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Incarceration as a New Age Form of Slavery

For People of Color

And Racism in the United States

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Imagine a country that holds between four and five percent of the world's population. Now imagine that this country also has a whopping *twenty-five* percent of the world's prisoners. This country is not imaginary; it is called the United States of America. Currently, there are 2.3 million people locked away in American state and federal prisons, as well as U.S. territory prisons, juvenile corrections facilities, immigration detention centers, jails, and military prisons. The U.S. has the highest incarceration rate in the world, even though it is the third most populated country. Racial disparity is rampant within the U.S. prison system. According to the U.S. Census for incarceration data from 2010, white people were 64% of the "free" population and 39% of the incarcerated population, using "free" to mean not imprisoned. According to that same census, African-Americans were 13% of the "free" population and 40% of the incarcerated population. Hispanics made up 13% of the U.S. population and 19% of the imprisoned population. The U.S. is founded on the ideals of freedom, yet it is evident that a large portion of the population is not free. Many people don't realize that racial equality still does not exist in the United States. Although America has come a long way, racial inequality remains one of our nation's biggest issues throughout history. Throughout history and with the help of media, presidential rhetoric, unfair policies, and deep-rooted racism, African-Americans became the most widely incarcerated group of people across America.

Slavery in the U.S.

Slavery in the U.S. dates back to the colonization of the Americas in 1619 when people from Europe stole Africans and brought them here to be sold, primarily as field workers ("Slavery in America"). Slaves were often taken advantage of in every possible

way, from working long hours day after day to be separated from their families. Slaves were not allowed to vote, own property, or even speak out against any abuse they encountered by the hand of white people and were often tortured or even killed as punishment for misconduct (“Life for Enslaved Men and Women”). After the Union victory against the Confederates during the Civil War, President Lincoln issued the Emancipation Proclamation in 1863, which declared all former slaves were now free people (except for some border states). Soon after in 1865, when Lincoln realized the Emancipation Proclamation might not stay in effect, the 13th constitutional amendment was passed. This amendment stated that slavery and involuntary servitude would no longer exist within the United States, except as a punishment for those convicted of crime(s). In other words, we consider slavery to be something we left behind in the past, but the 13th amendment states that slavery is still legal in certain circumstances. The emancipation of slaves disrupted the economy, especially in the South, where slaves were commonly used to work the fields. Later these same slave owners looked to criminals to make up for that free labor. Although African-Americans were now legally considered free people, there were still many racist policies to keep them from becoming full citizens. There was rampant use of the criminal loophole within the 13th amendment to imprison people of color unjustly.

In the aftermath of emancipation, large numbers of black people were forced by their new social situation to steal in order to survive. It was the transformation of petty thievery into a felony that relegated substantial numbers of black people to the “involuntary servitude” legalized by the Thirteenth Amendment (Davis 33).

Though Black people were not slaves any longer, that did not mean that life became easy. The combination of segregation, anti-Black laws, and the sentencing of slavery as a punishment for a crime meant that slavery had not really been abolished but instead renamed as imprisonment.

The Discrimination of the Incarcerated

Today, incarcerated people face discrimination in many different areas. This discrimination can include their right to vote, employment, housing, education, public benefits, and jury service (Alexander 2). In some states, people who have been incarcerated are not allowed to vote at all, the result being that they have no say in the policies that affect their city, state, or country. In many other states, people who have been incarcerated must wait through probation, parole, and other requirements before being allowed their right to vote. Even after the 13th amendment, African-American men *still* would not receive the right to vote until 1870, and women of color were barred from voting until 1965.

Even when measures for racial equality were passed, like providing people of color the right to vote, a large number of people continued to dispute their validity. White supremacy was still rampant among many people and racist practices were still popular, especially in the South. Lynching, which is killing someone (almost always people of color) outside of the law, usually by hanging, was one of the often utilized racist practices in the South. After years of objection to this practice, and anti-lynching campaigns, the National Association for the Advancement of Colored People emerged and began the work of widespread anti-lynching activism as well as trying to pass anti-lynching legislation. Segregation controlled the South until 1964 when it was

abolished, about a century after slavery was prohibited. It took almost 100 years to put an end to segregating people of color who were now free citizens just because of their race.

Though slavery may no longer formally exist in America, people who are or have been incarcerated are discriminated against in many of the same ways. “Once you’re labeled a felon, the old forms of discrimination— employment discrimination, housing discrimination, denial of the right to vote, denial of educational opportunity, denial of food stamps and other public benefits, and exclusion from jury service— are suddenly legal” (Alexander 2). Without prison reform and justice for people who have been victims of these discriminations, slavery continues today.

The media and the Incarcerated

Although the media and the government in America have a habit of discussing slavery and racism as things of the past, they are two problems that continue to be great influencers in policies, institutions, and thinking today. A huge factor in the injustices against people of color was, and still is, the way that the media portrays them. Historically African-Americans have often been labeled and portrayed in the media as rapists, dangerous, and crazy (Pilgrim). In the media they are often shown unsmiling, while the rhetoric around them is dismissive, giving the impression that they are “bad” people. In contrast, white people are often victimized and shown smiling, with some mention of their accomplishments in life, giving the idea that African-Americans are more dangerous than their white counterparts (Sun).

Accused black criminals were usually illustrated by glowering mug shots or by footage of them being led around in handcuffs, their arms held by uniformed

white policemen. None of the accused violent white criminals during the week studied were shown in mug shots or in physical custody. (Entman 337)

This dehumanizing, racist classification of groups of people does a lot of harm to communities and relationships with different people worldwide by fostering racist views and sentiments. The media has a history of portraying people of color in a bad light, causing people to hear and see racism for years and years, creating a lot of room for prejudice.

Over time, racist policies started to come disguised as other things, such as remedies to specific problems in America. Such examples were:

- the “total attack” on delinquency, John F. Kennedy’s answer to youth crime. This manifested as a “national delinquency program” that “would focus on youth who had come into contact with law enforcement or criminal justice authorities, as well as groups of young people whom federal policymakers believed to be susceptible to delinquency” (Hinton 33).
- the war on poverty, the war on crime.
- the war on drugs.

Presidential candidates and presidents themselves wanted Americans to believe that they were great leaders by choosing a cause to fight against. As Andrew B. Whitford and Jeff Yates state in *Presidential Rhetoric and the Public Agenda*:

Among the most important of the president’s institutional resources is his or her capability to build and carry out a policy agenda through relatively well-publicized policy rhetoric... A largely hidden, yet important, facet of presidential rhetoric: the

president's ability to drive American policy by using rhetoric to set the policy-making agenda. (Whitford and Yates 5)

These chosen "causes," along with presidential rhetoric, often translated to more people of color being locked up in institutions, and communities of color directly suffered as a result. The "war on poverty" was born from a fear of how youth in poorer communities behaved in part due to how the media portrayed them, mainly young African-American men.

"Total Attack"

The war on poverty started with John F. Kennedy and was first marketed as a "total attack" on delinquency. As the civil rights movement was gaining steam, crime rates were also rising (partly due to the baby boom of the mid-40s to early 60s). "The reasons for the crime wave are complex but can be explained in large part by the rise of the "baby boom" generation—the spike in the number of young men in the fifteen-to-twenty-four age group, which historically has been responsible for most crimes" (Alexander 52). People who were unhappy with the civil rights movement then used those who mobilized as scapegoats for the rising crime rates. Concern about the increase in crime rates, especially around lower-income communities (often communities of color), began to spread.

Alongside the establishment of the President's Committee on Juvenile Delinquency and Youth Crime, The Juvenile Delinquency and Youth Offenses Control Act of 1961 was proposed and later became law in an attempt to focus on poverty among youth and the "alienation of lower-class communities and neighborhoods" (Hinton 33). This act resulted in more law enforcement patrolling communities of color

and schools which people of color attended and in turn arresting youth who were considered troublesome, while “federal planners recognized that more juvenile officers will produce more juvenile statistics” (Hinton 48). According to Hinton, some policymakers were concerned that the increase in juvenile statistics would cause more youth to be labeled as delinquent, ultimately creating bigger problems. These policymakers also believed that “if the committee could orient police and criminal justice personnel “to their theoretical framework and to a different way of working,” the impact of labeling would be diminished” (Hinton 48), and so the increase in juvenile statistics was allowed to continue.

Even though President Kennedy and his administration might have had good intentions of helping more impoverished communities of color, the result was quite the opposite. The administrations’ policies and programs largely focused on changing individuals’ behavior instead of reforming racist police departments and other unjust systems. For people of color to thrive in a historically racist system, the systems themselves need to be examined in-depth and reevaluated.

War on Poverty & War on Crime

Lyndon B. Johnson took office in 1963, after the assassination of President John F. Kennedy. From there, Kennedy’s “total attack” on delinquency became Johnson’s outright “war on poverty.” A number of those who worked with Kennedy on juvenile delinquency also worked for the Johnson administration and carried the same ideals and prejudices. These people in power continued to attempt to resolve problems within unemployed and impoverished communities by changing individuals’ behavior rather than the systems that were unfair and unjust. For example, one of the big problems

unemployed people faced was the lack of jobs. Instead of focusing on creating more long-term stable jobs the Johnson administration opted to “offer job training to low-income individuals - regardless of whether they could find employment afterward” (Hinton 49). Two weeks after Johnson signed the Civil Rights Act of 1964, which banned discrimination and segregation, disorder broke out in Harlem. James Powell, a fifteen-year-old high school student, was shot and killed by an off-duty New York City police officer. Riots against police brutality in Harlem and a few other cities lasted six days and ended with one resident killed, many injured, and many more arrested. Once again, rather than looking into the underlying causes of racism in communities and inequality, Johnson declared that “the immediate overriding issue in New York is the preservation of law and order” (Hinton 56). This disregard of the root problems of systemic racism began a period of overcriminalization in America.

So began, based on the strong anti-crime rhetoric of Johnson, the seemingly much-needed “war on crime.” Lyndon B. Johnson could recognize that people of color were upset due to the denial of their rights, but he also believed that the introduction of new policy and legislation was enough to balance out these injustices. Therefore, he viewed the people of color who were participating in protests and public disturbances against an unfair and racist system as criminals. Johnson also “vowed to protect the safety of “ordinary” Americans” (Hinton 57), which seems to point to the middle-class white population. This statement alone plainly indicates the deep-rooted racism that has plagued the United States since its beginning. If middle-class white people are described as “ordinary” Americans, it is important to consider what that indicates about anyone else. The fear of rising crime rates yet again caused police surveillance of

lower-income communities to be increased. During these times police brutality was rampant and widespread. Time and time again, people in power concluded that segregated areas in which there was more police/citizen conflict required harsher law enforcement. This created a vicious cycle in which conflicts often went unresolved and anger was fought with more anger, leading to police militarization, a hard attitude towards crime, and higher incarceration rates. This was very damaging and continued to be very detrimental to communities of color. “The penal confinement of disproportionate numbers of young African-American men during the 1970s often transformed first-time offenders and drug addicts into hardened criminals” (Hinton 25). Once labeled as a criminal, it was (and still is) very difficult to put everything that comes with that label in the past and try to move on.

War on Drugs

In June of 1971, President Richard Nixon declared a “war on drugs.” Nixon even went so far as to call drugs “public enemy number one,” when really, “the proportion of Americans polled who saw drug use as the nation’s “number one problem” was just 2-6 percent” (“A Brief History of the Drug War”). Despite a large majority of the country’s population disagreeing, Nixon chose this as his cause. Through the war on drugs, Richard Nixon and his administration greatly contributed to mass incarceration. President Nixon’s policy aide, John Ehrlichman, once said this about the war on drugs and people of color:

The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the anti-war left and black people. You understand what I’m saying. We knew we couldn’t make it illegal to be either against the war or black, but by

getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did. (LoBianco).

This is a clear example of how presidential rhetoric can be a huge influence in policy, like how Nixon exploited the problem of drug use for his own purposes to control and influence the people. Not only did the “war on drugs” provide fuel for the fire of mass incarceration, but it was also incredibly harmful to communities of color.

During these times drug abuse and addiction were seen as criminal problems instead of as health problems. Drugs, of any kind, have been demonized throughout U.S. history. “Most people do not even distinguish between drug use and drug abuse or, often enough, between the different drugs themselves. If a drug is illegal, the people taking it must be trash or crazed addicts” (Gray 132). As we know, life as a person of color has never been easy in America. Not only is racism and prejudice rampant, but even the systems are stacked against you. Because of this, along with generational trauma, many people found themselves involved with drugs as a temporary solution to the struggle of life in America. Crack cocaine and powder cocaine, although the same drug, were treated very differently in terms of punishments, with crack cocaine having much harsher penalties than powder cocaine.

For powder cocaine, a conviction of possession with intent to distribute carries a five-year sentence for quantities of 500 grams or more. But for crack, a conviction of possession with intent to distribute carries a five-year sentence for

only 5 grams. (“Crack Cocaine Sentencing Policy: Unjustified and Unreasonable”).

Powder cocaine was marketed as a more “sophisticated” drug, was more expensive than crack cocaine, and was most commonly found among white people. Because powder cocaine was so much more expensive, crack cocaine was more commonly found in poorer communities and communities of color.

Since the two forms of cocaine are pharmacologically indistinguishable, by dictating harsher sentences for possession of crack than for possession of powder, the law is more severely punishing the poor, who obtain the affordable form of cocaine (crack), than the affluent, who obtain the more expensive form of the same drug (powder). (Coyle 9).

Congress passed the Anti-Drug Abuse Act in 1986 requiring mandatory minimum sentences for drug offenses, even if they were first-time offenses. This act and other acts like it caused an increase in mass incarceration, especially among communities of color.

When Reagan was elected president of the United States, he made efforts to make communities across America feel safer by being hard on drugs. Ronald Reagan’s presidency sent incarceration rates flying, “the number of people behind bars for nonviolent drug law offenses increased from 50,000 in 1980 to over 400,000 by 1997” (“A Brief History of the Drug War”). Not only did Reagan do injustice to people of color by increasing drug laws, but he also cut a lot of money from much-needed programs: “Reagan slashed billions from social programs that had a direct and immediate impact on the health, education, housing, and employment opportunities of poor people and

people of color” (Lusane and Desmond 16). Similar to John F. Kennedy and Lyndon B. Johnsons’ administrations, the Reagan administration did not solve the problem at hand but instead increased tension by adding more enforcement. “Reagan’s war on drugs centered on giving police and prosecutors additional tools for enforcement and then encouraging the use of those tools against users, producers, and traffickers” (Whitford and Yates 56).

It is clear that throughout history people of color have been criminalized, demonized, and overall treated worse than their white counterparts. There have been many unjust policies in the United States but by far the group that has suffered the most due to institutionalized and systemic racism is African-Americans. Many of these policies resulted from attempts to bridge the race gap, but often these policies ultimately hurt communities of color. It is crucial that people start to understand that attempting to change individuals’ behaviors is not the solution and that personal crusades against issues have been quite unhelpful without fixing the underlying problems. Racism is as alive today as ever. Without reforming racist systems and institutions, we can not work towards mending the racial disparity in the United States. From the beginning of slavery in this country to the overcriminalization and mass imprisonment of people of color, we still have yet to get it right. Over time, people of color have been criminalized and largely imprisoned due to the racial disparity and unjust systems and institutions in the United States.

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