

Women of Color in Prison

The impact of increasing rates of incarceration is felt largely by African-American and Latina women. This panel addressed issues surrounding the incarceration of women of color while addressing the interplay of race, gender, and class issues that arise in this context.

Anne Elliott: We've heard throughout this conference about the politics which led to the Rockefeller drug laws, particularly the mandatory minimum sentencing laws in this state. And those were to gain votes, but they pushed prison development, and actually most of the prison development done in this state was done under Mario Cuomo through a program called the Urban Development Corporation, which was designed to build low-income housing. And this was the kind of low-income housing that got built. And in that time, twenty-nine more prisons were created.

In 1980 there were only 12,000 women in prison. There are now over 138,000 women in prison. And so from those numbers you would think there was a huge crime wave that happened with women. That is not the case. The sentencing policies changed. And when they call it a war on drugs, it's a war substantially on women, because women really became the fastest-growing number of persons coming into prison. Their numbers increased tenfold within a decade. And so what we are seeing is an increase in prison buildup. And also now along with the political incentives to build prisons we have economic incentives to build prisons, because twenty-eight out of

those twenty-nine prisons were built in up-state New York. And they were in communities, rural communities, that are mostly white, that were 40 percent below the per capita income of the state. But now with the prison being built, and they have been fighting for those prisons to be built in their neighborhoods and in their communities, you see that there is a strong economic incentive to keep these prisons going also. And then you have private prisons, which have begun to develop. And so corporations investing in Wall Street investments and private prisons, because the state has not been able to build, even with all of this prison growth, enough prisons to keep with the demand of all these nonviolent drug offenders. Eighty percent of women who have gone to prison, usually, say, 60 percent of people who are in prison are nonviolent drug offenders, nonviolent offenders, 60 percent of people, about 80 percent of women are nonviolent. Ninety percent of, 80 percent of mothers of children, and about 90 percent of them have had some abuse—sexual, violent abuse before. And the women we see have started using the drug earlier. And so here are the poorest people and the most desperate in the country, and we give them further abuse by imprisoning them for these long sentence terms. Fifteen years to life. We've talk[ed] about this all day, but fifteen years to life if you are caught with four ounces of cocaine in your possession, two ounces to sell. And that usually gives plea bargain to a B felony. And in some instances you are going to serve some time.

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Dr. Anne Elliott.

Photo by Delphine Fawundu

And I'm sure Mr. Genty will talk about what happens to the children in those cases. But we can continue to talk about that.

With women, of course they are the primary caregivers of those children, and when they are taken, the mothers are taken and put in prison, then those children are very vulnerable, they usually go to a family member or into foster care, and of course now they are not giving family members any money, it's not deemed as a valid foster care situation to take care of these children. And so we can talk more about what happens to the children in this situation.

Saida McLaughlin: My work concerns itself with the level of health care and access to better treatment for prisoners and ex-offenders returning to our communities. Those of us who are incarcerated undergo a different standard of care than that which exists outside. And the care can be the worst. Like in Alabama, where HIV-positive folks are segregated from the general population, prohibited access to various life-enhancing skills programs, and

even left to die. Or excellent, like in Zackerville, California, thanks to a judicial mandate. And not so good for women in the California Correctional women's facilities. And almost very good in New York state at Greenhaven and especially Bedford Hills for the women. But there are horror stories and the quality of care still needs to get better.

There needs to be more access to medical parole and compassionate release. A universal standard of health care that exists outside should also exist inside. Access to quality medical care and even all the medicines, especially for HIV and its side effects, must be made available with the ability of personnel to efficiently monitor, do regular testing of general health, CB4 counts, viral load testing for all inmates. Training with periodic updates for all medical and prison staff, nonprivatization of medical care, the local health care authority should have the oversight for medical care and training. Better access for service providers with a regular evaluation of their services. Better and earlier discharge planning with linkage agreements to community organizations at every point of entry and exit from arrests to a final discharge. As well as better transitional services, including access to housing, employment, maintenance of sobriety, thereby further reducing the harm to oneself and therefore to the community of return.

Gus Smith: Good afternoon. I'm Gus Smith, the father of Kemba Smith, who some of you

may be familiar with, the young lady who is serving twenty four and one half years in federal prison with no possibility of parole. She was a student at Hampton University, and she met a young man named Peter Michael Hall, who was on campus posing as a student who had a \$4 million crack cocaine operation. The federal prosecutors admitted in court that Kemba never sold, used, transported, or benefited from the sale of Peter's crack cocaine operation. But yet they still convicted her under federal drug laws and she is serving twenty-four and one half years in federal prison. Kemba pleaded guilty on the advice of legal counsel and that's the primary reason why she is in prison.

Kemba is one of the stats that Ms. Elliott spoke of earlier, of the 80 percent of first-time known offenders of women in prison. One of the 80 percent of mothers that are in prison. Her son is here. He is asleep right now. We are going to see her tomorrow morning, she is in Danbury Federal Correctional Facility, and she said I can't come without him. And so I had to bring him.

Kemba wants to work with the youth when she comes out of prison. She would like to see a church set up just for the youth, because she feels the third Sunday or the fourth Sunday is just not enough. Every Sunday should be for the youth, and if the adults want to participate, that's great. But she would like to see church set up for the youth.

Kemba throughout her life has always been sheltered. And as a result of being sheltered, she wasn't prepared for someone to approach her in a deceptive way. So she basically fell into this young man's hands. And the question that comes up all the time is didn't she know? No, she didn't know. Why didn't she get out? Because she was abused and she was fearful for her life and for her mother's life and my life. So right now Kemba is still in trauma, because while she is in prison, she is still dealing with the situa-

tion that she was abused by this young man and now she's being abused by the system.

Kemba is a very loving child, well, she's a very loving young lady. And we feel confident that she will be home soon, the NAACP legal defense fund has her case, George Kendall, who was on the earlier panel, Tonya McClary, who was also on the earlier panel, they are attorneys for her with the NAACP. We are looking at maybe sixty days to ninety days, we'll be back in court, and we feel confident she will be vindicated. Her judge at the time was a ninety-five-year-old Caucasian who never finished college and never been to law school. There were so many implications in her case that were very blatant. And after you think about it, the Legal Defense Fund is our third set of attorneys. If she had, if Kemba had this type of support and these type of lawyers, what about the young person who has nobody at all? They are sitting in prison serving life, double life, triple life, with no support system. And they die there.

A young lady who answered a phone, and she did not know that it was the Drug Enforcement Agency agent on the other end and they asked to speak to Johnnie, who was her boyfriend, she said Johnnie is at Paul's house, they went over to Paul's house, they were having a drug deal, they busted Johnnie and Paul, and they asked Johnnie, did the young lady know that he was a drug dealer and know what he was doing, he said yes, because in the federal system you turn someone in you get your sentence reduced. So what happened the young lady is currently doing ten years in federal prison with no parole. Johnnie only did five years. So that's why it's very important for you to educate your children, especially in the churches, and other organizations, about how mandatory drug laws work. If you don't have the information, I suggest that you get the information, because it's critical to our survival, and to the survival of this country.



Gus Smith.
Photo by Delphine Fawundu

Let me ask a question while I'm standing here. Close your eyes everybody. And envision a drug deal, someone buying drugs to use from another person. Okay, open your eyes and be very honest with me. How many people envision a black person? Let me see hands? What happens in the federal system, or in all systems, if people don't realize 80 percent of the drugs consumed and sold in this country are by whites. Ninety percent of the convictions and the people in prison for drugs are people of color. We cannot continue at this rate. This makes no sense at all in a country where we salute the flag and recite the words, "liberty and justice for all." It is not true and it has never been true.

B. J. Peak-Graham: I represent the Kemba Smith Justice Project. Sixty percent of the women who are incarcerated in prisons in this country are of color. Thirty-eight percent of those women are there because of either a direct or an indirect relationship to domestic violence. They are the women who are beaten, emotionally and psychologically tor-

tured, they are choked, they are raped, they are sexually battered, abused and farmed out, and they are stalked. If you know anything about the Kemba Smith case, you will understand a number of things about why Kemba did not leave Peter Hall. If you understand battered women, you will understand that Kemba Smith in the home of Gus and

Odessa Smith learned to love Peter Hall. When he beat her the first time that she had ever really been alone with him, date number one, he staked his claim. That is what men do when they batter women.

When a white judge in Richmond, Virginia, sentenced Kemba Smith to twenty-four and one half years to prison at age twenty-two, he declared that every black woman was not worthy of protection, that she was a slut, that she asked for it, and that she deserved it. When a prosecutor entered a court and asked that Kemba Smith be sent to prison for the maximum amount of time allowed by law, he was declaring that black women, that women of color were not worthy of justice. He was declaring that it was okay for them to be battered. Now, you may sit there and say, well, how does she know that. Ten years talking to homeless women who become homeless because they are battered, ten years of talking to college students who are battered by their peers, I know that white girls go to mental health facilities and black girls go to prison.

Philip Genty: I won't go over the statistics so much that have already been talked about, but I will give you a couple of additional numbers to add to the ones that haven't been mentioned. First of all, in New York state, although the number 60 percent has been used, in New York state as of 1998, 84 percent of the women in the state prisons are black or Latino. Another number I think that's a meaningful number that goes beyond just the numbers of people is the incarceration rate. That is what percentage of the adult population in a demographic group is incarcerated. And what you find is that, and the categories are just black and white in the statistics I've looked at, but that women of color are incarcerated at a rate seven times that of white women. So that although the numbers themselves are fairly comparable throughout the system, the incarceration rate, the numbers of women per 100,000 in the population evidences a complete disparity.

The other issue of course is not just who goes to prison but the length of time that people are in prison. And sentence lengths, as everybody knows, have been increasing. At this point, and some of these numbers are a few years old now and are probably higher, but the average time served in prison by women is fifteen months, ranging from a year to seven years, and that's in the state system.

In New York state as of 1998, 90 percent of the women are serving at least a year and half in prison and 50 percent are serving at least three years. Now, why do those numbers matter? Well, they matter for a lot of reasons but one of the things I want to talk about for a moment is the way that this has an impact on families of incarcerated women and mothers. You have heard the numbers, between 70 and 80 percent of women in prison are mothers; 80

percent according to one study lived with their children immediately before incarceration. Now, at the same time that we are incarcerating ever greater numbers of women and particularly women of color for longer periods of time, which of course means physical separation and separation over time from the families, because there are so few women in the system relative to men, there are fewer women's prisons, and that's why you will find that women are typically incarcerated a great distance from their families. At the same time that this is happening, the child welfare system is moving towards a much faster resolution of cases towards termination of parental rights and adoption. This has happened most traumatically in the Adoption Safe Families Act of 1997, which has been enacted in various forms by I believe now all of the states, because the states had to enact some version of this in order to qualify for federal reimbursement of costs for running their foster care systems. The key provision of the Adoption Save Families Act is that a termination of parental rights proceeding has to be brought any time a child has been in foster care for fifteen out of the last twenty-two months. Now, think about that number based on what I just told you about the length of time that women are serving in prison. The average women are serving is fifteen months. In New York state, 90 percent of the women will be serving at least eighteen months. This means that for those women, and this is going to be of course women of color predominantly who have to resort to the foster care system when they are incarcerated, who don't have sufficient family support networks, termination of parental rights proceeding will become almost a foregone conclusion and not only will they be spending a significant part of their life in prison but they will be losing their rights as parents.