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File 12 Equality on trial

Wrongful convictions p. 139

Noel King, Host: Director Ava DuVernay's Netflix miniseries "When They See Us" has drawn new attention to the case of the Central Park Five. In a special last night, Oprah Winfrey interviewed them. As teenagers, these black and Latino men were coerced by New York police into falsely confessing to the rape of a white jogger in Central Park in 1989. Their convictions were vacated in 2002, when someone else confessed to her rape. NPR's TV critic Eric Deggans is on the line.

Hi, Eric.

Eric Deggans, Byline: Hi.

King: So Netflix tweeted yesterday that "When They See Us" has been their most-watched series in the U.S. every day since it was released in late May. This is despite the fact that, as you've written, this is a really hard series to watch.

Deggans: Yeah. You know, it took me three times to get through watching this series and, I admit, I cried while I watched parts of it. But in a way, I think the difficulty of watching some of these scenes - you know, seeing these teenage boys, they were aged 14 to 16, being physically and mentally coerced into these false confessions, thinking they could just go home - it's a crucial part of the show's power. I mean, it really makes you experience the trauma that they went through, that their families went through. And this comes at a time when we're already talking about how people of color are overpoliced or unfairly policed. So it really resonates.

The case that upheld the color line p. 140

Henry Louis Gates, Jr.: Separate but Equal. That was the rationale for decades of degrading, suffocating, racial segregation, from birth to death, in schools and churches, in housing and hospitals, in hotels and restaurants, even in cemeteries. And it was made constitutional by the United States Supreme Court in the notorious 1896 case “Plessy v. Ferguson”. The citizen at the center of that case was named Homer Plessy, a 30-year-old shoemaker from New Orleans. In June 1892, Plessy boarded the whites-only car of a train. When the conductor asked him if he was colored, Plessy, who was said to have been 1/8 black, replied yes.

Farah Griffin: Louisiana had passed a law, the Separate Car Act, which required that transportation companies provide “separate but equal” accommodations for negroes and for whites.

Henry Louis Gates, Jr.: When Plessy refused to move to the colored car, he was arrested as part of a planned effort orchestrated by a group of citizens to use the courts to overturn Jim Crow segregation laws.

Farah Griffin: Plessy did not win his case and he continued to appeal it all the way to the Supreme Court. The Supreme Court ruled that “separate but equal” was legal, that it did not violate the 14th amendment and that it was beyond the law to legislate social equality between the races.

Henry Louis Gates, Jr.: “Separate but equal” remained the law of the land for nearly 60 years, until another generation of judges on the Supreme Court struck it down unanimously in 1954 in the landmark school desegregation case, Brown v. The Board of Education.

The truth about the American jury system p. 143

Speaker: Each year, over 30 million people are sent a summons in the mail. From that, an estimated 1.5 million are selected to serve on a jury. And it's during that selection process when most of the problems emerge. Attorneys have a certain number of "strikes", or peremptory challenges, where they can remove jury candidates without any explanation. For decades, it was perfectly legal to use these strikes on a discriminatory basis — and that's exactly what prosecutors did.

Cassandra Stubbs (Director of the ACLU Capital Punishment Project): The prosecutor time after time after time was choosing white jurors and striking black jurors or jurors of color, you know courts were routinely saying there was not proof enough of discrimination."

Speaker: The issue finally came to a head in 1986. The Supreme Court made it illegal to strike based on racial or sexual discrimination. But what has that really changed? Turns out, prosecutors found ways to still discriminate.

Stubbs: In the 1990s prosecutors in North Carolina received a "cheat sheet" about how to go to court and defend against claims of racial bias in a way that would allow them to pick a discriminatory jury.

Speaker: The racial bias continued to be mostly unchecked and underreported well into the 2000s. Then finally, in 2010, a report revealed a shocking reality. Between 2005 and 2009, prosecutors in Houston County, Alabama had excluded 80% of blacks who qualified for jury service on death-penalty cases.

Stubbs: Death-penalty trials are infected from the beginning to the end with racial bias. We know overwhelmingly that prosecutors are far more likely to seek the death penalty when the victim is white. White lives matter more when we actually look at how the death penalty is applied and that should be very troubling to all of us.

Speaker: In fact, all-white juries will convict a black defendant 16 per cent more often than they would a white defendant.

Loretta Lynch's fight for equality p. 145

Loretta Lynch: I, Loretta Elizabeth Lynch...

Man: ...do solemnly swear

Loretta Lynch: do solemnly swear...

Man: ...that I will support and defend...

Loretta Lynch: ...that I will support and defend...

Man: ...the Constitution of the United States.

Loretta Lynch: ...the Constitution of the United States.

Loretta Lynch: I had always been interested in law enforcement and interested in prosecution. I think, for me, it was more of a family history issue. My dad is a retired minister. My mother is a retired librarian. They were always working on a social issue. My father was always using his church for meetings. When I was very, very young, we lived in Greensboro, North Carolina. He opened up the basement of his church to the students who were leading the sit-in movement at that time, and let them meet there and let the marchers plan there. It was one of only two churches who did that. So he's always had that focus. My mother has always had a focus on education and equal rights and standing up for yourself. And so I got that from them. I enjoyed my time at the law school. I've always thought it was very important to always remember that the purpose of the law is to order our lives. How do we live together? How do we interact with each other? How do we deal with conflict? How do we, in fact, account for ourselves? And I think people do struggle with that. For me, I think, it really came to fruition when I was here in law school.

Loretta Lynch: The law governs the lives of ordinary people, and it needs to be inspired by the needs of ordinary people from all walks of life. And it needs to have the discussion and the thought of different perspectives. And that's what enriches the law. That's what makes it better. And so I intend to continue to be a voice for those who may feel they don't have a voice. My role, however, is simply to empower them. That's how I have always seen it, and I hope to continue in that role.