

Did Utah Finally Outlaw Slavery This Month?

The resolution by Rep. Sandra Hollins (D-Salt Lake City) to remove slavery language from the Utah Constitution is about much more than erasing 14 words

February 26, 2019 – In early February, the Utah House of Representatives voted unanimously to pass HJR 8, “Proposal to Amend Utah Constitution-Slavery and Involuntary Servitude Prohibition.”

At first glance, the resolution is a simple fix. It calls for removing 14 words from the Utah Constitution dealing with slavery. Instead of permitting slavery to exist, “as a punishment for crime, whereof the party shall have been duly convicted,” the resolution removes this exception to create a clear prohibition: “Neither slavery nor involuntary servitude shall exist within this State.”

No slavery. No exceptions. Like a legal scalpel, the resolution cuts two clauses that appear to allow slavery as a punishment for a crime in Utah. House lawmakers celebrated the passage of the bill by giving the sponsor, Rep. Sandra Hollins, the only African-American member of the Utah Legislature, a standing ovation.

But Rep. Hollins’ resolution is about more than cutting a string of outdated words (‘whereof’?) from the Utah Constitution. And despite what you might have read, this resolution did not finally outlaw slavery in Utah 154 years after the end of the Civil War.

What HJR 8 did accomplish, however, was to shed important light on a terrible, uncomfortable, and necessary historical truth of how the arrest and imprisonment of Black Americans—bolstered by a racist criminal justice system—became the modern-day substitute for slavery. This connection wasn’t mentioned prominently in the floor debate or media coverage of HJR 8, but it is a key talking point in the current debate over our nation’s fixation on mass incarceration driven by the criminalization of black and brown bodies.

To explain why this issue matters in Utah, consider this statistic: In 2017, the imprisonment rate for Black adults in Utah was 8.3 times that of white adults. That means that Black adults in Utah are imprisoned at a rate 800% higher than White adults. And although you probably don’t realize it, the roots of today’s racial disparity in Utah’s prisons is directly related to the 14 words the HJR 8 seeks to remove from the Utah Constitution.

Here is how it happened:

Starting almost immediately after the Civil War and the end of institutional slavery, a second system of involuntary servitude developed, primarily in the South, to control, impoverish, and imprison the millions of newly-freed Black Americans. This history is best and most recently explained in [*The New Jim Crow: Mass Incarceration in the Age of Colorblindness*](#), the eye-opening 2010 book by Michelle Alexander, the former director of the Racial Justice Project at the ACLU of Northern California. Alexander's book explains our nation's deliberate transition from plantation chains to prison chains with an unflinching realism that never made it into any high school history book.

The core of Alexander's thesis begins after the Civil War when many Southern states passed Black Codes to limit the movement and social mobility of the newly-freed slaves. These codes included vagrancy laws that made it illegal to be unemployed or even look unemployed. These laws allowed local police to sweep through Black communities to arrest and imprison Black men. Local employers would then force these prisoners to work without pay through a program called convict leasing. Thanks to the 14 words contained in the federal and many state constitutions ["except as a punishment for crime, whereof the party shall have been duly convicted"], states could use the criminal justice system to convert Black prisoners back into slaves again.

Later chapters of Alexander's book trace the evolution of mass incarceration from Black Codes and penal slavery to the 20th century's "War on Drugs" and "tough on crime" politicians. She explains how race-biased policies like harsh policing and unequal sentencing became absorbed into the criminal justice system, bleaching them of their racist origin and allowing them to proliferate from state to state. Continued enforcement and expansion of these laws built dramatic racial disparities in both the criminal justice system and the population of the nation's jails and prisons. A clear example is the anti-drug legislation Congress passed in 1986 that set a minimum 5-year federal prison sentence for distributing 5 grams of crack cocaine, while the same minimum sentence was applied to 500 grams—over a pound—of powdered cocaine. Backers of the law cited higher rates of criminality and violence associated with crack cocaine, but the only real difference is that Blacks are more likely to use crack, and Whites are more likely to use powdered cocaine.

If people of all races commit crime at roughly the same rates, as Alexander repeats many times throughout her book, why do Blacks and other minorities have such elevated rates of incarceration? The answer, it turns out, starts with the 14 words that Rep. Hollins wants to remove from the Utah Constitution. But real, long-lasting policy solutions to these challenges require smart policies and visionary leadership, as well as new words.

To find out how to reduce incarceration rates in Utah by 50% and combat racism in the criminal justice system, check out the Campaign for Smart Justice in Utah. Start here: <https://www.smartjusticeutah.org>