

Trump's Blindness Toward Slavery, Jim Crow

Exclusive: Donald Trump's remarkable comments about American blacks never being worse off demonstrated a stunning ignorance of or callousness toward the grotesque evils of slavery and Jim Crow, writes Marjorie Cohn.

By Marjorie Cohn

The almost daily reports of police killings of African-Americans and resulting community outrage have shined a light on persistent racism in the United States. Yet, in the first presidential debate, Donald Trump was asked what he would do to heal the racial divide and replied: "Bring back law and order."

He added that the use of stop-and-frisk in New York and Chicago "worked very well" and "brought the crime rate way down."

But, as reported in the *New York Times*, "about 90 percent of the people who were stopped were young black or Latino men who had committed no crime whatsoever, according to police data. Of those few who were arrested, the vast majority were charged with nothing more serious than possession of marijuana, not having guns."

When debate moderator Lester Holt noted that stop-and-frisk had been ruled unconstitutional in New York because it "largely singled out black and Hispanic young men," Trump disagreed.

In fact, U.S. District Judge Shira Scheindlin ruled in the 2013 case of *Floyd v. City of New York* that New York's stop-and-frisk program violated the Fourth Amendment's prohibition on unreasonable searches and seizures since they were conducted without reasonable suspicion. It also violated the Fourteenth Amendment's Equal Protection Clause because the stops and frisks were racially discriminatory, the judge found.

Darius Charney, lead attorney for the Center for Constitutional Rights in *Floyd*, said, "Stop-and-frisk, as practiced by the NYPD up until 2014, was at its root about equating blackness with criminality and dangerousness, which is exactly the same kind of thinking that has led to all of the horrific and avoidable police shootings of people of color that have captured the nation's attention over the past few years."

Before the debate, Trump had said at a rally that "African-American communities are absolutely in the worst shape that they've ever been in before. Ever. Ever. Ever."

Trump apparently forgot about slavery and Jim Crow. In her 1861 slave narrative, *Incidents in the Life of a Slave Girl*, Harriet Jacobs wrote, "Various were the punishments [of slaves] resorted to. A favorite one was to tie a rope round a man's body, and suspend him from the ground. A fire was kindled over him, from which was suspended a piece of fat pork. As this cooked, the scalding drops of fat continually fell on the bare flesh."

When a slave ran away, Jacobs added, bloodhounds tracked him, then "literally tore the flesh from his bones." If a slave resisted going with his new master, Jacobs noted, "The whip is used till the blood flows at his feet; and his stiffened limbs are put in chains, to be dragged in the field for days and days!"

'Insulting' Ignorance

NAACP president Cornell William Brooks said on *CNN* that Trump's comments that blacks are worse off now than ever demonstrated "an insulting degree of ignorance and/or insensitivity," ignoring the lynching of African-Americans, separate drinking fountains, forced seating at the back of the bus, and slavery. Brooks added that Trump's remarks revealed "a profound insensitivity to what we are going through at this very moment."

The head of the United Nations Working Group of Experts on People of African Descent compared police killings of African-Americans in the United States to lynchings.

"Contemporary police killings, and the trauma they create, are reminiscent of the past racial terror of lynching," Ricardo Sunga III said. He attributed the "current human rights crisis" to "impunity for state violence," noting the working group "is convinced that the root of the problem lies in the serious lack of accountability for perpetrators of such killings despite the evidence."

Human rights experts from New York University Law School, University of Virginia School of Law, and St. Louis University School of Law concur. In a submission to the Inter-American Commission on Human Rights (IACHR) for a hearing on "Excessive Use of Force by the Police against Black Americans in the United States," they wrote that in 2015, police officers killed at least 1,139 people in the U.S. More than 25 percent of the victims of police violence were black, which is "grossly disproportionate" to their numbers in the national population.

"Impunity and the lack of accountability lie at the heart of a cycle of police violence and discrimination against Black Americans," the legal experts noted. They added that the legal framework regulating the use of force in the U.S. "does not conform to the requirements of international human rights law or

international best practices,” which require law enforcement to “apply nonviolent means before resorting to the use of force.”

If force is “unavoidable,” officers must “exercise restraint in such use and act in proportion to the seriousness of the offense.” In all circumstances where force is used, police must “minimize damage . . . and respect and preserve human life” and dignity. “Intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”

We see repeated situations in which officers respond to a scene and use deadly force as a first, not a last, resort. Police are trained to shoot to kill, not to incapacitate. They often opt to shoot rather than using tasers, although there is also overuse of tasers.

Officers in San Diego County’s El Cajon knew that Alfred Olango had mental illness. Yet instead of calling the Psychiatric Emergency Response Teams, which is trained to defuse these types of situations, the police responded to Olango’s sister’s call for help earlier this week by shooting him while his hands were in the air.

Three days after Olango was killed, a black man with bipolar disorder was shot and killed by Los Angeles County police following his call for help.

Inherent Police Bias

The IACHR report charged that “deferring to the views of officers” about what constitutes a lawful use of force “runs the risk of allowing their biases – whether explicit or implicit – to define the parameter of the lawful use of force.”

Implicit bias describes unconscious prejudices, attitudes and stereotypes. Researchers at the Yale Child Study Center concluded that implicit bias determines the way teachers deal with African-American male students beginning at four years of age.

“The problem of discriminatory police violence is not simply one of inadequate training,” the IACHR report continued. “It cannot be separated from systemic racism and inadequate accountability mechanisms.”

“Aggressive police practices are deeply rooted in a history of discrimination against Black Americans and are part of a system of racial and social control,” the report noted. Its authors identify “broken windows” policing, which targets petty crime; racial profiling, in which people of color are “stereotyped as violent criminals or drug abusers”; increasing militarization of police, who use military equipment even when responding to non-violent crime; and “for-profit

policing,” where law enforcement raises considerable revenue from fines and criminal and civil forfeiture.

Three sociology professors from Harvard, Yale and Oxford determined that 911 calls decreased by 17 percent in Milwaukee during the year after the 2004 beating of Frank Jude Jr. They found that African-Americans were less likely to call the police after learning that officers “boot-stomped [Jude’s] face, snapped his fingers and pressed pens into his ear canals” because they suspected him of stealing a police badge.

Matthew Desmond and Andrew Papachristos, two of the professors who conducted the Milwaukee study, wrote in the *New York Times*: “Each new tragedy contributes to and reawakens the collective trauma of black communities, which have been subjected to state-sanctioned assaults – from slave whippings and lynching campaigns to Jim Crow enforcement and mass incarceration – for generations.”

Clinton’s Proposals

Hillary Clinton has called for police training programs to eliminate implicit bias and proposed a plan “to restore bonds between communities and law enforcement.” She vowed to bring law enforcement and communities together to develop national guidelines on the use of force by police officers, support legislation to end racial profiling, dismantle the school-to-prison pipeline, and provide greater transparency and accountability for officer-involved shootings.

All police shootings should be investigated and, if warranted, prosecuted by an independent and impartial special prosecutor. Citizens police review boards should have independent investigators, independent legal counsel, and subpoena power.

“We need an investigative model rather than a review model, where the board does its own investigations rather than just reviewing what the police have done,” Kate Yavenditti, from the National Lawyers Guild and Women Occupy San Diego, told me.

We owe a debt of gratitude to the Black Lives Matter movement across the country, which has exposed the way in which local, state and federal governments, the corporate media, and the judicial system actively participate in exonerating the police and demonizing the victim.

The U.N. Working Group of Experts on People of African Descent, comprised of top human rights lawyers from around the world, told the U.N. Human Rights Council last week that the United States owes reparations to African-Americans as compensation for “the legacy of colonial history, enslavement, racial

subordination and segregation, racial terrorism and racial inequality.”

The working group concluded that U.S. slave labor would be worth about \$5.9 trillion today. But reparations could be provided in the form of “a formal apology, health initiatives, educational opportunities . . . psychological rehabilitation, technology transfer and financial support, and debt cancellation.”

Our society continues to be plagued by the legacy of slavery – the “peculiar institution” – as well as Jim Crow and continuing, pernicious racism. Calls for “law and order” and stop-and-frisk will not heal the wounds, and will only exacerbate the tensions. Yet, that is what Donald Trump has prescribed.

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