

LESSON PLAN: SESSION 4

This session will explore how criminalization of Blackness has served, especially in the years following the Civil War, as a mechanism through which Black individuals and communities in the United States have been oppressed. We will discuss the construction of criminality and its evolution throughout American history, and how the criminalization of Blackness led to the incarceration crisis today.

Readings:

Muhammad, Khalil Gibran. Introduction to *The Condemnation Of Blackness: Race, Crime, And The Making Of Modern Urban America* (Harv. Univ. Press 2010): 1-14

Stevenson, Bryan. *A Presumption of Guilt*, in *POLICING THE BLACK MAN* (Angela J. Davis ed., Penguin 2017), pg. 3-30

Butler, Paul. “Constructing the Thug.” In *Chokehold: Policing Black Men*. (New Press 2017): 17-46

Readings Notes:

Gibran, *The Condemnation of Blackness*

- ___ Building off of Week 3, which centers on dissolving the connection between crime and punishment, this reading chronicles how Blackness in the United States became linked with the idea of crime over the course of American history, and how this pernicious link continues to punish Black persons today.
- ___ Building on the work of white sociologist Thomas Sellin in 1928, which sought to expose how linking crime to Blackness reproduced racial inequality, and the work of Ida B. Wells and WEB DuBois Gibran focuses on how statistics were linked to the construction of racial hierarchy in urban America after the Civil War. He begins with the first census post-Civil War, which showed how African Americans made up 30% of the prison population while forming only 12% of total population, Gibran demonstrates how from this point forward, criminality served as a tool for subjugating Black Americans.
- ___ This book also asks the question of how some European immigrant groups — the Irish, Italians, and Polish immigrants, for example — shed their racial identities and ties to criminality, while Black Americans did not. Gibran also insists that this is not a reactionary, Southern phenomenon, but one that was modern and very much developed in Northern, industrial areas.
- ___ During and following the Progressive era, as the discourse of racial biological inferiority turned to racial cultural inferiority, Black culture itself was criminalized. Black elites themselves followed the logics of this discourse and distanced themselves from Black persons from less privileged classes.
- ___ In the 20th century, especially the New Deal through post-war era, government policies that propelled white families into the middle class usually left Black families behind. It was an era where “affirmative action was white,” as Ira Katznelson writes. Rather than recognizing it as such, however, the dominant narrative was that white working class persons had pulled themselves up while Black persons remained their own worst enemies.

Stevenson, Bryan. *A Presumption of Guilt*

- ___ As a criminal defense attorney, Bryan Stevenson writes about how Black persons in the United States, especially young Black men, are presumed guilty by the courts and the society in which they live.
- ___ He begins with how the early white colonizers arrived in the United States and used race to separate themselves not only from indigenous persons already on the land, but also Black persons they had kidnapped and brought over as sources of labor.
- ___ The process of racializing enslaved persons was also a process of naturalizing their enslavement, in fact leading some enslavers to claim that they were enacting a *kindness* to the people they enslave.
- Following emancipation, the laws that ended slavery did not at the same time end racial hierarchy. And in fact, during the Reconstruction era, the former slave states enacted Black Codes that criminalized Black persons so that they remained subordinate and a source of free or cheap labor through convict leasing and other practices, using the 13th Amendment loophole, which permitted the slavery or involuntary servitude for those convicted of a crime. During this time, as Black persons continued to seek education and rise, Black criminality, especially the suggestion of Black persons harming white persons, became a lethal way through which Black persons were targeted and attacked.
- This led, of course, to the lynching of Black persons across the Jim Crow South, and later bled into the use of the death penalty against Black persons.
- And still today, there remains a refusal to acknowledge the history of lynching, which ties into the perpetuation of the racial hierarchy today masked by the pretense of law and order.

Butler, “Constructing the Thug.”

- Butler argues that the criminal legal system was made to control African American men, with other groups, including white men and African American women, caught up as collateral damage. They put African American men in what he calls a two-step Chokehold: first the construction of the black man as criminal, second is the response to this constructed threat through law and policy. He calls this a “habit of mind” that has deadly consequences, perpetuated by white and Black persons.
- This chapter focuses on step one of the chokehold, “the construction of the thug.”
- It is possible, as Butler demonstrates through a number of studies and examples, to overcome bias, but Butler argues that such bias is easier to overcome when there are no sacrifices that need to be made.
- Butler argues that Black men might proportionally commit more violent crimes than other groups, but are still a smaller part of the population than white men and most Black men have not committed violent crimes. Furthermore, Black persons are most at risk of being the victim of crime perpetrated by another Black person. For a number of reasons, it is irrational for someone to be more afraid of Black men. [What Butler fails to acknowledge, however, is that the very idea of violent crime might not be an objective metric by which to even be determining potential dangerousness. Nor does this account for the external factors that might lead a person to commit a violent crime, assuming we can agree on what a violent crime is, factors that might disproportionately affect one group as opposed to another.]
- Butler suggests the “ape thesis,” in which Black men are viewed as less human than other groups, as a reason for why they are viewed as more dangerous. He cites in particular the work of Jennifer Eberhardt (whose study on capital sentencing and stereotypically Black features will be assigned later in the course) who published a study on how people

unconsciously associate Black persons with apes. This of course makes it much easier for the construction of the Black man as thug.

- And this construction of Black men as thugs is also enforced by Black men as well as other groups because, Butler argues, they are absorbing the same stereotypes as everyone else.
- Butler then untangles the complex relationship between Blackness and masculinity through pop culture, sports, and entertainment. He points out the fact that entertainment by Black persons could reinforce stereotypes.
- The Chokehold follows Black men from cradle to grave, Butler concludes. And in the middle, there is often incarceration, with harsher punishment meted out to those who have more stereotypically Black features.

Questions:

Gibran, *The Condemnation of Blackness*

- Racism is sometimes described as if it were a personal failing, a moral issue with a particular racist person or even group. However, Gibran seems to be arguing that statistics, with its veneer of objectivity and lack of human prejudices, could serve as a prime vehicle for not just justifying racist beliefs, but actually racializing certain groups. Instead of talking about “races” as if they were definite groups, Gibran talks about “racialized groups.” How does that change in terminology affect how you think about racism and race?
- Gibran writes that Black criminality was often used to buttress the “normative category of White’.” How is whiteness “normative” from your point of view? In what ways is this work invisible?
- How does the criminality of Blackness affect how you think about the possibilities and conditions for abolition?

Stevenson, *A Presumption of Guilt*

- Stevenson writes that unlike in Germany and South Africa, where there is a conscious, mandated effort to teach new generations about Nazism and apartheid, there are no such efforts on slavery within the United States. It is left unacknowledged and therefore its last legacy remains. However, in recent years, there has been a resurgence of neo-Nazism in Germany, despite the education about its dangerous consequences. To what extent do you think a reckoning can mitigate the legacies of past harms? In what ways are Stevenson’s solution in tension with and complementary to the ideas of abolition democracy?

Butler, “Constructing the Thug.”

- How do you think Butler’s thesis about the Chokehold relates to the history of slavery and unching that Stevenson writes about? How are the two arguments different?