

100 YEARS AFTER "SEPARATE BUT EQUAL"

BLACK AMERICA'S NEWSMAGAZINE

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SPECIAL REPORT

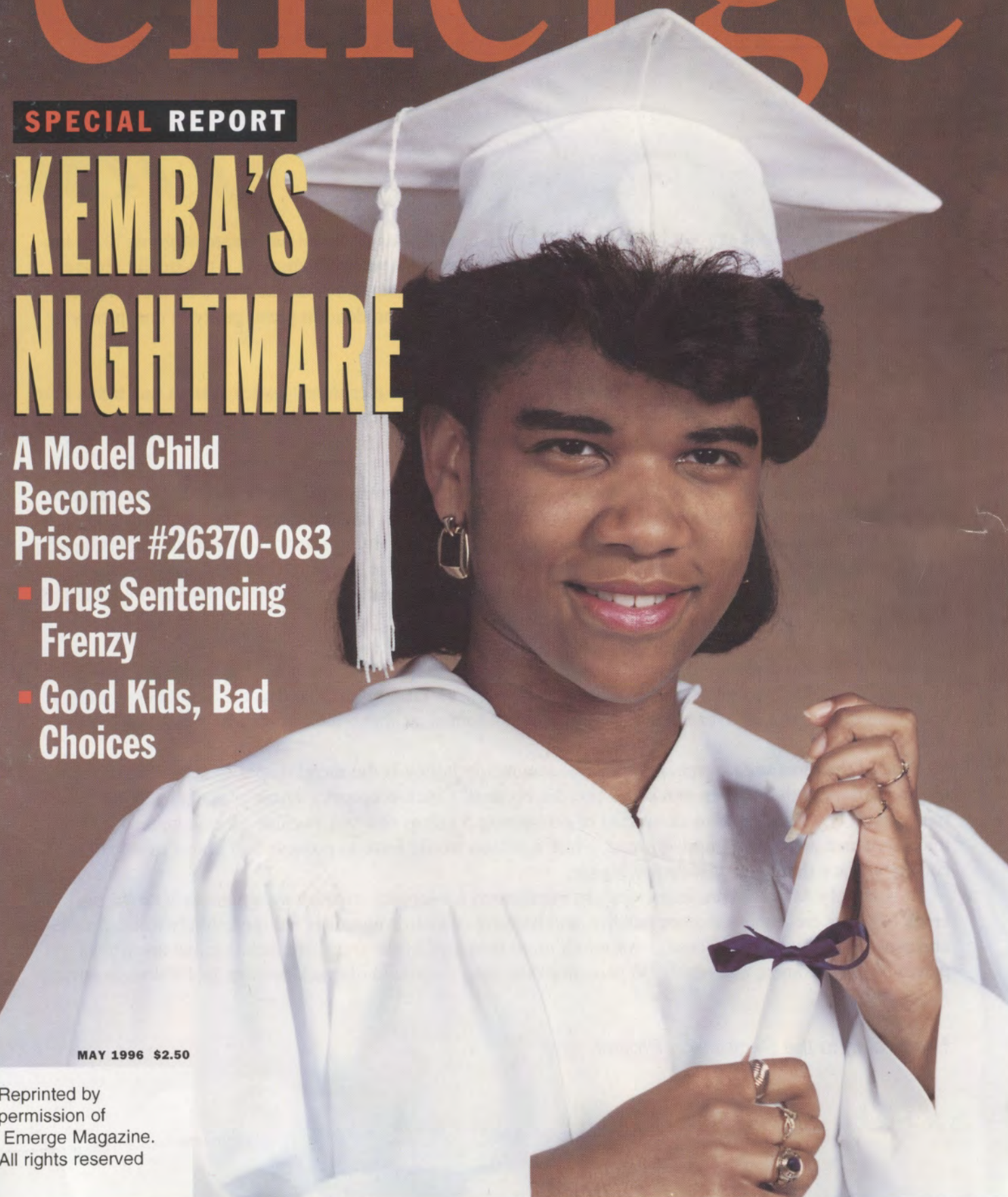
KEMBA'S NIGHTMARE

A Model Child
Becomes
Prisoner #26370-083

- Drug Sentencing Frenzy
- Good Kids, Bad Choices

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Dear Friends:

When Kemba Smith enrolled in Hampton University, she had achieved her dream of going to an historically black college. But within three years, her college days were cut short by a physically abusive relationship with a drug dealer; she was pregnant; and her boyfriend was on the FBI's 15 most wanted list. Though she had no prior criminal record, in 1994 she was prodded to plead guilty to conspiracy to distribute crack cocaine for her boyfriend's drug activities.

Kemba's crime: to fall prey to an abusive relationship and to a criminal justice system that treats first time non-violent, low-level offenders as drug kingpins under mandatory minimum sentencing guidelines. Kemba's punishment: 24- years in prison without the possibility of parole.

The shocking part of Kemba Smith's story is that even her family's middle class status and resources did not shield her from the race and gender biases in the criminal justice system. The sad part of the story, is that too many Kemba Smiths now languish in prisons, serving sentences for punishments that do not fit their crimes. Kemba reflects the new and disturbing face of the American prison population: young, female, and Black. *Over a five-year period, the incarceration rate of Black women increased by 828 percent — the fastest rate of increase of any group.

Current federal sentencing laws significantly limit the judge's discretion in sentencing and require the judge to ignore factors that often call for a lesser sentence. During the past decade, a number of judges have resigned in protest over having to impose harsh sentences that were clearly excessive and unjust.

One of the most unfair aspects of federal sentencing policy is the racial disparity driven by the sentencing differentials between crack and powder cocaine. Crack cocaine offenses are penalized 100 times more severely. Thus a person convicted of possessing 5 grams of crack cocaine faces a mandatory minimum sentence of 5 years imprisonment, while a person would have to possess 500 grams of powder cocaine to face that same mandatory 5 years.

It is largely African Americans who are imprisoned for lengthy mandatory sentences both because crack offenses are punished more harshly, and because African Americans are more likely to be arrested and prosecuted for crack offenses. Although more than half of the users of crack cocaine are whites, 80 percent of the women, and nearly 90 percent of the men convicted of crack cocaine in 1994 were African American.

**According to the Sentencing Project*

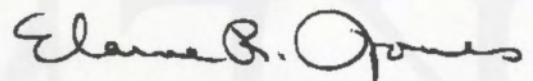
LDF is representing Kemba in her efforts to overturn her convictions and draconian sentence. During trial court proceedings, the judge mistakenly treated her as a kingpin, and failed to adequately consider the fact that throughout her involvement with her boyfriend, she was a battered woman who legitimately feared for her life as well as for her parents' lives if she did not comply with his every wish. Sadly, Kemba's story is not unique. In 1991, 43 percent of women in state prisons, greater than one out of every three women, had been victims of physical or sexual abuse in their past. A survey of one prison revealed that 80 percent of the women inmates there were incarcerated as a result of their affiliation with abusive males.

Kemba's story provides a window into understanding how the impact of sentencing policies are placing a generation of young first-time offenders behind bars to serve lengthy and even life sentences. Non-violent offenders, who have historically been given short sentences and often assistance with job training and educational opportunities, are now being locked up for years. Sentencing policies are waging a war on our communities, especially our youth who are being robbed of their futures.

The theft of a generation can be stopped only if we call for legal reform and other steps to halt the ever expanding incorporation of first-time non-violent youthful offenders into the criminal justice system. True criminal justice reform must, of course, be supplemented by investments in education, training, job creation, and job treatment. Aside from the moral dimensions of the problem, consider the economics of warehousing young people in prison: about \$23,000 a year per inmate — far more than tuition at a state college. Consider too, the social implications: families torn apart, children raised without parents, and young adults, once with a glimmer of a chance in life, left with only pieces of their shattered dreams.

Now 26 years old, Kemba's dream is to go home to see her three year old son attend kindergarten. Together, we can make her dream a reality.

LDF invites you to read Kemba's story. We are convinced that the injustice you discover will spur you to support our efforts on behalf of Kemba Smith, and the numerous other young people who are condemned to a similar fate.



Elain Jones
President/Director Council
Legal Defense Fund



KEMBA SMITH FACES 24 YEARS IN A FEDERAL PRISON.
IS SHE A VICTIM OF GET-TOUGH MANDATORY SEN-
TENCING LAWS, HER OWN BAD JUDGMENT OR BOTH?



IT IS 6:30 A.M., AND KEMBA NAIMBI SMITH is preparing for another day in her new life, one that could go down in history books. An attractive, petite and shy 24-year-old, Kemba has received one of the nation's longest prison sentences for being a two-bit player in a drug ring: one year in prison for each of the 24 years she has lived. No chance for parole.

That amounts to tough justice, particularly for a first-time, nonviolent offender, one who even prosecutors say never handled or used the cocaine she was convicted of trafficking and one who received little benefit from its sale. Tough, tough justice, particularly when one hears of the beatings she received from the man she admired, loved and obeyed, the real player in the cocaine trafficking group. It's tough, but is it justice?

Kemba is now inmate #26370-083 and, like a growing number of intelligent, middle-class, African-American women and men, is paying hard time for being young, naive and running with the wrong crowd — cocaine dealers — when the “drug war” is big politics and the judicial system is on automatic pilot. Under legislative orders

KEMBA'S NIGHTMARE

B Y R E G I N A L D S T U A R T

