

## **The Intended Demise and the Subsequent Rise of the African American Woman Despite Crack Laws in the United States of America**

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### **Abstract**

This paper attempts to phenomenologically analyze and describe the disproportionality of African American women who have fallen victim to the slanted laws and biased policies emanating from *America's War on Drugs*, shedding light on discriminatory practices still employed in the American Criminal Justice System. The paper will detail how, against all odds, the African American woman has maintained a steady hand on the helm of the black family, despite being caught in the crossfire of mass incarceration, avoiding her intended demise, and becoming a major contributor to the American economy through entrepreneurship. It also strives to critically appraise biased policies, the causality of risk and protective factors within the Black family due to the attempted extinction of the African American Matriarch, and makes recommendations for prevention efforts.

### **Introduction**

*The War on Drugs* has a compelling historical context that was ushered in by governmental sanctions found in legislation like the *Pure Food and Drug Act of 1906* and the *Harrison Narcotics Act*. Although drugs first surfaced in the United States as medicinal and restorative in nature, the turn of the last century witnessed a heightened awareness that psychotropic drugs have a great potential for causing addiction. Hence, they were no longer seen as harmless remedies for aches and pains, or tonics for healthy living (Escohtado 1999).

The *Federal Bureau of Narcotics* was created by the Department of Treasury in 1930. Headed until 1962 by Harry J. Anslinger, the agency, under his lead, molded America's drug policy and drugs were increasingly criminalized. The *Boggs Act of 1951* drastically increased the penalties for marijuana use and the *Narcotics Control Act of 1956* created punitive and repressive anti-narcotics legislation that eliminated prior discretion to suspend sentences or permit probation. Additionally, parole was only allowed for first offenders convicted of possession, and the death penalty could be invoked for anyone who sold heroin to a minor. Anslinger was critical of judges for being lenient on drug dealers and called for longer minimum sentences. He established a punitive drug policy with a focus on drug law enforcement; this approach to drug-related issues is the antecedent for mass incarceration in the United States of America that is still common today (McWilliams 1989).

Propaganda was used as a preventative measure, creating myths and using scare-tactics in an attempt to reduce drug use. Propagandist films like *Reefer Madness* and *Marihuana: The Devils Weed!* told bizarre stories of inevitable insanity, murder, and sex-fiend zombies. These attempts at "miseducating" America were so far off the mark that people became leery of

governmental warnings about drugs, yet this propagandist mentality is still evidenced in both politics and the media. Unfortunately, African Americans have been historically and commonly vilified by negative characterization (McNeill, 2013).

The 1960's ushered in high drug usage because it was fashionable on college campuses, popular with members of the counterculture, and many soldiers returned from the Vietnam War with marijuana and heroin habits. To address these issues, the Johnson Administration passed the *Narcotics Addict Rehabilitation Act of 1966*, which specified that drug addiction was a mental illness. Although the law recognized that the disease model of alcoholism also applied to drug addiction, use was still considered a crime. The act did not have a major impact because the small amount of funding that was appropriated for treatment couldn't meet the demand as drug use increased in the late sixties and early seventies. Although the 1966 act did pave the road for federal expenditures on drug abuse treatment, law enforcement is still the primary way that addiction is addressed as evidenced in the over incarceration of America's most marginalized citizens (Staats, 1972).

*The Fair Sentencing Act* has been criticized as not being enough, but it has attempted to equalize crack sentencing. Unfortunately, societal impudence exhibited through the macro culture's treatment of criminals when this nomenclature is associated with people of color has become commonplace and imprisonment has moved beyond physical detention to mental imprisonment. First time offenders who may have accepted a guilty plea bargain in return for a promise of an easier conviction might not have realized the long-term ramifications and societal displacement that could occur when they return from prison. Societal reentry has traditionally been thought to consign African Americans to second-class status through legal restrictions, denial of government benefits, and perpetuated social rejection. However, it is reasonable to deduce that they were already relegated to this designation before entry into the criminal justice system and the very laws and practices that have been systemically unfair toward them continue to enslave Black America (Gotsch, 2011).

African American women fell into an unfortunate categorization that placed them perilously close to the edge of extinction, negatively impacting the black family (Rivet-River and Lyons, 2010). Not only were they imprisoned at greater rates than their counterparts; they were discounted through serendipitous portrayals in movies and other media outlets in attempt to rob them of their womanism. This paper will contextually examine how the War on Drugs was initially a genocidal attempt against African Americans that eventually focused on the black woman. Though drug policies have been correlated with Jim Crow, this research delineates that it moves beyond segregation and is more akin to slavery. America's policies, policing, and judicial systems are still intrinsically laced with oppressive language and intent that cannot benefit this country's minority citizens. This paper will also depict how these unfair sanctions have interrupted minority access to higher education, stripped them of their voting rights, limited social services, and have blatantly wreaked havoc on the African American woman. Yet against the odds, she has succeeded in redefining herself and her role in these United States of America.

## Historical Context

In order to contextually address the issue of the intended demise and subsequent rise of the African American matriarch it is important to briefly discuss the history of drug policy. When the legality versus illegality of certain drugs is viewed, the answer does not necessarily lay in the scientific assessment of risks factors. Traditionally, who is associated with these drugs has been more relevant. For example, the first recorded anti-opium laws in the 1870s were directed at Chinese immigrants in San Francisco; anti-cocaine laws of the early 1900s, in the South were focused on African American men; the 1910s and 1920s marijuana laws were aimed at Mexican migrants and Mexican-Americans citing disturbances due to “loco weed.” These practices have long-reaching ramifications as black communities have traditionally been subjected to disproportionately biased drug enforcement and sentencing practices (“Fact Sheet: Woman, Prison, and the Drug War,” 2013). This partiality is evinced in the War on Drugs that was signed into law by former United States President Richard Nixon, and has increasingly hardened in policy and prosecution under Presidents Ronald Reagan, George Bush, and Bill Clinton.

President Nixon “started” the War on Drugs in his Special Message to Congress on the Control of Narcotics and Dangerous Drugs on July 14, 1969. Nixon told Congress that drug addiction had “assumed the dimensions of a national emergency,” and asked Capitol Hill for an initial \$84 million for “emergency measures” (Vulliamy, 2011). As a catchphrase, war on drugs referenced President Lyndon B. Johnson’s *War on Poverty* that was introduced during his state of the union address in 1964. In fact, drug law roots can be traced back to the Woodrow Wilson Presidency and the Harrison Narcotics Tax Act of 1914, followed by the creation of the Federal Bureau of Narcotics in 1930 (Drug Policy Alliance, 2013). However, more than four decades after Nixon’s presidency, there is almost a universal agreement that the war on drugs has failed (Kennedy and Chance, 2011). It is also significant to note that it has greatly impacted poverty in the United States of America, particularly Black America (Vulliamy, 2011).

Though during his term Nixon slashed the sentence terms historically in place for narcotics-related issues, President Ronald Reagan brought them back with vengeance, stronger and tougher than before. Reagan’s presidency marked the start of a long period of steeply rising rates of incarceration because of this unprecedented expansion of the drug war. Law enforcement agencies went to battle in the struggle, and African Americans became prisoners of war (Newman, 2011).

In October of 1982, referencing the World War I Battle of Verdun, President Reagan addressed the justice department and paralleled his administration’s ban on illegal substances to a literal war. Quoting a French soldier he said, “There are no impossible situations, there are only people who think they’re impossible.” His comments further crystalized a literal definition of The War on Drugs (Glass, 2010). Adding to the militarization of America’s approach to drug related policies, President Bush created the *Office of National Drug Control Policy* (ONDCP) in 1989. Its intent was to coordinate drug-related legislation, and to promulgate security, diplomatic, research and health policy throughout the government. Referred to as “drug czars”

by the media, ONDCP leadership was further linked to the already prevalent military innuendos (PBS Frontline). The post was raised to Cabinet-level status in 1993 by President Bill Clinton (Csete et al. 2010).

This push for law enforcement as the primary weapon resulted in an ever-increasing rise of incarceration rates. Clinton, like his predecessors, pressed for new laws and even harsher penalties at the federal level and congress obliged. Hence, incarceration became *modus operandi* for addressing America's drug issues. In America's War on Drugs, Nixon, loaded the gun, Reagan squeezed the trigger, and their subsequent successors aimed the bullet directly at the heart of Black America; African-American women were caught in the crossfire (Zakaria, 2012).

### **Too Little, Too Late**

On August 3, 2010 reformation of the blemished crack/powder cocaine disparity found in the *Anti-Drug Abuse Act of 1986* was finally achieved as President Barack Obama signed the Fair Sentencing Act into law. Although numerous professionals in the prevention field heralded this drug reform as a historic victory, it was also a triumph that was by most standards, too little, too late. This observation does not assume to point fault at the current administration, but after forty years of dismal attempts at a war on drugs, many have been subjugated by systemic mass incarcerations of the country's poorest and most defenseless citizens (American Civil Liberties Union, 2006). A majority of the failed policy's victims were from the African American community including unprecedented numbers of African American women. The unreasonable punishment for drug-law infractions equated the sale of five grams of crack cocaine the same as 500 grams of powder cocaine reflecting bipartisan drug war hysteria. The reform argument, traditionally, has been federal imprisonment for five years because of small amounts of cocaine is unreasonably harsh, and that laws disproportionately affect minorities even though most users and sellers of crack are not African American. These practices lend credence to distrust of the judicial system and its unfair sentencing practices. Texas Republican Ron Paul said he believed that the new act does not go far enough. "It's called the Fair Sentencing Act, I'd like to rename it, though. I'd like to call it the 'Slightly Fairer Resentencing Act (Kurtzleben, 2010)." Reducing the arrest rates from one hundred-to-one to eighteen-to-one is not enough; legislation must push for one-to-one sentencing, eliminating disparities in drug-related incarceration and sentencing inequalities if drug reform is to be taken seriously (Nadlemann, 2010).

Also absent in American drug policy is restitution. Where is the accountability? Where are the proverbial forty acres? Where is the mule? The retroactive release of many crack-related detainees places marginalized citizens back into a community that is not prepared to offer them adequate housing, a way to earn a living, as well as with felony convictions that have stripped from them the right to vote. It has simply moved them from physical confinement to mental imprisonment and a societal death sentence. Urgent action is needed at both the state and federal level that surpasses the abolishment of these draconian policies. The crisis of biased practices in

the handling of drug offenders and lack of access to addiction prevention and treatment for underserved segments of the American nation must also be addressed (Flatow, 2013).

### **Beyond Jim Crow**

If drugs, addiction and crime are the context of political rhetoric, then blatant racism and sexism are the subtext of these conversations. The racially disproportionate nature of the War on Drugs is devastating to the very foundation on which this country is built. It has an effect on all Americans, not just African Americans. Biased sentencing policies are so contradictory in nature they call into question one's faith in the principles of "justice for all" and cause a chasm in constitutional democracy so deep, it exposes racial bias that moves beyond the segregated nature of Jim Crow (Mauer, 2010).

To solely correlate the damage the War on Drugs has impugned on Black America with Jim Crow is at best naïve and simplistic. The biased drug policies created a modern manifestation of slavery blatantly based on the old definition. That is, if slavery refers to a condition in which individuals are owned by others who control where they live and at what type of job they work, then shouldn't policies and practices that unjustly incarcerate a particular group at a higher rate, stripping them of the right to vote, blocking them from obtaining certain employment, vastly minimizing access to higher education, and limiting their entrée to appropriate housing be considered enslavement ("What is Slavery?" The Abolition Project, 2009)?

The "masters" might have changed, but "ownership" is still painfully clear when jail release has direct and implied references to the Reconstruction Period that followed the Civil War. Similarities between prison-released citizens and freed slaves abound. Like "freedmen," they may find themselves homeless with few possessions. Like historical abolitionists who fled to Union lines for protection but found themselves just as dependent on the federal government for their existence as they had once been on their masters, many released individuals find themselves equally as reliant on meager governmental subsidization (Civil War Home, 2002).

In this line of reasoning, significant research points to the startling fact that children of incarcerated parents are six times more likely to engage in criminal activity, effectively making incarceration a self-fulfilling prophecy of failure, moving this unjust vassalage into the category of chattel slavery. This historical enslavement meant that once owned, a person was owned for life, and their children and children's children were automatically enslaved as well (The Abolition Project, "What is Slavery?" 2009). Drug laws have created the measure in which modern day slavery can find a foothold. It reeks in the dissident discord that belies the undercurrents of power struggles steeped in the majority/minority paradigm. It is an archetype that creates a weaker race so that another can revel in perceived self-appointed strength and power ("Punishment & Prejudice: Racial Disparities in the War on Drugs," Human Rights Watch, 2000).

### **Characterization Kills Character**

The War on Drugs displayed an intense political fixation and subsequent public attitudinal fluctuation concerning drugs. 1980s political hysteria about drugs led to congress passing severe penalties. This frenzy was also evident in state legislation that resulted in a catastrophic rise in the prison population. However, the emotional governmental response did not match public rejoinder to a mid-1980's poll that delineated only two-to-six percent of Americans viewed drug abuse as the nation's number one problem; the figures later grew to reach sixty-four percent in 1989 ("A Brief History of the Drug War," Drug Policy Alliance, 2013). This intense fixation, and subsequent fluctuation of statistics can, in part, be directly attributed to media interest in the issues (Reinarman and Levine, 1997).

Media portrayal during the 1980's heightened public concern toward illicit drug use. Imagery in movies like *Scarface*, *Colors*, and *New Jack City* depicted people addicted to the smokeable form of cocaine, and gave birth to the "crack-ho." Black women quickly became the focus of off-centered humor that contributed greatly to the labeling and attempted diminishment of the African American woman as a viable and contributing member of society, weakening the perception of the stages of addiction. Whitney Houston's denunciatory claim "crack is whack" became the unabridged brunt of media fodder and popular culture disdain. Her struggle with the very real consequences of dependence seemingly played second to public opinion that displayed a lack of empathy to addiction as a chronic disease (Transcript: Whitney Houston, 2013).

### **Caught in the Crossfire**

Beekeepers have long understood the tragic loss of a queen to the colony; the absence of the matriarch causes the colony's doom. Likewise, onerous laws and unfair arrest policies have caused many African-American homes to struggle without their queen, leaving them teetering on the edge of genocide. In an observation of race and gender, stark facts are revealed; the number of incarcerated African-American female offenders is larger than that of their counterparts ("One in 31: The Long Reach of American Corrections," Pew Center on the States, 2009).

Unfair and unequal sentencing practices, along with harsh sentencing guidelines such as three-strikes laws, can be attributed as causative factors for the disproportionate imprisonment of minority females, evidencing that the medical issue of drug addiction should not be treated mainly as a judicial matter. Many who are jailed never have their dependence addressed before confinement. A person's mental health must be addressed before penal-system placement, or states will absorb the double-edged sword of costly jail construction for prisoners that were never purposed to be released, as well as the expense of maintaining them into old age (Chettiar 30 08, 2012).

African-Americans meager representation in alternative-to-jail programs such as drug courts or probation is astounding. Drastic systemic differences in plea-bargaining, charging, and sentencing practices might have the underlying effect of denying diversion programs and other like-programs to eligible minority citizens. It is yet to be determined whether they are denied

access to these opportunities for reasons unrelated to their legitimate clinical needs or legal eligibility; is race the most significant factor in these considerations (Huddleston and Marlowe, 2011)?

It is imperative to understand that some judges are biased, they take race into account in sentencing decisions, and that the scale of this effect is significant. Though sworn under oath to be impartial, some judges punish criminal defendants differently based solely on race. Purposely, judges are far more likely to sentence black defendants to prison than white suspects. Two sets of judges who presided over identical cases separated only by the ethnicity of the defendants were examined; one set was black and one white. Even in best-case scenarios the black defendants were thirty-percent more likely to end up in prison than their counterparts. Worst-case scenarios evidenced disproportionate sentencing bias, as black offenders were almost twice as likely to be imprisoned (Abrams et al. 2010).

Unequal policing raises further concerns regarding the discriminatory practices in the handling of arrests. In a London police station study, a statistical analysis revealed that drug offenses and ethnicity were the most common influences for strip searches among those arrested. Compared to their white counterparts, African-Caribbean's were twice as likely to be searched. The researchers in the study concluded that the data raises the question of police racism and inequitable policing (Ha, 2011).

Because unfair practices and tough policies enacted during the 1980's hysteria remained after the media lost interest, escalating levels of arrests and incarceration continued (Mauer & King, 2007). At least two-thirds of drug arrests resulted in a criminal conviction. The end of 2007 found many adults incarcerated or under supervision (Carson and Sabol cited in the Drug Policy Alliance Fact Sheet: "Women, Prison, and the Drug War, 2011). Relative to population, African Americans are ten times more likely than whites to be sent to prison for drug offenses. Representing about one-third of drug arrests, African Americans constituted forty-six percent of convicted drug felons in state courts. Seventy-one percent of black defendants convicted of drug offenses received sentences to incarceration compared to sixty-three percent of their white counterparts; the likelihood of incarceration increased if the defendant had a prior conviction (Fellner, 2009). Large racial disparities among women were evidenced between 2000-2007 with black females incarcerated at significantly higher rates than Hispanic or white women. The rate for Non-Hispanic White Females was ninety-one, two hundred and sixty for Non-Hispanic Blacks, and one hundred and thirty-three for Hispanics (Glaze, 2011).

The horror in the criminal justice system does not stop at the inordinate arrest rate of African-American women, but it is also deeply rooted in an unjust judicial progression that treats them appallingly once they have been processed (Haney and Zimbardo, 1998). Not only are they eight times more likely than white women to go to prison, despite the fact that white women are arrested more often overall, they are also given longer sentences and they suffer extreme brutality as well as emotional and sexual abuse (Jefferson, 2011).

The African American woman has been caught in the crossfire. Sometimes she has taken

the hit, but she has also dodged the bullet. This is good news because the overall incarceration rate is on a sharp decline. By mid-year 2007, the rate of imprisonment for black women declined to 3.7 times that of their counterparts. An 8.4% regression in the incarceration rate for black women and a fifty-one percent increase in the rate for white women accounted for the overall relative rate of decrease (Sabol & Couture, 2008).

Although the incarceration rate for African American women waned significantly over the last ten years, they were still imprisoned between two and three times the frequency of white females in 2011. The question, however, is still significant; does this decrease signify the return of the black materfamilias to her rightful post? This question cannot be answered without first exploring the trajectory of these unfair practices in context to the African American family, and the black community, overall (Carson & Sabol, 2012).

### **The Effect on the Black Family**

There is a great intention in the United States federal law to protect family integrity (Baum, et al. 2010). Laws in all fifty states require the consideration of a child's best interests as the standard in decisions regarding a child's general welfare and care. In cases of minority incarceration due to drug-related offenses, these become "misintentions" as laws do not appear to take America's youngest citizens into full consideration (Herman-Stahl, et al. 2008). More than 1.2 million inmates, over half of the 2.3 million people behind bars, are parents of children under age eighteen; this includes more than 120,000 mothers. Consequentially, 3.8 percent of black children have a parent locked up for a drug-related issue in contrast to 3.5 percent for Hispanics, or 1.8 percent white children for all offenses combined. Thus, the resolutely jaundiced incarceration picture is unreasonably predisposed to slant against African-Americans as exhibited in overall parental incarceration rates and conviction offenses. More than one in nine African-American children have a parent in prison or jail; this paints a bleak picture for them. It is ingenuous to think that this type of incarceration does not impact the black family dynamic ("Incarceration's Effect on Economic Mobility," Pew Charitable Trusts, 2010).

The mass incarcerations of African Americans because of drug law violations have had a stripping effect as these impositions have wreaked havoc on the African-American family and torn the black community to shreds. The removal of African-American women through incarceration, and the resulting stigmatization upon their subsequent societal reentry, has had seemingly irreversible effects with strong implications (Mumola, 2010). These incarcerations have a great impact on impoverished communities. Studies have shown the damaging effect on the family structure as the rates of sexually transmitted infections and teenage pregnancies are unswervingly boosted when incarceration rates increase. Given the high rate of African American children who have an incarcerated mother, it is apparent that risk and protective factors must be viewed in an attempt to prevent behaviors that could potentially negatively impact the black family (Kennedy & Chance, 2011).

Risk factors are variables associated with a lower likelihood of positive conducts and a higher probability of negative behaviors and consequences. Protective factors enhance the likelihood of positive outcomes and lessen the chance of risky consequences from exposure to risk (Jessor, et al. 1998). Familial risk factors commonly associated with incarceration correlate imprisonment with family instability and economic strain. Known risk factors for poor child outcomes also suggest that income loss may contribute to negative parenting and parenting stress, both of which are associated with poor socio-emotional outcomes among children (Braman & Wood, 2003).

Research on the effect of maternal incarceration on their offspring found correlations between parental incarceration and risky behavior in children. In a qualitative study of thirty children who had witnessed the arrest of their mothers, Researcher C. J. Jose-Kampfer asserts, “The long road that children travel between maternal arrest and maternal imprisonment is filled with traumatic experiences. Children are perpetually concerned about the outcomes of their mother’s cases, unsure if they will return, worried that they will be swept off for the rest of their lives (Jose-Kampfer, 90, 1995).” Correspondingly, in her sample of 56 mothers incarcerated at women’s prisons in Kentucky and Washington State and their children, researcher Phyllis Baunach found that seventy percent of the children exhibited symptoms of social and psychological disorders, such as aggression, hostility, and withdrawal (Baunach, 1985). Additional risk factors include academic issues related to children of incarcerated parents. They are more likely to experience trouble in school, report lower standardized grades, and experience heightened behavioral problems, than children of non-incarcerated parents. In fact, seventy percent of children under age six with incarcerated mothers exhibited overall poor academic performance (Stanton, 1980).

Other potential disruptions in the child’s life associated with parental incarceration are changes in the child’s caregivers. Parental arrest can prompt placement in foster care, the introduction of new partners or family members into the household, and an increased reliance on nonparent adults for care. Regular changes in relationships appear to represent a common source of disruption in children’s lives, and the presence of adults other than blood relatives in a child’s home increases victimization chances. Associated increases in said victimization have drastic short and long-term results correlated to changes in the family dynamic (Herman-Stahl, et al. 2008).

There are substantial issues for women who are not incarcerated, but are left to fend for themselves during their partner’s imprisonment. Related risk-factors intimated by the African American woman being subjected to prison widow status because of the over-incarceration of African American males suggests that changes in a mother’s romantic relationship, when a child is young, can lead to increased childhood behavioral problems. Each change in a mother’s romantic partnership relates to an increase in children’s anxiety, depression, and aggression. The relationship changes of the mother are often correlated to maternal stress and negative parenting practices (Hoynes, et al. 2006).

Out-of-home placement has been suggested as another negative effect of incarceration on a child's well-being. A study of 258 adolescents receiving mental health services found that such placements appeared to intensify the effect of incarceration on adolescents' emotional and behavioral problems (Phillips, et al. 2002). The likelihood of placement with a nonparent increases with the presence of other psychosocial risk factors in the child's life including low paternal or maternal educational attainment, public benefit assistance, and history of abuse (Herman-Stahl, et al. 2008).

Conversely, resiliency can be developed in children through a variety of venues including positive familial interactions before incarceration, as well as strong and healthy relationships with other caregivers that will protect them from potential negative outcomes (Parke and Clarke-Stewart, 2001). Not only does a high-quality relationship with the imprisoned parent prior to the incarceration prove to be an important protective factor, but the quality of a child's relationships with the remaining parent, extended family, and nonfamily adults also appears to predict better adjustment. Current research also strongly suggests that high quality and frequent contact with the incarcerated parent diminishes negative child effects (Wildeman, 2008).

The black family is further disenfranchised because along with boasting the largest prison and jail population of any country in the world comes the devastating reality of mass incarceration's health effects. Many who reintegrate into the mainstream do so without social service provision and they face the inability to secure financial stability or housing assistance ("State of Recidivism: The Revolving Door of America's Prisons," The Pew Charitable Trust, 2011). Further disadvantages facing the formerly incarcerated individual's ability, particularly if suffering from a sexually transmitted disease, is their inability to sustain an intimate relationship, consequently diminishing their capacity to maintain steady or adequate housing. The nation's culture of mass incarceration has created a devastating and self-perpetuating cycle of poverty, homelessness, and criminal justice involvement that undermines the ability to successfully live physically and emotionally safe lives, especially among African Americans. Yet against the odds, the African-American woman is challenging negative probabilities ("Mass Incarceration, Housing Instability and HIV/AIDS: Research Findings and Policy Recommendations, 2013).

### **Against the Odds**

Louisa May Alcott once said, "Women have been called queens for a long time, but the kingdom given them isn't worth ruling (Alcott, 1870)." The reality of mass incarceration, largely due to drug-related incidents, has seemingly left the African American woman a land not worth ruling. The devastation of income loss brought about by imprisonment can present significant hardship to families. Although figures specific to the households of incarcerated mothers are not available, longitudinal data on divorced families indicate that family income falls by an average of forty to forty-five percent in the first year that one parent is absent (Page & Stevens, 2002).

Statistical analysis is important in overcoming challenges, but accuracy is paramount in

creating bridges, not stumbling blocks. Tremendous changes in family structure and living arrangements over the past several decades have occurred. The number of families headed by a non-elderly single female doubled from six percent to twelve percent from 1967-2003. Poverty rates among female-headed families are typically three or four times as high as in the overall population. Hilary W. Hoynes, Marianne E. Page and Ann Huff Stevens' research on poverty tells a compelling story. In their exploration, they categorized individuals by one of six different family types: married individuals with and without children; single females with and without children; and single males with and without children. Persistent differences across groups with the highest poverty rates for persons in single parent families and the lowest poverty rates for persons in married couple families were predicted. The data revealed that changes in family structure alone are not an accurate predictor of poverty rates. If they were, rates should have risen from 13.3 percent in 1967 to seventeen percent in 2003. They determined that changes in family types substantially over-predict the actual increase in poverty rates over time (Hoynes, et al. 2006). This has liberating implications for all women, particularly African American women, in that heading a single-family household is not a financial death-sentence, but there is a need to continue to increase women's earnings, labor force attachment, and expansion in women's educational attainment to further narrow the poverty gap for women. Additionally, research has predicted that parental educational level is a strong predictor of children's behavioral and educational outcomes (Palmer, et al. 2009).

When barriers of misinformation are removed, it is easily identifiable that although single women-headed households may tend to have less earnings, there has been substantial improvement in poverty levels and the earning potential for women over the past several decades. Yet women of color, particularly those on parole, probation, and also those who have completed their formal punishment and institutional involvement with the criminal justice system, are still subject to societal criminalization and often a lifetime of limitations and exclusion. Many, as previously stated in this paper, end in situations where they have no voice, no vote, no home, and they face a relentless dance with continued recidivism in and out of prison. How then, have African American women been able to show up and against the odds, succeed (Tamar-Kraft, 2011)?

Tenacity may certainly be the answer. Political activist Shirley Chisholm, in a 1974 address at the University of Kansas described the need for this dogged persistence:

“The Black woman's role has not been placed in its proper perspective, particularly in terms of the current economic and political upheaval in America today. Since time immemorial the Black man's emasculation resulted in the need of the Black woman to assert herself in order to maintain some semblance of a family unit. And as a result of this historical circumstance, the Black woman has developed perseverance; the Black woman has developed strength; the Black woman has developed tenacity of purpose and other attributes which today quite often are being looked upon negatively. She continues to be labeled a matriarch. And this is indeed a played-upon white sociological interpretation of the Black woman's role that has been developed and perpetrated by Daniel Moynihan and

other sociologists. Black women by virtue of the role they have played in our society have much to offer toward the liberation of their people. We know that our men are coming forward, but the Black race needs the collective talents and the collective abilities of Black men and Black women who have vital skills to supplement each other (Chisholm, 1974)."

In spite of obstacles, black women have shaped their lives and those of their families both subtly and determinedly. Their actions have included insurgency and insurrection, clash and conflict, communal conversion and adaptive accommodation. The African American woman's tenacity can be traced as far back as Harriet Tubman's leadership in the slave revolt and as far forward as Marion Wright Edelman's work with the Children's Defense Fund for the betterment of children everywhere. Struggle is not new to the black woman as she has worked to redefine the parameters of community, while helping her children realize and maintain a self-governing cultural identity, a sense of self in society that reflects individualistic distinctive culture that decidedly shrugs the ideals and images the macro culture sought to impose upon them (Baca-Zinn and Thornton, 1994).

Chisholm's supplementation catapults the African American woman away from stereotypes and societal misconceptions. It embraces Womanism, a term coined by author and activist Alice Walker. Womanism is a reaction to the realization that feminism does not adequately capture the full experience, nor does it fully encompass the black woman's perspective. It does not account for her struggle, her sexual abuse, her degradation depicted in mass media, nor society's attempt to define her by stereotypical standards of either a media aberration or "the help." It does not comprehend her essential need to keep moving forward. Moving beyond and despite the stereotypical neck working, eye rolling, crack inhaling, trick turning, on the verge of STDs contracting/passing, societal abjuration. Womanism is the full realization that strength in feminism comes in color (Mojica, 2011).

Womanism speaks to the economic marginalization referred to as the *Third Burden* caused by societal norms that result, in some cases, with the black man lacking economic security, rendering them unable to provide for their families, and subsequently placing the financial burden of sustaining the family firmly at the feet of African American women (Malveaux, 2008). Womanism accounts for the ways in which black women have moved beyond the traditional "female work roles," and into roles of entrepreneurship to meet the demand (Allen, 1992).

Black women own 900,000 businesses, depicting a strident growth in recent years. Moving from bureaucracy to business is necessary to success in the twenty-first century; black women have come to this reckoning and are acting accordingly (Mead, 2012). These entrepreneurs employ nearly 200,000 people and create more than \$14 billion in profits. Moreover, African American women entrepreneurial trends dictate that they appear to be increasing in numbers faster than their male counterparts for the first time in the last century. Trends demonstrate that the increasing presence of black women in business has implications for the U.S. economy and

the African American community through productive entrepreneurship (Robinson, et al. 2006).

Woman-based entrepreneurship has increased within the past few years because of access to business capital, the availability of more grants, and bank loans made theoretically available to women entrepreneurs. There are additional diversity programs that specialize in providing seed funding to female business owners. However, despite the recent advancements, research shows that African American women still face difficulties in gaining access to startup funding. Approximately sixty percent of Caucasian women business owners were able to obtain bank credit, compared to fifty percent of Hispanic, forty-five percent of Asian, forty-two percent of Native American, and thirty-eight percent of African-American women entrepreneurs. Despite these setbacks, black women are more likely to exhibit their resolve and underwrite their new businesses with alternate funding sources, including personal money from savings and credit cards. While the economic environment could exacerbate the historical entrepreneurship gap in rates for women and men, entrepreneurship rates for black women will likely continue to outpace those for all firms (Bailey, 2011).

Black Women have stood proud, continuing their steady confident stride toward a better future. If doors have been shut, they have blown them off the hinges, and when the glass ceiling continued to hang heavy over their head, they raised the roof as contributing and economically viable resources to the entire community, not just black society, bolstering employment and significantly impacting the United States Economy (Townes, 2010).

African American women have also made headway in professional jobs. They are more apt to be successful in occupations that require specific educational credentials to be considered for employment; higher education and continuing education is key to preparation. To level the playing field and promote diversity in jobs that require college degrees, affirmative action in college admissions is crucial and must be upheld to promote diversity in college enrollments and completion. This, in turn, leads to diversity in employment, lending cause for the need that the Supreme Court decision in *Fisher v. University of Texas*, requiring affirmative action in college admissions, remains intact (Stainback & Tomaskovic-Devey, 2012).

### **Access Interrupted**

In order to level the playing field, President Lyndon Johnson signed the Higher Education Act (HEA) into law on November 8, 1965 as a part of the *Lyndon Johnson Great Society* domestic agenda. The intent was to open access to colleges and universities by increasing federal subsidization to institutions in an effort to make post-secondary education accessible to more citizens. HEA opened the door to higher education for many students through federal financial aid programs such as Perkins Loans, Pell Grants, Supplemental Educational Opportunity Grants, PLUS Loans, and Work-Study Programs. However, in the 1998 reauthorization the *Aid Elimination Provision* was introduced, rendering the law decidedly exclusionary in nature to those who were convicted of drug possession and other drug-related felonies. The 1998 revisions

to the law introduced “Question 31” on the Free Application for Federal Student Aid (FAFSA) forms. It asked, “Have you been convicted for possession or sale of illegal drugs for an offense that occurred while you were receiving student aid.” Failing to answer resulted in immediate disqualification for assistance, while an affirmative answer ultimately rendered the applicant at the mercy of college administration (Drug Convictions—How They Affect Your Financial Aid, 2012).

Subsequently, more than 189,065 people were turned down for financial aid since the federal government added the drug conviction question to the financial aid form (Leinwand, 2006). Supporters of the 1998 reauthorization have been criticized as holding out for incentives to shore up failing drug policy, while other proponents claim that the taxpayer’s dollar should not subsidize a drug offender’s college education (Drug Convictions—How They Affect Your Financial Aid, 2012). Juxtaposed to those views were concerns that the revisions were biased and slanted, yet again, against America’s lower-income families. The ban on eligibility for financial aid was expressly retributory since access to welfare benefits was blocked to those with a felony drug conviction. Approximately 92,000 disadvantaged women supporting an estimated 135,000 dependent children were affected by the lifetime welfare ban; many were also denied the needed assistance to attend post-secondary schools. Those blocked were disproportionately women of color; forty-eight percent were African American (Coalition for Higher Education, 2006).

In January 2006, HEA provisions were scaled back to apply only to drug offenses committed while the individual was in school and receiving federal Title IV aid. True to “crackdown” form, three strike practices reared their head in the latest reform. First time offenders regain eligibility for access after one year; second time offenders after two years; third time offenders do not have a defined timeframe for resumed-access to federal tuition subsidization. As part of the conditions for all three sanctions, eligibility for aid only resumes if students satisfactorily complete drug rehabilitation programs that meet certain requirements proposed by the reformed regulations. Yet these concessions miss the mark when access to affordable mental health care is not consistently available. If students are dependent on financial assistance to pay for a college education, the likelihood that they can afford to pay for mental health assistance is remote (Wyatt-Nichol, et al. 2011). Also, the time a student spends away from school in recovery programs lessens the likelihood that they will return to complete their degree. Thirty-six percent of students who left four-year institutions after their first year did not return within five years; fifty percent leaving two-year institutions did not return within five years (Feldman & Zimble, 2011).

Expulsion from college, in many cases, results in diminished access to student health and student counseling opportunities to which they might have once been privy while enrolled. Also, if a student is struggling with a dependency problem, they often do not feel comfortable disclosing the addiction to the campus-based health center. Many do not even know that assistance exists until after they voluntarily or involuntarily disengage from school (Crudo & Gruttadaro, 2012).

These policies have been criticized for punishing students twice for the same crime because not only do they serve their sentencing, pay fines, or otherwise make restitution, they are also being ostracized from pursuing a degree that could possibly help improve their economic and social condition. These policies further negatively impact low-income families in that only families with an actual need for assistance are hurt. Higher income families do not necessarily rely on financial assistance, they have access to better legal counsel that helps them avoid drug convictions, and they have resource access to pay for tuition regardless of Title IV funds (US Court Appeals No. 07-1149, 2008).

There are also discriminatory implications. Reflecting on the prison statistics previously described, African American women are incarcerated at higher rates than the whites that constitute the ethnic majority and the majority of drug users. Since Caucasian women are not convicted at the same rates they are not impacted by the reform to the same degree as black women (Coalition for Higher Education, 2006).

Using reform to push students out of higher education is painfully wrong because financial burdens, in any context, can be attributed to student drop out rates and serve as a barrier for students completing degrees. Traditionally, students who are the lowest-income have the hardest time. This can be partially due to the fact that penurious K-12 schools are less likely to adequately prepare students to perform well at the post-secondary level. However, even top-performing students from low-income families are less likely to achieve a degree than lower-performing wealthy students. College enrollment reduces the likelihood that an individual will engage in illegal activity. Denying education to low-income students living in communities that are made increasingly risky because of unfair laws and policing practices only dooms them to a life without the financial opportunities theoretically afforded them when they receive a college degree (Drug Convictions—How They Affect Your Financial Aid, 2012).

### **Policy Recommendations and Conclusions**

The War on Drugs, in truth, has been waged against the impoverished citizens of this country and could be construed as America's attempt at ethnic cleansing as evidenced by the overrepresentation of minority incarceration rates. Although some strides have been made toward equalizing drug laws, these actions do not take into account all that has been lost prior to their abolishment. These losses have had an implicit impact on the black woman, the black family, the black community, and society as a whole. In order to implement strong measures for prevention, raising protective factors while lowering risk factors, recommendations emanating from this research include:

- ***Improved Data Collection:*** What is not seen cannot be understood nor remedied. Disaggregated by race, gender, and ethnicity, data must be accurately collected, assessed and utilized to mitigate disparities in incarceration.
- ***Better-quality Job Opportunities:*** Strong safeguards against occupational segregation, wage

disparities, lack of fringe benefits, and affordable access to health insurance must be tackled.

- ***Healthier Presence of Diversity in Nontraditional Professional Roles For African American Women:*** Diversity is profoundly lacking in certain sectors and within certain industries of the economy; higher education recruitment strategies to preparation programs for these areas, coupled with enhanced college preparation in Local K-12 Education Agencies, must become standard practice.
- ***Improved Access to Higher Education*** In general, African American women tend to do better in workplaces that use formal credentials to make hiring decisions. Hence, increasing college completion is paramount to success in the workplace.
- ***Support Self-Employment and Microenterprise*** Entrepreneurship has implications for both income and asset building strategies, specifically for African American women. Therefore, it deserves broader acknowledgment and greater governmental provisions.
- ***Provide Subsidies and Incentives to Save*** Government incentives that assist in helping African American women, despite their income level, increase their chances of entrepreneurship; savings strategies and supported programming should be considered.
- ***Modify Social Insurance Programs to Provide Equal and Adequate Protection for African American Women*** Reformation of social insurance programs has the capability of reducing poverty and raising economic security.
- ***Allow Formerly Incarcerated Persons Access to Federal Housing and Homeless Assistance Programs*** Housing location assistance is critical to successful reentry from incarceration. It improves the odds of accessing legitimate employment, improves positive self-identification within the community context, and restores positive community resources and healthy social networks.
- ***Remove Post-Incarceration Barriers to Subsistence Income*** The castigation of deinstitutionalization trauma and recivedism, as well as labeling post institutional homelessness not only as a social welfare issue, but also as a justice system priority, is key. Redefining reentry services to include employment skills has the ability to reduce the fragmentation and vulnerability of citizens post incarceration.
- ***Improvement of Pre-Release Planning for Inmates, and the families of, those living with Sexually Transmitted Diseases (STDs):*** Through family support counseling, case management, pre-release planning and referrals, formerly incarcerated citizens living with STDs can access proper medical care and support while incarcerated, as well as help to arrange housing and medical/social support upon release. These efforts will help strengthen the family, reduce infection rates, and improve overall morbidity rates among African American females.
- ***Implementation and Evaluation of Effective Home-Based Interventions for Formerly incarcerated persons living with Addiction:*** The use of alcohol and other substances creates biological, psychological, and social interruptions in a person's life. Services will assist in the adaptation of behavioral requirements from recovery, resulting in lower rates of relapse and recivedism due to setback-related issues.

- ***Eliminate incarceration as a Penalty for Some Low-Level, Non-Violent offenses:*** Incarceration should not be the first time that constituents receive attention to mental health concerns. Disenfranchised citizens should have equal access to diversion programs, referral to solid mental health providers, and appropriate case-management, as well as adequate subsidization for these services.
- ***Strengthen access to Cost-Effective Alternatives to Incarceration:*** Marginalized citizens must receive quality services from prison diversion programs including Mental Health Court, Drug Court, and probation in order to bolster relapse prevention efforts.
- ***Invalidate Unfair and Biased Policy/Law Enforcement:*** The issue of racial discrimination, defined as treating an individual less favorably than any other on the grounds of perceived ethnic or racial difference, is unlawful. It creates a double jeopardy of victimization that further polarizes communities and engenders distrust of the judicial system.
- ***Subsidize Quality Prevention and Drug Treatment Programs:*** It is observably more cost effective, humane, and socially responsible to prevent addiction and addiction-related issues before they become debilitating. Emphasizing quality prevention based on scientific research has the capacity to improve public health, strengthen families and communities, reduce incarceration, and improve the educational and professional attainment of citizens.
- ***Restore all those previously Incarcerated for Drug Offenses to Full Citizenship:*** Legislation like the Second Chance Act and additional law is necessary to jettison obstructions facing people with criminal records. Likewise, encouragement on hiring citizens returning from incarceration, reinstating voting rights, and supporting other community reintegration programs is key in diminishing social stigmatization and promoting social acculturation of previously incarcerated citizens. Also, the Higher Education Act must eliminate the remaining provisions that bar people convicted of drug offenses from access to federal financial aid.

The War on Drugs heralded a new generation of policy enforcement that both caused and answered public hysteria concerning drugs in America; unfortunately, its reach went straight to the heart of Black America, wrapping its fingers around the throat of the African American woman. As crack-cocaine became the vehicle for mass incarceration, she quickly fell from her place as the matriarch of the black family and became the brunt of pop culture humor on the silver screen and as the target of jokes, a stigmatization that was hard to shake. The collateral damage of this war was the black family as more kids were held hostage by a system that did not take their best interest to heart when their parents were the targets of unfair and biased laws.

Against the odds, the African American woman dodged the bullet and became a leader in entrepreneurship, solidifying Shirley Chisholm's assumption that if Black America is going to recover, it cannot do so without both the black man and black woman working side-by-side. The genocidal attempt through mass incarceration, discriminatory sentencing practices, and the marginalization of the African American woman, in general, was an effort to rob her of the inherent womanism she embodies. Through it all, she has proven that she is strong, resourceful,

courageous, daring. She is the black mother, the overcomer, the tenacious achiever, and the tireless believer; she is the black woman. She has exhibited that with dogged determination and access to equal education, she can move out of the sweltering persecution of the court room and stand at the head of the board room as a viable and growing contributor to the United States economy.

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