



Congregation **Shalom**

SOCIAL ACTION

**“Slavery didn’t end, it just evolved.”**  
— Bryan Stevenson

*readings and references to accompany  
a presentation by*

**Jesse M. Heines**  
[jesse@jesseheines.com](mailto:jesse@jesseheines.com)

*February 28, 2020*

*Note:* The slides for this presentation  
as well as this handout are available for  
viewing and downloading at

<https://jesseheines.com/shalom>



My efforts at social action are inspired by the work of Bryan Stevenson. If you're not familiar with his work, see <https://eji.org/>, the website for the **Equal Justice Initiative**. <https://eji.org/bryan-stevenson> presents information on Bryan himself. Listed below are links to videos about Bryan and his work.

(1) [https://www.ted.com/talks/bryan\\_stevenson\\_we\\_need\\_to\\_talk\\_about\\_an\\_injustice?language=en](https://www.ted.com/talks/bryan_stevenson_we_need_to_talk_about_an_injustice?language=en)

As the URL implies, this is Bryan's 2012 TED talk. It provides an excellent overview of his work in 23 minutes.

(2) <https://www.cbsnews.com/video/just-mercy-bryan-stevenson-on-instilling-compassion-in-young-adults/>

This is a CBS This Morning piece on the adaption of Stevenson's book *Just Mercy* for children, broadcast September 19, 2018. "The U.S. incarcerates more of its citizens than any other nation in the world, according to the latest government data. In 2016, about 2 million people were in jails and prisons. That's compared to less than 200,000 in 1972. The Equal Justice Initiative is a non-profit organization that provides legal representation for inmates, and works to end mass incarceration. Founder and executive director Bryan Stevenson joins CBS This Morning to discuss why he decided to turn his 2014 bestseller, *Just Mercy*, into a book for young adult readers."

(3) <https://youtu.be/R6UcSLf9nq0>

This is Bryan Stevenson's commencement address at the University of Pennsylvania on May 20, 2109. In addition to the content of his address, just watching the passion with which he speaks is "worth the price of admission." *Please Note:* This is an "unlisted" YouTube video that I captured from the live stream. Please do not share this URL with others, as I have no "rights" to this video. Also, the first 5:30 is an introduction. Stevenson's address begins after that.

(4) [https://play.hbogo.com/feature/urn:hbo:feature:GXOQiDA1\\_TJ63mgEAAUT](https://play.hbogo.com/feature/urn:hbo:feature:GXOQiDA1_TJ63mgEAAUT)

This is an HBO documentary entitled "True Justice: Bryan Stevenson's Fight for Equality," broadcast on June 26, 2019. You must sign in to view this, but there are many accepted sign-ins. I use my Xfinity/Comcast credentials. If you don't have any of the TV providers shown at <https://play.hbogo.com/login> and you can't find someone who does, let me know and I'll send you another unlisted YouTube link to the video. *Note:* If you enter the above URL and then sign in, you end up on the main HBO GO page. Enter the above URL a second time while you are logged in and you'll get to the desired documentary.

Legal enslavement lasted in this land until the passage of the Thirteenth Amendment in 1865. For almost one hundred years after the American Revolution, slavery and freedom stood side by side. How could a nation that believed in “the right to life, liberty and the pursuit of happiness” justify the unfree status of millions of people within its boundaries?

This ambiguity even today clouds our vision of our nation as a land of one people and one history. Historian Nathan Huggins writes that “the challenge of the paradox is that there can be no white history or black history, nor can there be an integrated history that does not begin to comprehend that slav-

Somewhere in the past we learned to accept inequality in our society, we developed a tolerance for notions of superiority and inferiority, and we began to subscribe to notions of racial distinctions. It is during this stage of our history that we began to lose sight of our common humanity. In the black communities for many years after emancipation there was great shame and embarrassment about the memory of enslavement. Rather than admit and accept the past, children were raised to deny their slave bloodlines. And in the white community there was often a fear and hatred of black freedom that expressed itself through racism, or there was a total denial of any family, financial, or circumstantial relationship to slavery entirely. I hear so often, “It was someone else’s history.” “My mother or father or grandparents didn’t do it.” “At least our ancestors couldn’t have been enslaved or enslavers because our family comes from the North.” It was as if we all arrived in America after slavery was abolished—untouched, unfettered, unblemished by its existence.

How deep are the scars of slavery? Are we responsible for the sins of our ancestors? Should we be accountable today for past injustices and pains? How much has our history of slavery informed, defined, the American character?

*The Discarded July 2 Draft:*<sup>40</sup>  
*A Futile Diatribe on the International Slave Trade*

THE DELETED CLAUSE

As finally adopted, the Declaration of Independence contained no references at all to the plight of blacks or slaves, or to the international slave trade. It is particularly ironic that the revolutionary forefathers struck out the one and only provision in an earlier draft that even condemned by inference the international slave trade. Between June 11, 1776<sup>41</sup> and June 28, 1776,<sup>42</sup> Jefferson had written a passage condemning the international slave trade. Basically, this provision was not altered in the final draft presented by the Committee of Five to the Continental Congress for their debate and deliberations on July 2. The full significance of the deletion at this July 2 debate stage is apparent only to those familiar with the different stages in the writing of the Declaration of Independence.

There were at least three stages in the writing of the Declaration of Independence. On June 11, 1776 the Committee of Five—Jefferson, Franklin, Sherman, Adams, and Robert R. Livingston—was appointed to prepare the Declaration of Independence.<sup>43</sup> The committee gave Jefferson the responsibility to prepare the first draft.<sup>44</sup>

In Jefferson's original rough draft and in the draft approved by the Committee of Five as submitted on June 28 to the Congress, the climax of charges against the king was a significant diatribe against the international slave trade:

He has waged cruel war against human nature itself, violating it's most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carry them into slavery in another hemisphere or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of *infidel* powers, is the warfare of the Christian king of Great Britain. Determined to keep open a market where MEN should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce. And that this assemblage of horrors might want no fact of distinguished die, he is now exciting these very people to rise in arms among us, and to purchase that liberty of which *he* has deprived them, by murdering the people on whom *he* also obtruded them; thus paying off former crimes committed against the *Liberties* of one people, with crimes which he urges them to commit against the *lives* of another.<sup>45</sup>

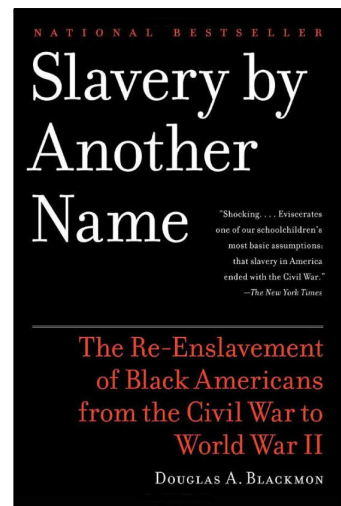
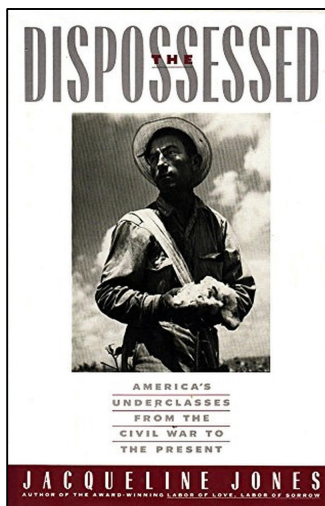
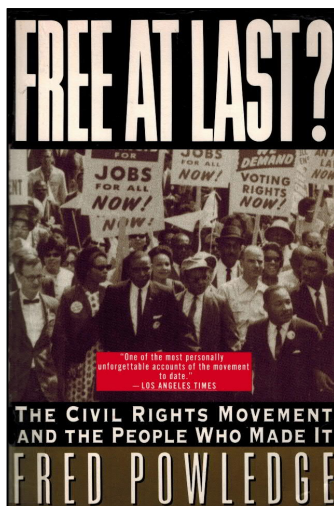
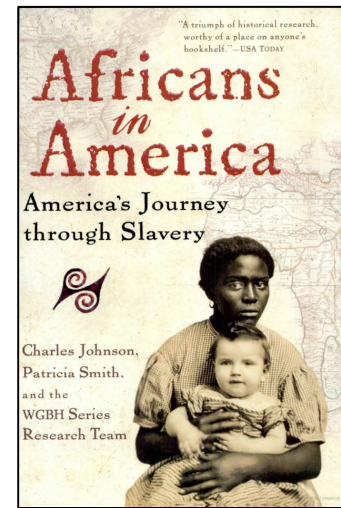
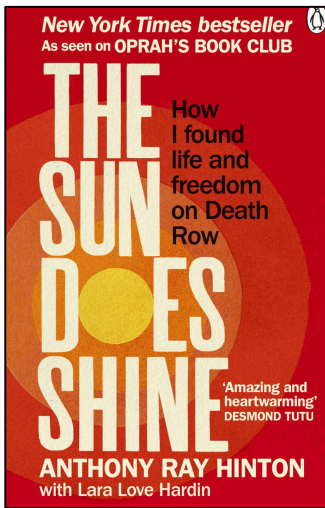
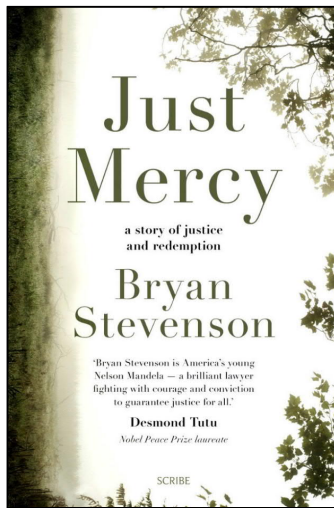
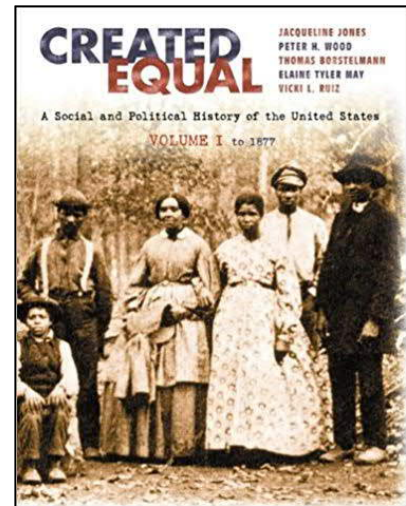
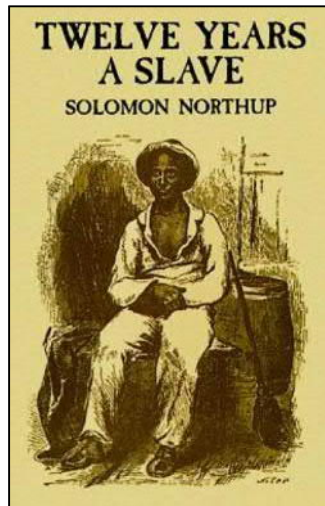
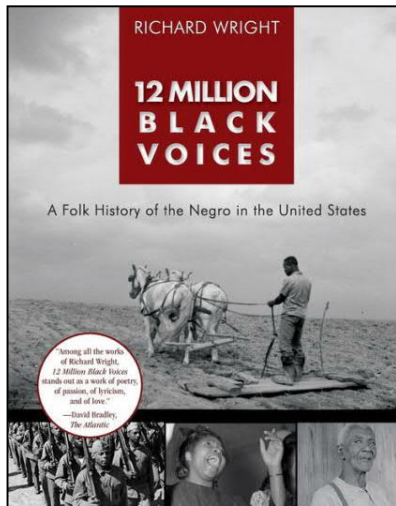
As a matter of logic, in many respects the diatribe was substantively deficient. For George III did not initiate the slave trade; it had been started centuries before. Further, there is an inherent hypocrisy wherein Jefferson is so vehement against the international slave trade and yet is totally silent about the continuance of slavery in the colonies. If, in Jefferson's phrase, the international slave trade was initiated by "cruel war against human nature itself," why was it not just as depraved for him to keep in lifetime servitude... Rather than risk any negative votes from South Carolina and Georgia, the Congress opted for unanimity because of an attitude that Franklin reportedly expressed: "We must, indeed all hang together, or most assuredly we shall all hang separately."<sup>51</sup> Despite Thomas Jefferson's purported chagrin over the deletion, as John Hope Franklin pointedly observed, "The record does not indicate that Jefferson made any effort to save the section" against the international slave trade. For a mulatto slave Sandy, the following excerpted advertisement of Thomas Jefferson's was far more significant than his flourish of words condemning the international slave trade:

Run away a Mulatto slave Sandy, 35 years, complexion light, shoemaker by trade, can do coarse carpenters work, a horse jockey, when drunk insolent and disorderly, swears much, and his behaviour is artful and knavish. Took a horse. Whoever conveys the said slave to me shall have reward, if taken up within the county, 4 l. if elsewhere within the colony, and 10 l. if in any other colony, from

THOMAS JEFFERSON<sup>52</sup>

The July 2nd draft probably reflected the tensions within Jefferson—his simultaneous desire to protect his estate and his moral inability to justify slavery. Five years later, Jefferson, once again commenting on slavery, further noted:

Indeed I tremble for my country when I reflect that God is just; that his justice cannot sleep forever.<sup>53</sup>



# Taking a second look at life imprisonment

By Nancy Gertner and Marc Mauer

**A**rnie King has been serving a sentence of life without parole in Massachusetts since 1972 for the murder of John Labanara. King was a high school dropout addicted to drugs and alcohol. He was seeking his next high the night he killed Labanara. Over the last 47 years, King has changed his life. He earned bachelor's and master's degrees from Boston University, has spoken to at-risk youths about making better choices in their lives, and has received awards for his community leadership, including the anti-racism leadership Award from Simmons College. Still, despite the time he has served and his rehabilitation, he has failed to secure a sentence commutation from the governor

that would make him eligible for parole.

A recent hearing in the Massachusetts House of Representatives shed light on this little-known aspect of mass incarceration. While there has been a great deal of attention in recent years to the impact

Criminologists know that individuals 'age out' of crime.

of the drug war on growing prison populations, in fact, the main drivers of the prison system now are excessive sentences for violent offenses.

The statistics are troubling. There are as many individuals serving life sentences as the entire state prison population in 1970, and more than half are black or Latino. Of the 2,000 lifers in the state, about half are not eligible for parole. Barring executive clemency, they will die in prison after spending decades behind bars.

Since 90 percent of lifers nationally have been convicted of serious violent crimes, supporters of life-long incarceration argue that incapacitating such people is an effective crime-control mechanism. In fact, it is the opposite: It is counterproductive for public safety.

Criminologists know that individuals "age out" of crime. Any parent of a teenager understands that misbehavior, often serious, is all too common at this stage. FBI arrest data show that the rate of arrest for teenage boys rises sharply from the mid-teen years through the early 20s but then declines significantly. Arrests for robbery, for example, peak at age 19 but decline by more than half by age 30 and by three-quarters by age 40. The same is true for other violent crimes.

The reason is clear. As teenage boys enter their 20s, they lose their impulsivity, get jobs, find life partners,

form families, and generally take on adult roles. Violent behavior becomes less attractive.

For public safety purposes, incarcerating people past age 40 produces diminishing returns for crime control; less and less crime is prevented by incapacitation each year.

This impact is magnified by resource tradeoffs. National estimates for the cost of incarcerating an elderly person are at least \$60,000 a year, in large part due to the need for health care. With finite public safety resources, these costs are not available to invest in family and community support for the new cohort of teenagers, for whom proactive initiatives could lower the risk of antisocial behavior.

Legislation introduced by Representative Jay Livingstone of Boston and Senator Joe Boncore of Winthrop, along with 34 cosponsors, would help to ameliorate this problem in Massachusetts. Under the bill's "second look" provision, individuals serving life without parole would be eligible for a parole review after serving 25 years. The logic behind this is that there's no way of knowing on the date of sentencing what a person will be like two decades hence. Many individuals — like Arnie King — undergo personal transformations while imprisoned. A parole board assessment of a person's prison record, completion of skills training, and engagement in rehabilitative programming can identify those for whom further imprisonment would be a poor use of resources.

While the nation has become accustomed to "three strikes" sentencing and other legislation that results in life imprisonment, such policies are extreme by world standards. In most Western European nations, sentences of more than 20 years are rare either by statute or in practice. The United States, with just 4 percent of the world's population, houses more than half of the world's population of people serving life without parole. Recently, there has been a bipartisan critique of the effects of mass incarceration, particularly on low-income communities of color. State policy makers across the country are exploring ways to reduce excessive prison populations without adverse effects on public safety. The proposed "second look" provision offers one significant alternative. It should be passed.

---

*Nancy Gertner is a senior lecturer at Harvard Law School and a former US District judge. Marc Mauer is executive director of The Sentencing Project and the co-author of "The Meaning of Life: The Case for Abolishing Life Sentences."*

# We can't wait for politicians to heal our fractured nation

BY JOHN R. KASICH

*"Stop the world, I want to get off!"*

**T**hat popular cry from the 1960s may have fresh appeal in 2019, when so many of us despair at the deep political and cultural divisions that are tearing apart our nation. And it's not just our dysfunctional government in Washington that's fractured. The fault lines run just as deep through every state, city, and neighborhood — even families. Today's climate of impeachment, political stalemate, and Twitter madness only makes things worse.

Of course, we can't stop the world. We have to engage with it. And we can't wait for politicians in Washington or some other outside power to magically solve things for us. It's up to us, as individuals, to summon the courage

to bring about change — with an act of personal power that in some small way can make a big difference in our life and the lives of others.

It's best summed up in the words of Martin Luther King Jr.: "If I cannot do great things, I can do small things in a great way."

He was a man who, of course, knew how to do great things. But he also understood the power of small actions, words, and deeds to accomplish great things and to inspire others to do their own "small things" to great effect. You don't have to climb Mt. Everest. You don't have to cure a dread disease. A small thing you do matters, and it *can* make a difference.

But leveraging small deeds to make meaningful change means finding ways that you, as one individual, can get your power back in order to make a difference for yourself and others. That's a tough assignment, particularly when the

nation is on the verge of what will surely be a divisive impeachment inquiry and a contentious election campaign. But this is exactly the time for each of us to redouble our efforts and model the kind of behavior we hope to see from our leaders in Washington.

Since leaving the Ohio governor's office in January, I've traveled the country to talk to students, local leaders, and community groups about ways we can fix what's wrong with America. Some of the issues I talk about are pulled from the day's headlines, while others are meant to get people to think beyond the current news cycle. Mostly, I try to remind folks of the homespun values we all share — values that might appear to some to have gone missing.

People are fed up with all the noise and nonsense that seems to pass for our national discourse these days. For the past two-and-a-half years, there's been a chaotic drumbeat coming out of our nation's capital that has threatened to drown out who we are as caring, thinking, *feeling* people. Most of the folks I hear from are tired of it, and as we get to talking we are reminded of the ways we might lift each other up instead of dragging each other down.





## Quotes from Bryan Stevenson Speeches

“We need to understand the greater evil of American slavery wasn’t involuntary servitude and forced labor; it was this idea that black people aren’t as good as white people, that they’re not fully human ... *The North won the Civil War, but the South won the narrative war.* They weren’t required to repudiate and acknowledge the wrongfulness of bigotry and slavery. They actually glorified that era, and that created a century where black people were pulled out of their homes, beaten, drowned, hanged in this era of terrorism, but we haven’t talked about it.”

“In many ways, we’ve been taught to think that the real question is, ‘Do people deserve to die for the crimes they’ve committed?’ And that’s a very sensible question. But there’s another way of thinking about where we are in our identity. The other way of thinking about it is not ‘Do people deserve to die for the crimes they commit?’ but ‘Do we deserve to kill?’”

“The reality is that capital punishment in America is a lottery. It is a punishment that is shaped by the constraints of poverty, race, geography and local politics.”

“We live in a country that talks about being the home of the brave and the land of the free, and we have the highest incarceration rate in the world.”

“The Bureau of Justice reports that *one in three black male babies born this century will go to jail or prison.* That is an absolutely astonishing statistic. And it ought to be terrorizing to not just to people of color, but to all of us.”

“Many states can no longer afford to support public education, public benefits, public services without doing something about the exorbitant costs that mass incarceration have created.”

“I’ve come to understand and to believe that each of us is more than the worst thing we’ve ever done. I believe that for every person on the planet. I think if somebody tells a lie, they’re not just a liar. I think if somebody takes something that doesn’t belong to them, they’re not just a thief. I think even if you kill someone, you’re not just a killer. And because of that, there’s this basic human dignity that must be respected by law.”

“We are all broken by something. We have all hurt someone and have been hurt. We all share the condition of brokenness even if our brokenness is not equivalent.”

“There is a strength, a power even, in understanding brokenness, because embracing our brokenness creates a need and desire for mercy, and perhaps a corresponding need to show mercy. When you experience mercy, you learn things that are hard to learn otherwise. You see things you can’t otherwise see; you hear things you can’t otherwise hear. You begin to recognize the humanity that resides in each of us.”

“But simply punishing the broken—walking away from them or hiding them from sight—only ensures that they remain broken and we do, too. There is no wholeness outside of our reciprocal humanity.”

“You don’t change the world with the ideas in your mind, but with the conviction in your heart.”

“We are all implicated when we allow other people to be mistreated. An absence of compassion can corrupt the decency of a community, a state, a nation. Fear and anger can make us vindictive and abusive, unjust and unfair, until we all suffer from the absence of mercy and we condemn ourselves as much as we victimize others. The closer we get to mass incarceration and extreme levels of punishment, the more I believe it’s necessary to recognize that we all need mercy, we all need justice, and—perhaps—we all need some measure of unmerited grace.”

“Somebody has to stand when other people are sitting. Somebody has to speak when other people are quiet.”

“The true measure of our character is how we treat the poor, the disfavored, the accused, the incarcerated, and the condemned.”



<https://eji.org>