

### The Discrimination of Black Americans by Power of Mass Incarceration

The overwhelming powers of the United States criminal justice system and the rampant mass incarceration in America hold another, older, yet shifted power within its grasp; the re-enactment of Jim Crow laws. The mass incarceration of black Americans in the United States eradicates their rights through racially motivated disproportionate arrests, legal discriminatory consequences of prison status and the legal reinstatement of slavery with a ‘loophole’ in the 13<sup>th</sup> amendment. The trap inevitably works as such; black Americans are racially targeted, arrested, given long sentences, little-to-no resources for rehabilitation, then shunned and stripped of rights upon re-entrance into society.

The scale of the United States Prison system is second to none- while our country makes up 5% of the world's population, US prisoners make up 25% of all incarcerated people in the world (DuVernay, 2016). This problem undoubtedly was due to and spurred on by President Richard Nixon's creation of the War on Drugs, taken to new violent heights by President Ronald Reagan, spiking the total population of incarcerated people from 300,000 in 1980 to over 2 million in 2000 (Alexander, 2010). While it is relevant to mention the US' general population increase in these decades, these numbers are still “far outpacing population growth and crime” (ACLU, n.d.). The War on Drugs exacerbates arrests through methods such as pre-text stops, using or fabricating minor traffic violations to begin a search for drugs, as well as consent searches, which utilize inherent police pressure to gain consent to search anyone without proper cause or suspicion.

The connection between the jump in incarceration rates and discrimination of black Americans can be summed by this quote from Angela Davis in the documentary *13th*, “crime begins to stand in for race” (DuVernay, 2016). All arrest methods previously mentioned assist the targeting of black communities. Regarding the issue of “consent searches” in particular, the manner of such practices prove to allow for rampant racial discrimination. As *The New Jim Crow* author Michelle Alexander explains some courts’ opinions on the issue; “young black men would be the likely targets, rather than old white women” (Alexander, 2010, p. 66). President Reagans political campaign called for cracking down on drug users and sellers; yet the ACLU states “Blacks are incarcerated for drug offenses at a rate 10 times greater than that of whites, despite the fact that blacks and whites use drugs at roughly the same rates” (ACLU, n.d.). Angela Davis’ quote resonates true within this context; the War on Drugs is used to associate black Americans with criminality. This is further proved in a shocking quote from one of Nixon’s Advisers John Ehrlichmann, who named the entire black community as one of Nixon’s enemies and explained that although they were unable to criminalize being black, their target was to associate heroin-use and disrupt the community. The quote concludes, “did we know we were lying about the drugs? Of course we did” (DuVernay, 2016). From the very roots of its creation, the War on Drugs’ veiled goal was the criminalization of being black.

The disproportionate arrests of black Americans is simply the beginning stage of this power. Once in the prison system, the exit is near impossible, whether it be literally remaining behind bars or having rights removed upon exit, as Alexander writes in the introduction of *The New Jim Crow*, “Once swept into the system, one’s chances of ever being free are slim,” (Alexander, 2010, p. 16). Crime bills put in place such as the “3-Strikes-Law”, requiring three-time violent offenders to be put away for life, Minimum Sentences, forcing required time-periods without consideration of the circumstance of the crime, or the Truth in Sentence which requires 85% of a

sentence to be completed, enforces life without parole and slim chances at rehabilitation. There is little incentive to fix this issue due to the amount of profit that can be made in the prison industrial complex. Due to a ‘loophole’ in the thirteenth amendment, slavery and involuntary servitude are legalized as punishment of a crime. Corporations and prisons profit greatly from this caveat, having free prison labor in major food and grocery store chains, production factories and more enforces the continuance of this practice (DuVernay, 2016). If freedom is granted, the consequences of being placed into the system even just one time have the ability to impact the rights of ex-prisoners for the rest of their lives. As Jim Crow laws targeted back before the enactment of the Voting Rights Act, a citizen's direct ability to influence America's politics is stripped away. Once labelled as a felon, many states take away your ability to vote as well as the ability to ever reapply for voting status. NPR stated in 2022 that roughly “4.6 million people in the US are disenfranchised due to a felony conviction” (NPR, 2022). More parallels to Jim Crow laws include the inability to be considered for jobs, apply for loans, food stamps, life insurance and much more (DuVernay, 2016).

Liberty and Equality are the two American core values most threatened by this power. Once put behind bars, liberty- also described as freedom- is lost to the system. Black Americans, when targeted so unfairly, are unable to pursue the same paths as white Americans once they are labelled as felons or ex-prisoners; “The current system of control permanently locks a huge percentage of the African American community out of the mainstream society and economy” (Alexander, 2010, p. 13). Mass incarceration bars liberty by boxing incarcerated individuals out of society. It can also be argued that the police in this issue experience what’s closer to absolute tyranny, as the force historically has experienced little to no consequence for their actions. Police are continually granted freedoms, deemed constitutional by the Supreme Court, that have encroached upon those they apprehend. Equality is also threatened in any system of racial

injustice- the new racial caste implemented by mass incarceration systematically takes away the rights of black people. Although not as obvious of a violation of equality as slavery or Jim Crow laws, the product is ultimately still a racial caste system. Furthermore, equality is threatened by the lack of protection for voting rights or inability to gain them back post-felon status.

The Black Lives Matter protests that swept the nation in 2020, while achieving phenomenal strides in raising the consciousness of the general public towards police violence and the continuing racism still experienced by black Americans, resulted in little policy enacted post the peak of the movement. The Black Lives Matter website, under its Take Action section, does contain useful and immediate ways to get involved, such as promoting election participation, e-mail copies to send to representatives for change in traffic violation personnel and more. While all of these organized efforts are important and necessary, a focus on long-lasting change or complete abolition of the system did not settle in precedence or popularity. Taking the extremely successful disruptive power displayed by the riots in 2020 and applying towards demands for criminal justice reform would be a great beginning step. These reform demands can and should include a shift from abolishing police force in drug abuse to its funding as a health crisis, greater options for rehabilitation into society and parole, and the defunding of prison systems and affiliated corporations.

There are important things to keep in mind, however; firstly, regarding where objective change was lost in 2020. Black Lives Matter protests jumpstarted this conversation in a meaningful and necessary way, but lost momentum and support, especially in the face of defendants of the police force. While the movement did reach new heights in white support, to take from Dr. Martin Luther King's idea of the white moderate, many supporters simply condemned police brutality without acknowledging the system that promotes it. As Alexander describes, "unless the public consensus supporting the current system is completely overturned,

the basic structure of the new caste system will remain intact" (Alexander, 2010, p. 18). The movement must progress further than public acknowledgement of wrongdoing, and shift to criticism of the system that continually allows it. Secondly, the longevity of the movement must be acknowledged, as well as the propensity for the cycle to continue. Past civil rights movements should act as a guide in the present, particularly in the understanding of how long it often took for civil rights acts to be achieved in government, but also to avoid a repeat cycle. Slavery was abolished, but morphed into segregation and Jim Crow laws, which morphed into the War on Drugs and the mass incarceration of black Americans; "the collapse of incarceration will not mean the death of racial caste in America" (Alexander, 2010 p. 19). The social movement must endure and ensure that this power does not morph itself into yet another system of racial discrimination in the United States.