissuasion panels sets it apart.

The rate of new HIV infections in Portugal has fallen precipitously since 2001, the year its law took effect, declining from 1,016 cases to only 56 in 2012. Overdose deaths decreased from 80 the year that decriminalization was enacted to only 16 in 2012. In the US, by comparison, more than 14,000 people died in 2014 from prescription opioid overdoses alone. Portugal's current drug-induced death rate, three per million residents, is more than five times lower than the European Union's average of 17.3, according to EU figures.

⁸³ Jimmy Carter, 'Call Off the Global Drug War,' New York Times, June 16, 2011; <http://www.nytimes.com/2011/06/17/opinion/17carter.html>

⁸⁴ Global Commission on Drug Policy, *War on Drugs*, June 2011, http://www.globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/Global_Commission_Report_English.pdf; see also the Wikipedia article "Global Commission on Drug Policy"

When Portugal decided to decriminalize in 2000, many skeptics assumed that the number of users would skyrocket. That did not happen. With some exceptions, including a marginal increase among adolescents, drug use has fallen over the past 15 years and now ebbs and flows within overall trends in Europe. Portuguese officials estimate that by the late 1990s roughly one percent of Portugal's population, around 100,000 people, were heroin users.

Today, "we estimate that we have 50,000, most of them under substitution treatment," said Goulão before adding that he's recently seen a small uptick in use of the drug, predominantly among former addicts that got clean. This reflects Portugal's tenuous economic condition, he contends.

"People use drugs for one of two reasons — either to potentiate pleasures or relieve unpleasure — and the types of drugs and the type of people who use drugs carries a lot according to the conditions of life in the country," he remarked.

Parallel harm reduction measures, such as needle exchanges and opioid substitution therapy using drugs like methadone and buprenorphine, he said, serve as a cushion to prevent the spread of communicable diseases and a rise in overdoses even if the number of users injecting heroin happens to increase for a period of time...

Portuguese health workers refer to Greece as a cautionary tale. Wracked by a budgetary crisis and the austerity conditions of repeated bailouts, Greece experienced an explosion of HIV transmission rates after budget cuts left health programs drastically underfunded. According to EU figures, only Greece and Latvia experienced larger cuts than Portugal to its public health services between the period of 2005 to 2007 and 2009 to 2012.

And yet Portugal experienced no discernable rise in HIV transmission — the cushion effect in action.

"We don't assume that this is the silver bullet, but in my view it has been very important because it introduced coherence into the whole system," he said. "If our responses are based in the idea that we talking about addiction, that we are talking about chronic disease, talking about a health issue — to have it out of the penal system is a clear improvement. It was really important for our society because it allowed us to drop the stigma."⁸⁵

Action Steps

In the U.S., learn from local and state efforts at shifting to decriminalization and regulation⁸⁶

- Law Enforcement Against Prohibition: www.leap.cc
- DrugPolicy.org to see drug laws and treatment by state
- International Drug Policy Reform Conference, in DC, Nov 18 – 21, 2015⁸⁷

⁸⁵ Samuel Oakford, 'Portugal's Example: What Happened After It Decriminalized All Drugs, From Weed to Heroin,' *Vice News*, April 19, 2016; <https://news.vice.com/article/ungass-portugal-what-happened-after-decriminalization-drugs-weed-to-heroin>

⁸⁶ Borden, "Washington Sheriff Tells Oregon Voters: Legalization Is Already Working," *Stop the Drug War*, October 21, 2014; Eric March, "A town in Massachusetts decided to stop arresting drug users. 2 months later, here's how it's going." *Upworthy*, August 18, 2015

⁸⁷ See the website <https://eiseverywhere.com/ereg/newreg.php?eventid=98820>

Part Two: God Undoes the Damage in Human Nature

Isaiah 53:4 – 12

Making substance abuse legal does not mean making it moral, or simply taking a hands-off approach to people. This passage reminds us that bringing people into full health is personally costly.

Text of Isaiah 53:4 – 12

53:4 Surely our griefs he himself bore,
And our sorrows he carried;
Yet we ourselves esteemed him stricken,
Smitten of God, and afflicted.

5 But he was pierced through for our transgressions,
He was crushed for our iniquities;
The chastening for our well-being fell upon him,
And by his scourging we are healed.

6 All of us like sheep have gone astray,
Each of us has turned to his own way;
But the LORD has caused the iniquity of us all
To fall on him.

7 He was oppressed and he was afflicted,
Yet he did not open his mouth;
Like a lamb that is led to slaughter,
And like a sheep that is silent before its shearers,
So he did not open his mouth.

8 By oppression and judgment he was taken away;
And as for his generation, who considered
That he was cut off out of the land of the living
For the transgression of my people,
To whom the stroke was due?

9 His grave was assigned with wicked men,
Yet he was with a rich man in his death,
Because he had done no violence,
Nor was there any deceit in his mouth.

10 But the LORD was pleased to crush him
Putting him to grief;
If he would render himself as a guilt offering,
He will see his offspring,
He will prolong his days,
And the good pleasure of the LORD will prosper in his hand.

[10 But the LORD wishes to cleanse him
Of his wound;
And if you give an offering for sin,
Your soul shall see a long-lived seed⁸⁸]

11 As a result of the anguish of his soul,

Our Griefs, Sorrows: The experience of being fallen and exiled from the garden, both personally and collectively. When Jesus healed people of diseases, Matthew was reminded of Isaiah, and quoted Isa.53:4 this way: ‘He himself took our *infirmities* and carried away our *diseases*’ (Mt.8:17, quoting from the Greek Septuagint).

Our Iniquities: The moral condition of being fallen and exiled. Adam and Eve were exiled because they corrupted human nature, and Israel shared in Adam and Eve’s exile because they couldn’t undo the corruption. The Messiah would share in this exile, internally by taking on our fallen humanity, and circumstantially in an intensified form: e.g. Jesus was pursued by a murderous Herod, etc.

Offerings: The Servant lived, died, and rose again as an intensified sin/guilt offering (Lev.3 – 7). In this offering:

- *The animal’s organs* associated with waste and toxins (kidney, liver, intestinal fat) were completely consumed in fire. Jesus consumed ‘the old self’ (Rom.6:6) and condemned

⁸⁸ At Isaiah 53:10, the Greek Septuagint (LXX) manuscripts are subtly but notably different than the existing Hebrew variants: the Masoretic Text (MT) and the Dead Sea Scrolls (DSS). The earliest complete text of the MT family (the Aleppo Codex) dates from the 900’s AD and reflects the effort to standardize texts by the Jewish Masorete scribes in Palestine and Babylon from the 7th – 10th centuries. The Great Isaiah Scroll among the DSS collection dates from between 350 – 100 BC. However, the Jewish community in Alexandria, Egypt, translated the Hebrew Scriptures into the LXX version about 250 – 150 BC from an older Hebrew manuscript. This would have been both natural and necessary: Hellenistic Greek was spoken in the region conquered by Alexander the Great from the Adriatic Sea to the Indus River; Jews in the Diaspora spoke Hellenistic Greek more than Hebrew. So the LXX and DSS, being of comparable age, witness to both variants being ancient.

He will see it and be satisfied;
By his knowledge the Righteous One,
My Servant, will justify the many,
As he will bear their iniquities.
¹² Therefore, I will allot him a portion with the great,
And he will divide the booty with the strong;
Because he poured out himself to death,
And was numbered with the transgressors;
Yet he himself bore the sin of many,
And interceded for the transgressors.

the sin within his humanity
(Rom.8:3).

- *The meat* became a vehicle to ‘bear the iniquity’ of the people into God. It was eaten by the priests, then sent by the high priest into God once a year on the Day of Atonement. God both consumed it and bore it away from Israel, through the symbolism of the two goats (Lev.16). Jesus bore the iniquity in human nature – into God to be destroyed, and away from humanity forever.
- *The life-blood* was ‘poured out’ and ‘sprinkled’ as healing and purity from God to the people. Jesus gave his life for us, so he could give his Spirit to us.

Historical and Cultural Background

- *Isaiah*: A poetic preacher who lived in around 800 BC, in the Southern Kingdom of Judah (after the nation Israel split into two kingdoms). He is among the ‘Hebrew prophets’ who put their hope in God to bring about a worldwide change through the Jewish Messiah (final king). This section is called ‘The Song of the Suffering Servant.’
- *Last Session*: Recall that we covered Isaiah 59 in our last session. That section says that the Servant came also because he wanted to bring about justice, and saw that people were not capable of living justly because of their sinfulness.

Guiding Questions

1. Why is it costly to help others out of a broken condition? To bring them ‘well-being’ and ‘healing’ (53:5)?
2. What is the condition of the others who need the help of the Servant?
3. If God had said, ‘Just overcome it yourself,’ how would that feel? How would that be different than God sending this ‘Servant’ to help?
4. Did this happen? Did the Servant actually change anyone’s life?
5. If this passage can be a paradigm, what does it mean to be a ‘servant’ to others?

About two-thirds of the approximately 300 New Testament quotations of the Old Testament come from the LXX. For example, in Romans, Paul quotes exclusively from the LXX; in Romans 9 – 11, he quotes from LXX Isaiah 11 times, including a very significant instance in Romans 11:26. There, he cites Isaiah 59:20, and demonstrates a preference for the LXX over the DSS-MT on a theological issue congruent with the LXX tradition of Isaiah 53:10. In his incarnation, Jesus would ‘turn *transgression away* from Jacob’ (LXX), healing human nature by conquering the disease of sin, as opposed to merely coming ‘to *those who turn* from transgression in Jacob’ (MT) as some kind of external reward.

Early church theologians also preferred the LXX version of Isaiah 53:10. Clement of Rome, *Epistle to the Corinthians*, chapter 16, cited it. Justin Martyr cited it in two places: *First Apology*, chapter 51, and *Dialogue with Trypho*, chapter 13. Augustine quoted it in *Harmony of the Gospels*, book 1, paragraph 47. John Chrysostom cited it in *Homilies on First Corinthians*, Homily 38. The great 3rd century biblical commentator Origen of Alexandria also preferred to quote LXX Isaiah (*Commentary on the Gospel of John*, book 6, paragraph 35 quotes LXX Isaiah 53:7; *Commentary on the Gospel of Matthew*, book 12, chapters 29 – 32 quotes LXX Isaiah 53:2 – 4). Origen’s preference for LXX Isaiah is suggestive, since he wrote the monumental *Hexapla*, a 28 year project where he did word-for-word comparisons of six versions of the Hebrew Bible including one Hebrew version, the Greek LXX, and other Greek translations.