Juan Crow

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Faculty Introduction

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Marlene’s paper argues that there are striking parallels between the legal regime that constitutes the War on Drugs and current immigration law enforcement. In both cases, there is a racialized group—African Americans and Latinos, respectively—subjected to legalized discrimination resulting in second-class status. She thus extends Michelle Alexander’s thesis in her powerful book, The New Jim Crow, to a timely and important set of issues. Marlene’s paper contributes to a better understanding of the racial disparities in the operation of the US legal system. Her examination of the issues is careful, and she considers and responds to objections from the opposing point of view. This paper deepens our understanding of a major issue of the day by calling attention to historical and contemporaneous parallels that may otherwise lie out of view.

Abstract

Michelle Alexander’s The New Jim Crow seeks to explain the parallels and connections between the present day War on Drugs, and resulting systems of mass incarceration, and the historic regime of racial control known as Jim Crow. Her argument is that the criminal justice system in the United States is an updated racialized system of social control, with her main focus being the lives of African Americans affected by the system. This article seeks to extend Alexander’s argument. It contends that the US anti-immigration system’s laws, statutes, and ordinances are a racialized social control system aimed at the lives of those of Latin American descent. Just as Alexander contends that the system of mass incarceration stemming from the War on Drugs is a renewed and improved Jim Crow, it is here argued that the current immigration system in this country is a renewed and improved “Juan Crow.”
The first chapter of Alexander’s book *The New Jim Crow* (2010) argues that the creation of racialized systems of social control in this country was predominantly due to the dominant race’s political fear of minorities and a possible depletion of political or economic advances for the dominant culture. The Jim Crow era, in particular, began as a response to the post-reconstruction amendments in which African Americans retained a second-class citizenship. In other words, in response to the fear or political disagreement caused by the Reconstruction Amendments, the later enacted “Jim Crow” laws allowed the legalized exclusion of African Americans from society. Although the main goal of the Reconstruction Amendments was to provide African Americans the powers and privileges of citizenship, Jim Crow laws brought about the opposite. Alexander explains how these sentiments did not fade away despite the civil rights movement. In fact, she argues that the Jim Crow Era never went away and instead hides in sheep’s clothing as the War on Drugs and Mass Incarceration. As Alexander argues in the book’s fourth chapter, many of the laws enacted as a result of the War on Drugs have been depicted as racially neutral on paper, but are anything but racially neutral in practice.

The boom of Anti-Immigration laws flourished in a similar manner. It was a response to the deeply rooted sentiment against “brown skinned wetbacks” who were demonized after events such as The Alamo (Alvarez, 2017, p. 135). Juan Crow, or a system of legalized discrimination aimed at people of Latin American descent, can be traced back to the time when people of Mexican descent were first incorporated when the United States annexed their land. The history of this legal regime traces back to the Treaty of Guadalupe Hidalgo in 1848 (Alvarez 2017, p. 135). At this time, laws were passed to punish minorities, but also they created organizations that enabled the marginalization and bloodshed of Mexican descendants that lived in the newly gained territories. Just like the KKK was created with the intention of keeping African Americans in their place, vigilante organizations, and even state-sanctioned organizations such as the Texas Rangers, have been implicated in the lynching of thousands of Mexicans
after the treaty guaranteed these residents citizenship (Alvarez, 2017, p. 50-53). For every time the economic or political climate got heated in the United States, a new anti-immigration ordinance or law was passed. Many similar passages have been used multiple times to reinforce the social control over minorities. During the Gold Rush era of 1850, competition got heated for the gold; thus, Mexican descendants were lynched until they voluntarily left their land (Urbina & Espinoza Alvarez, 2017, p. 44-46). After World War I, Mexican descendants once again were the target for deportations and immigration laws that focused on giving back employment to white citizens (Urbina & Espinoza Alvarez, 2017, p. 56). The cycle was repeated in the 1950s post World War II as Operation Wetback (Urbina & Espinoza Alvarez, 2017, p. 56-57).

The old Juan Crow concentrated on the torching, lynching, or brutalization of Mexicans. The revamped version, Juan Crow 2.0, was born after the harsh anti-immigration legislation passed by Clinton in 1996 (Lind, 2016). In response to political pressures of the day to appear tough on immigration, this piece of legislation made it nearly impossible for anyone to become a legal resident in the US (Lind, 2016). Thus, it made it seem as if the number of illegal immigrants had expanded vastly, when in reality, this new legislation was creating a rapid deportation pipeline (Lind, 2016). Furthermore, there was an increase in Anti-Immigration Laws after the 2007 Great Recession, in which many citizens experienced economic hardships, such as loss of home equity and increased unemployment (Golash-Boza, 2016). It was then that Jim Crow-style laws – that is, laws authorizing social control of a racially defined group – began to resurface as Anti-Immigration Laws. These laws served to spread fear, based on the stereotype of illegal immigrants coming into the United States with the purpose of taking advantage of limited resources without giving anything back to the community.

The War on Drugs has affected the lives of African Americans, in part, by perpetuating the stereotype of black men as criminals (Alexander 2010, p. 107); on the other hand, Anti-Immigration Laws have perpetuated the idea that anyone of Latin American descent is a criminal or illegal despite the individual’s immigration status. Both systems target a group of individuals on account of race and feed into the notion that an individual’s race is a predictor of criminality. In other words, there is
no difference if one is an illegal immigrant or a US born individual of Mexican/Latin American descent. One is simply brown and therefore potentially an illegal immigrant (Urbina & Espinoza Alvarez, 2017, p. 83). The following will discuss how both systems, The War on Drugs and Anti-Immigration Laws, target racialized groups.

**Laws**

Alexander (2010) points out that the way the criminal justice system has waged the War on Drugs has led to several racial disparities. Her focus is centered on incarceration rates not being equal across races due to factors such as officer use of discretion permitting the primary targets of stops and searches to be predominantly African-American men (Alexander, 2010, p. 97-140). Anti-Immigration Laws have operated in a similar manner in practice. Even though the United States is home to a variety of different racially-classified immigrants, the main targets of these laws are typically those of Latin descent. Tanya Golash-Boza (2016) conducted an intersectional analysis of demographics of individuals who have faced deportation because of immigration laws. Her research was focused on racial disparities in both mass incarceration and mass deportation. She concluded that even though Anti-Immigration Laws are to be practiced equally and justly, the predominant racial group facing deportations was immigrants from Mexico. Furthermore, the top three groups of individuals to most likely face deportation were of Latin American descent. A similar parallel can be noted with respect to mass incarceration, since African Americans make up a grossly disproportionate population of those incarcerated, in contrast to their share of the general population (Alexander 2010, pp. 6-7). All in all, both mass deportation and mass incarceration exhibit grossly disproportionate rates of incarceration and/or deportation based on race or ethnicity.

One argument suggests that officers’ ability to use discretion to target individuals enables a continued system of racialized social control (Alexander 2010). It is not common knowledge that one can deny an officer’s request to search one’s vehicle or decline to submit oneself to a search. As Alexander argues, because of this lack of knowledge, police officers can conduct what might otherwise be considered unlawful stops.
Hispanic or Latinx communities and searches. Furthermore, Alexander suggests that these officers use their discretion to target individuals who are confined in low-economic communities thinking that they may be carrying drugs. As a result of the discretion allowed in the name of combating the War on Drugs, some people believe police officers target and profile individuals based on their race.

Aguirre argues that the Anti-Immigration crusade has motivated police officers into routinely visiting communities coined as “barrios” for potentially illegal immigrants (Aguirre 2017, p. 94). The media portrays these communities as populated predominantly by Latinx people, presumed to be in this country illegally, reinforcing these stereotypes with imagery of men standing near gas stations in search of day jobs. Furthermore, these communities are often seen as dirty, or “hood”-like, thus feeding into further stereotypes of Mexicans/Latinx (Aguirre 2017, p. 86). If an officer holds implicit biases toward a specific group of individuals, he or she will be more than likely to exercise discretion by targeting an individual in said group (Alexander 2010, p. 107). For example, police officers conducting drug sweeps at a bus transit may be more inclined to profile young black men and suspect them of carrying drugs. Similarly, in the hopes of catching illegal immigrants, officers will visit predominantly Hispanic or Latinx communities where their profiling will tend to criminalize Mexican, Hispanic, or Latin American ancestry by taking the appearance of such ancestry as a sign of lawlessness (Sanchez 2017, p. 121).

Anti-Immigration Laws have made legal what would otherwise be considered racially discriminatory behavior by police officers on duty. For example, SB1070 is an Arizona Anti-Immigration law that forces law enforcement to perform the duties of a federal immigration officer. SB1070 calls for requiring police officers to question an individual about his or her immigration status during a legal stop (Urbina & Espinoza Alvarez, 2017). One could argue that the law in question does not necessarily target an individual of Mexican or Latin American ancestry.
descent; however, in practice, those being stopped and questioned about their immigration status are individuals profiled as Mexican or Latinx. Much like the War on Drugs targets and criminalizes African Americans as individuals with the potential to be involved in drugs, SB1070 criminalizes anyone who resembles a Mexican or Latinx as potentially an illegal alien (Urbina & Espinoza Alvarez, 2017). This is not exclusively in Arizona; in 2017 Texas passed SB4 which encompasses many of the same characteristics as SB 1070 (National Immigration Forum, 2017). Both laws target individuals who resemble the popular characteristics of a stereotypical “illegal alien” (as if the brownness of one’s skin or the accent in one’s speech could reveal the immigration status (Urbina & Espinoza Alvarez, 2017).) A US-born citizen of Mexican descent could hold those two characteristics. These telltale signs are nothing more than superficial stereotypes that criminalize anyone who resembles popular conceptions of an “illegal alien”—that is, someone who has immigrated to this country illegally. In a hypothetical setting in which three men are out on the street, a Latino, an African American, and a white individual, two out of these three men have the potential of being treated as criminals solely based on their race. The Latino is treated as if he could secretly be an illegal immigrant, and the African American as if he could be carrying drugs; nevertheless, there may be no evidence that either of those two individuals are doing anything against the law. They may, in fact, be just as innocent as the white individual is presumed to be.

Alexander (2010) points out that the racial disparities that result from the use of discretion may be a consequence of an officer’s implicit bias and she points to the media playing a key role in the formation of these biases (Alexander, 2010, p. 107). For instance, several Hollywood movies have painted the Latinx community in a negative light, casting them as cartel leaders and gangbangers, often with their victims being white citizens. A recent example is the motion picture Peppermint, in which Jennifer Garner loses her husband and daughter to the violent
acts of a Latinx gang during a holiday vacation. This kind of stereotype influences the light in which society sees anyone of Latinx descent (Aguirre 2017, p. 85). It paints them as vicious criminals who must be stopped. Repeatedly, politicians have used minorities’ race to prey on the fears of many American citizens. For example, during the presidential campaign of 1988 the image of Willie Horton became iconic (Mcllwain & Caliendo, 2011). He was an African American who was accused of pistol whipping and raping a woman while on weekend furlough from a Massachusetts prison. This story became a tool that then presidential candidate George H. W. Bush used to fuel the idea of black brutality (Mcllwain & Caliendo, 2011). Even though the Willie Horton ad appeared in a past presidential campaign using race as a tactic, it is still relevant today. Donald Trump has repeatedly stated that illegal aliens are not the best people; instead, they are drug dealers and rapists (Reilly, 2016). This stereotype is then reinforced by countless TV shows and movies where Mexicans, Cubans, Puerto Ricans, Colombians, and others are only portrayed as criminals. It should not then come as a surprise that various members of society can hold implicit biases after years of characterizations of Latinx people as criminals; consequently, police officers from the same society may express their biases freely through their discretion in upholding the law. Regardless of the cause of an officer’s implicit bias, the problem remains that SB4, SB1070, and other anti-immigration laws and tactics are practiced with a racialized target in mind. Even though an officer must have a probable cause for stopping an individual, probable cause can be anything (ACLU, 2018). It can range from a minor traffic violation to an anonymous tip of possible criminal activity.

Another major parallel between the War on Drugs and Anti-Immigration Laws is their overwhelming profitability for the US government and other institutions. The two systems have continued to fuel the government along with creating many jobs in various States. By 2014, the War on Drugs had increased the US State and Federal Prison population by nearly 600 percent (Carroll, 2016). This increase created new prisons, as well as job opportunities for many U.S Citizens. Correctional jobs include but are not limited to the following: correctional officers, correctional counselors, health administrators, office administrators, parole officers, probation officers, peace officers, and case managers.
Mass incarceration has provided thousands with jobs and careers in the criminal justice system. Anti-Immigration Laws in effect have also created a rise in deportation centers in the 20th century (Luan, 2018). Even though deportation centers have been used since the 1880s, in the 20th century private companies have made remarkable profits from detainees (Luan, 2018).

Overall, legal discrimination enables racial social control over minorities. Yet the following opposing argument will attempt to justify the need for the Anti-Immigration Laws to stay in place in the account of the safety of American citizens. An opposing view to the argument that the Anti-Immigration System is a social control system that focuses on those of Latin American descent is that the real aim of the system is to punish and discourage illegal immigration. This popular justification consists of the notion that upholding the law against illegal immigration is not something that should be negated or frowned upon. An individual who illegally immigrates into the country should not be allowed to seek the same benefits as those who have arrived in the US by legal means or achieved legal status through naturalization laws. Therefore, the anti-immigration system is not a social control system that targets individuals of Latin descent, but a system that seeks to control the number of illegal immigrants coming into the US.

The opposing argument just sketched does hold some truth. The anti-immigration system aims to control the amount of illegal immigration into the United States. Nevertheless, the practice not only targets individuals who are undocumented immigrants but criminalizes a racialized group of individuals of predominantly Mexican and other Latinx heritages. It calls for discrimination against individuals who represent specific physical characteristics, despite their immigration status.

Anti-immigration laws do not take into account that there are different categories of Latinx residents (McKanders, 2010). For instance, there are longstanding Latinx citizens who were residing on the land prior to the formation of the country (McKanders, 2010). There are naturalized citizens who have gained citizenship status. There are also permanent residents whose status could be revoked if they commit
The result is a social control system that is racialized much like the War on Drugs.
References


*Student Biography*

Marlene Martinez is a recent Criminal Justice graduate. During her four years at Sam Houston University, she participated in various student organizations including the Art Club, the History Club, and International Hispanics Association. She is interested in various branches of the criminal justice system. When given the opportunity, she decided to tackle the controversial topic of views on immigration policies. She hopes to make a positive impact in her hometown community upon entering the workforce.