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Blacks' American Nightmare: Mass Incarceration since the 1970s

Relatore
Prof. Stefano Luconi

Laureanda
Chiara Schiano
n° matr.2057749/ LMLCC

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List of abbreviations

AFDC = Aid to Families with Dependent Children
ALEC = American Legislative Exchange Council
BOP = Bureau of Prisons
CORE = Congress of Racial Equality
DEA = Drug Enforcement Agency
DHHS = Department of Health and Human Services
DOJ = Department of Justice
FSA = Fair Sentencing Act
GSS = General Social Survey
HUD = Housing and Urban Development
LEAA = Law Enforcement Assistance Administration
MORE = Marijuana Opportunity Reinvestment and Expungement Act
NAACP = National Association for the Advancement of Colored People
OBRA = Omnibus Budget Reconciliation Act
OPCAT = Optional Protocol to the Convention against Torture
PDFA = Partnership for a Drug Free America
PHAs = Public housing authorities
PRWORA = Personal Responsibility and Work Opportunity Reconciliation Act
SAODAP = Special Action Office for Drug Abuse Prevention
SCLC = Southern Christian Leadership Conference
SMI = serious mental illness
SNCC = Student Nonviolent Coordinating Committee
TANF = Temporary Assistance for Needy Families
UCLA = University of California, Los Angeles
UN = United Nations

Introduction

This research intends to analyze the phenomenon of mass incarceration that has developed in the United States since the 1970s. In the U.S. context, this theme is widely discussed and criticized, particularly for the harm it has caused to the African American community. The rise of the prison population started in 1973, peaked in 2009, and has gradually declined since 2010. Today the United States still represents the third country with the highest incarceration rate after Cuba and Rwanda.¹ Blacks are the group that has been most affected by mass imprisonment. At the core of its expansion, in the 1990s, African American males faced a 29 percent possibility of being incarcerated in their lives, as opposed to 5.9 percent for Whites. In 2014, out of 1,402,404 males imprisoned, 453,500 were White and 516,900 were Black.²

As students of the master course in Modern languages for international communication and cooperation, we not only study foreign languages, with a special emphasis on translation, but we also engage in a broad range of exams that deepen our understanding of the history and culture of the countries of our interest. Exploring these subjects is essential not just for the translation practice, but more importantly, to adopt the neutral perspective that any cultural mediator should possess. To achieve this goal, I attended courses that allowed us to develop these skills, such as History of the United States of America, Sociology of racism and migration, Genders, Knowledge and Social Justice, and Anglo-American Literature. Topics that were related to the theme of this thesis were somehow discussed in each of these courses from different perspectives. All these classes provided a better understanding of how to approach my work. However, history emerged as the discipline most aligned with my project. Therefore, I decided to conduct historical research on mass incarceration. Additionally, the course in English Specialized Translation 2 was particularly useful for

¹ Ashley Nellis "Mass Incarceration Trends," *The Sentencing Project*, May 2024, last accessed 27 August 2024, <https://www.sentencingproject.org/reports/mass-incarceration-trends/>.

² Ronnie B. Tucker, "The Color of Mass Incarceration," *Ethnic Studies Review* 37-38, no.1, (2014-2015): 137.

interpreting other aspects of this topic, as it offered relevant background knowledge of the U.S. common law system, and gave me the tools to analyze the legal sources necessary to explain that historical phenomenon.

My choice was inspired by the course in History of the United States of America, which focused in particular on the history of the United States from the perspective of African Americans. We explored all the events that characterized their history from the moment the first African slaves were brought to the shores of America until the most recent cases of police brutality. Studying the history of this country from this perspective allowed us to form a more objective opinion on the United States, a country that is commonly portrayed as the land of freedom, justice, and democracy, but that failed to provide such principles to people of color. At the same time, we were suggested to watch Ava DuVernay's documentary *13th*, which deals precisely with mass incarceration.³ The course and this movie allowed me to discover different forms of discrimination, primarily rooted in racism, that African Americans had to endure in their own country. This exposure confirmed that the problem remains unsolved. Therefore, I decided to focus on this topic, as I was unaware of all these forms of oppression and of the damage that the U.S. criminal justice system had caused on the Black community up to that moment.

In the Italian context, the most famous event associated with the history of African Americans after the end of slavery is segregation, which is notorious thanks to the huge impact of the Civil Rights Movement that operated for its abolition. While there might be awareness of the injustices caused by slavery, little is known about mass incarceration. Therefore, my work aimed to provide a general overview of this phenomenon and to offer students of international cooperation, and mediation a tool to develop a critical perspective on the inconsistencies of the United States.

³ *13th*, directed by Ava DuVernay (2016; United States: Netflix, 30 September 2016), <https://www.netflix.com/watch/80091741?trackId=255824129&tctx=0%2C0%2C1977ca19-3940-441c-91ff-cc430477da2d-593451262%2C1977ca19-3940-441c-91ff-cc430477da2d-593451262%7C2%2C%2C%2C%2C%2C%2C%2CVideo%3A80091741%2CdetailsPagePlayButton>.

13th portrays mass incarceration as a new form of slavery, whereas *The New Jim Crow*'s author Michelle Alexander associated it with segregation, explaining that mass imprisonment turned out to be a new social structure to keep a racial caste system in the United States after the abolition firstly of slavery and then of segregation.⁴ Starting from these two considerations, I wondered if mass incarceration could be defined as a new form of either slavery or segregation. My goal was to identify the real common thread that connects these three major systems of oppression. To achieve this, I examined the events and data from the 1970s until today, seeking to understand how the phenomenon developed and what the current scenarios reveal.

Alexander's book constituted the main source of inspiration for my research. I also consulted both quantitative and qualitative studies on this subject, such as writings from sociologist Loïc Wacquant, and from political activist and author Angela Y. Davis. I also frequently consulted Linda K. Mancillas' book *Presidents and Mass Incarceration*, which provided a clear overview of the consequences of the choices taken by U.S. Presidents during the development of mass imprisonment and how the past administrations shaped the system.⁵ Furthermore, I examined official documents from the Bureau of Justice Statistics, which offer data on the prison population for each year, and U.S. court rulings and laws. The websites of non-profit organizations focusing on this topic were frequently used, such as The Sentencing Project and The Marshall Project. Moreover, to portray an accurate description of the experiences of those who were imprisoned during that time, I read the autobiographies of some of the most outspoken critics of the prison system, such as Malcolm X, Angela Y. Davis, Mumia Abu-Jamal, Shaka Senghor, and Patrisse Khan-Cullors.

The aim of my work was to clarify all the steps that led to the creation of this system, its past implications, all the laws that allowed its construction, the consequences it had on the African American community, and the present-day situation.

⁴ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Era of Colorblindness* (New York: The New York Press, 2010).

⁵ Linda K. Mancillas, *Presidents and Mass Incarceration: Choices at the Top, Repercussions at the Bottom* (New York: Bloomsbury, 2024).

The thesis is divided into four chapters, all introduced by a quotation from Malcolm X's speech "The Ballot or the Bullet," from which the title of this work was inspired. This choice was made to underline the fact that throughout their history, African Americans have had a hard time trying to achieve their American Dream, which as Malcolm X states looked more like an "American Nightmare."⁶

The first chapter explores the main two systems of oppression that discriminated against African Americans: slavery and segregation. It starts with a description of the rise of slavery and discusses whether the institution was rooted in a pre-existing racist ideology or driven primarily by economic motives. Then it goes through the abolition of slavery and the creation of a new oppressive institution, namely segregation. This historical overview aimed not only to highlight these two brutal forms of oppression of the Black community but also to trace the events that slowly brought to the onset of mass incarceration.

The second chapter explains how the Civil Rights Movement helped the abolition of segregation; the second chapter begins with the description of the ghetto revolts in major U.S. cities. It underlines that they emerged in a period that was filled with high hopes, and instead turned out to be just a fertile ground for the creation of a new label for African Americans, which were now associated with criminality. The following paragraphs of this chapter are the core part of this thesis, as they present the origin and rise of mass incarceration from the presidency of Richard Nixon to that of Bill Clinton. These paragraphs explore the impact of the "War on Drugs," the influence of the media in shaping more stereotypes about Blacks, the main laws causing mass incarceration, and the consequences that African American families endured.

The third chapter explores the autobiographies of famous prison activists, who were either directly incarcerated or had family members who had been affected by the criminal justice system. These memoirs, as defined by Vanassa Lynn, fall under the genre of "prison

⁶ Malcolm X, *The Ballot or the Bullet*, Speech taken on April 3rd, 1964, in Cleveland, Ohio, See YouTube Video, last accessed 29 April 2024, <https://www.youtube.com/watch?v=0ymPLDO0pOA&t=1547s>.

autobiographical narratives.”⁷ The main characteristics of this literary genre are the need to denounce the conditions of jails, and the authors’ search for redemption for the actions they committed. The stories belong to different periods and circumstances of mass incarceration. Although it does not pertain to this period, I also mention Malcolm X’s autobiography as it represents the symbol of this genre and its spread among inmates. Then, I highlight the experience of Angela Y. Davis, emphasizing her critique of the prison system. Since she was an educated anti-prison activist, she was better prepared for the discrimination she faced in jail, as she describes her journey to prove her innocence. The case of Mumia Abu Jamal offers tragic scenarios of the events occurring on death row, and it is followed by Shaka Senghor’s narrative that is strongly related to the period of mass incarceration and the “War on Drugs.” Both in Senghor’s and Cullor’s books focus on a theme which is widely discussed in the second paragraph of this chapter. Prison is for many the only solution to punish violent and tragic crimes, but the system fails to understand that many struggles of an individual’s life might bring them to commit such unlawful actions. Unfortunately, the response of the U. S. criminal justice system to these issues has always been punishing violence with more violence. The second paragraph answers the main question of the thesis, which is whether mass imprisonment may be considered a new version of slavery and segregation for African Americans.

The last chapter describes the most recent events, starting from the revolutionary election of the first African American president, Barack Obama, and Blacks’ ensuing expectations. The chapter examines Obama’s presidency with a focus on his efforts to reduce the prison population. A similar approach is adopted when I analyze the administration of Trump, which as much as Obama’s, saw the introduction of laws that aimed at limiting mass imprisonment. Despite this, Trump’s controversial racist stance is also explained. The final section of the chapter concentrates on the latest developments in mass incarceration and assesses how both President Joe Biden and Vice President Kamala Harris have advocated its solution, despite their controversial records related to the issue. The thesis concludes with

⁷ Vanessa Lynn, "Prison Autobiographical Narratives: Making Sense of Personal and Social (Racial) Transformation," *Crime Media Culture* 17, no. 1 (2019): 69.

the most recent data on the U.S. prison population and displays potential future scenarios African Americans in the current times.

Everlasting Chains

*“If you go to jail, so what? If you’re black, you were born in jail.”*¹

The 1776 U.S. Declaration of Independence guarantees the unalienable rights of life, liberty, and the pursuit of happiness. The document stated that “All men are created equal,” but if we look at the history of the United States from the perspective of African Americans who were first brought to the colonies, they enjoyed neither liberty nor equality.

According to the sociologist Loïc Wacquant, there are three “peculiar institutions” in U.S. history that put African Americans in a submissive position: slavery, the Jim Crow system, and the ghetto, which soon turned into the prison system.² Significant elements shaped the first institution and influenced the creation of the following ones. One may think these three moments are not linked, but they are deeply intertwined and have many elements in common. As the author and civil rights activist Michelle Alexander has explained, “The emergence of each new system of control may seem sudden, but history shows that the seeds are planted long before each new institution begins to grow.”³ Institutions such as slavery and segregation were legally abolished, but they have never fully disappeared, they eventually reshaped into new forms of oppression. One cannot analyze one piece of African Americans’ history without looking at what came before it. Therefore, this chapter aims to offer background knowledge to a better understanding of the more recent times and how the seeds that were planted turned the United States into the land of nightmares instead of the land of dreams for African Americans.⁴

¹ Malcolm X, *The Ballot or the Bullet*, min. 26:04.

² Loïc Wacquant, “From Slavery to Mass Incarceration: Rethinking the ‘Race Question’ in the US,” *New Left Review* 13, no.1 (January-February 2002): 41-42.

³ Alexander, *The New Jim Crow*, 22.

⁴ Malcolm X, *The Ballot or the Bullet*, min. 25:48.

1.1 Who Invented What

Conventional scholarly wisdom has it that in 1619 the first group of slaves from Africa arrived in North America.⁵ They came to a land that required a strong demand for labor, but they worked in very poor conditions. The demand could be managed in three different ways: there were conventional work contracts based on monetary nexus, indentured servitude, which could be defined as temporary servitude, and chattel slavery, whose development is considered to be linked to indentured servitude. Many European immigrants came to the United States as indentured servants, which meant that they were bound by contract to serve a master until they repaid the debt of the costs of the journey to North America.⁶ When the first African slaves reached North America, they worked with the status of indentured servants, but the inconvenience of this status was that it did not last forever. Although the words “servant” and “slave” were used interchangeably, servitude was considered more as a general definition to explain what it meant to be in servitude to someone for a limited time.

In contrast, slavery was conceived as a permanent and hierarchical status.⁷ Massachusetts was the first colony to consider the legitimization of slavery with the 1641 *Massachusetts Body of Liberties*. Its article 91 stated that “There shall never be any bond slavery, villeinage or captivity amongst us unless it be lawful Captives taken in just wars, and such strangers as willingly sell themselves or are sold to us.”⁸ Therefore, the condition of Africans was slowly moved from indentured servitude to chattel slavery, which meant that they were legally considered as personal property of their owner for an unspecified period.

⁵ Nikole Hannah-Jones et al., *The 1619 Project: A New Origin Story* (New York: One World / Random House, 2021). See also John Thornton, “The African Experience of the ‘20. And Odd Negroes’ Arriving in Virginia in 1619,” *William and Mary Quarterly* 55, no. 3 (July 1998): 421-434.

⁶ Winthrop D. Jordan, *White over Black: American Attitudes toward the Negro 1550-1812*, 2nd ed. (Chapel Hill: University of North Carolina Press, 2012), 88.

⁷ Jordan, *White over Black*, 94.

⁸ As quoted in Hugh Thomas, *The Slave Trade: The Story of the Atlantic Slave Trade, 1440-1870* (New York: Simon and Schuster, 1997), 453.

What was that made the Black people eligible for this status?⁹ Winthrop D. Jordan argues that more than discrimination caused by the different religions, which was easily solvable with Christian baptism, and appearance, there were “other qualities” that determined the future of the slaves. Their use and customs were never accepted, it was their habits, gestures, and languages that made them be perceived as savages.¹⁰ In the 1660s Virginia and Maryland officially institutionalized slavery and they were followed by the Carolinas and New York in the next decades.¹¹

The legalization of the first discriminatory institution came together with the enactment of a set of rules, commonly known as slave codes. The slave codes define the legal status of the slave and all their limits and restrictions. The slave is nothing more than a belonging of the master, who “may sell him, dispose of his person, his industry and his labor”, the slave “can do nothing, possess nothing, nor require anything but what must belong to his master”, moreover the slaves cannot have legal representation or be a party of a civil suit or criminal matter, if against a white person. The slaves have movement restrictions, they are forbidden to ride horses, learn to read and write, have any assembly, carry any arm, or weapon, or have marriages with white people.¹²

It seems clear that the first seeds of discrimination were already planted with the slave codes. Yet it is still difficult to establish who invented what. Did slavery consolidate discrimination in North America and then in the United States, or was it set up due to the already fixed prejudice of European colonizers? Answering this question is not easy, as many scholars support both the first and the second hypothesis. The economic motive is surely undeniable, but historians such as Carl N. Degler and David Elitis affirm that this was not the only reason. Historical evidence proves that discriminatory behaviors towards Black

⁹ The ‘B’ in ‘Black’ is capitalized here and hereafter, unless the lowercase ‘b’ is part of a quotation. See Kwame Anthony Appiah, “The Case for Capitalizing the B in Black”, *Atlantic*, 18 June 2020, last accessed 27 April 2024, <https://www.theatlantic.com/ideas/archive/2020/06/time-to-capitalize-blackand-white/613159/>.

¹⁰ Jordan, *White over Black*, 132.

¹¹ Jordan, *White over Black*, 111.

¹² “Extracts from the American Slave Code,” *Philadelphia Female Anti-slavery Society*, (1800), n.d., last accessed 27 April 2024, <https://www.loc.gov/item/12030696/>.

people were practiced before the institutionalization of slavery. Before the arrival of Africans, the natives were the first dark-skinned and non-Christian group that was mistreated in North America.¹³ Furthermore, the infliction of physical punishment for convicts was not an unknown practice in the European world.¹⁴ Thus, the enslavement of Africans was just another declination of European colonialism. Colonizers could never include in their image of society those who lived “beyond the oceans,” because the European perception of the world had already been altered by the previous years of European colonialism.¹⁵

The opposite narrative conceives the appearance of racism only after the institutionalization of slavery, as quoted by Michelle Alexander: “During the four centuries in which slavery flourished, the idea of race flourished as well.” In her opinion, racism was born after the abolition of slavery to justify why such strong practices were inflicted on African slaves, and why they still had to be imposed on them in other forms in case slavery had been abolished. From that moment on, “the notion of white supremacy —proved far more durable than the institution that gave birth to it.”¹⁶ Alexander’s perspective clarifies the reasons why African Americans had such an unpleasant future from the abolition of slavery.

The ratification of the XIII amendment to the Constitution outlawed slavery in the United States in 1865. Still, rather than being the first improvement of the legal status of African Americans, this seems to be more the first lie that was told to them. Slavery and servitude were abolished “except as a punishment for crime whereof the party shall have been duly convicted.”¹⁷ Due to this exception, black people were forced into everlasting chains and in undercast positions in U.S. society.

¹³ Carl N. Degler, “Slavery and the Genesis of American Race Prejudice,” *Comparative Studies in Society and History* 2, No. 1 (October 1959): 53.

¹⁴ Davis Elitis, “Europeans and the Rise and Fall of African Slavery in the Americas: An Interpretation,” *American Historical Review* 98, No.5 (December 1993): 1405.

¹⁵ Elitis, “Europeans and the Rise and Fall of African Slavery in the Americas,” 1419.

¹⁶ Alexander, *The New Jim Crow*, 26.

¹⁷ National Constitution Center, “13th Amendment-Abolition of Slavery,” last accessed 30 April 2024, <https://constitutioncenter.org/the-constitution/amendments/amendment-xiii>.

1.2 Unreachable Freedom

The year 1865 witnessed both the abolition of slavery and the foundation of the Ku Klux Klan.¹⁸ While one of the legal accomplishments for African Americans was achieved, the dawn of new forms of hate was rising. As we will see, the creation of the organization was not the only step back after emancipation, but its origin helps us understand how the former slave owners and white supremacists perceived even just a remote possibility of having a more equalitarian society in the future.

The Civil War brought disruption and uncertainty, and the abolition of slavery caused major economic problems. The challenge was to rebuild the South, and most importantly to recreate new ways to retain the social superiority that the Southern Whites had reached during the previous period. Emancipation produced what Wacquant calls a “double dilemma” for the white society that faced the lack of both workforce and distinction. The loss of the labor force would have resulted in the lack of workers to restore the economy, and the idea of “amalgamation” was inadmissible since the seeds of racism had already been planted.¹⁹ To cope with the shortage of workers, Southern States introduced a set of laws known as Black codes, and to avoid interracial relationships the physical division of the African American community turned out to be the best solution for White Americans. Later, the Jim Crow Laws gave birth to segregation, the second “peculiar institution” of the United States.

As stated by Alexander: “The purpose of the black codes in general and the vagrancy laws in particular was to establish another system of forced labor.”²⁰ Between 1865 and 1866 many Southern States such as Florida, North Carolina, Louisiana, Mississippi, and Texas enacted a set of laws limiting the freedom of former slaves. What was once regulated by the slave codes, was reestablished with the Black codes. The analogies of these oppressive regulations show that creating an improvement for the condition of African Americans, even after the XIII amendment, was not an option. The Black codes imposed prohibitions on both

¹⁸ Kristofer Allfeldt, *The Ku Klux Klan: An American History* (Cheltenham: The History Press, 2024), 17.

¹⁹ Wacquant, “From Slavery to Mass Incarceration,” 46.

²⁰ Alexander, *The New Jim Crow*, 28.

the personal and the public spheres of the formerly enslaved people's lives: intermarriages and gatherings were still forbidden, work contracts did not protect any right or necessity, and if not respected workers had to pay fines or be arrested, furthermore, arms could not be carried for self-defense.²¹ In addition, this legislation defined the status of vagrants. The Mississippi Black Codes, for example, stated that all rogues, vagabonds, beggars, runaways, and whoever was unemployed were considered vagrants. Those found in such condition had to pay a tax with money that, at the time, they did not possess, and if necessary arrested and sent to prison.²² According to activist and author Angela Y. Davis, the penitentiary system, conceived as the place where one rethinks about the wrongs committed and gets reeducated, made its first appearance in the United States around the American Revolution. The Black codes were laws that implicated that the person charged is black and it was right at this moment that the Black race started to be criminalized.²³ The Black codes condemned the only lifestyle freed people could feasibly adopt during a period of significant instability and disorientation.

The end of the Civil War was followed by a period commonly remembered as the Reconstruction Era. By that time, the main goal of the institutions was to repair the Southern States' political and economic infrastructure, which the war had destroyed. Congress offered support to the former slaves through the Freedmen's Bureau, a federal agency founded in 1865 to assist the families in need by offering them food, clothing, housing, education, healthcare, and jobs. Furthermore, it conferred new rights upon African Americans. The XIV amendment was ratified in 1868 and guaranteed full citizenship and protection to the people born or naturalized in the United States. After two years, in 1870, the XV amendment extended the right to vote to all U.S. citizens regardless of "race, color, or previous condition of servitude."²⁴

²¹ "(1866) Texas Black Codes," BlackPast, B., published 17 December 2010, last accessed 14 May 2024, <https://www.blackpast.org/african-american-history/1866-texas-black-codes/>.

²² "(1866) Mississippi Black Codes," BlackPast, B., published 15 December 2010, last accessed 14 May, 2024, <https://www.blackpast.org/african-american-history/1866-mississippi-black-codes/>.

²³ Angela Y. Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003), 26-28.

²⁴ Alexander, *The New Jim Crow*, 29

Unfortunately, it soon became clear that these federal provisions were mere formalities, and their inconsistencies gave space for limitations on the civil rights of African Americans. Once the problem of the lack of workforce was solved, nothing could stop white supremacists from dealing with their other dilemma: how to keep the races separated. Segregation “consisted of an ensemble of social and legal codes that prescribed the complete separation of the ‘races’ and sharply circumscribed the life chances of African Americans.”²⁵ The idea of creating a physical separation of the races was already within the Black codes if we consider that they limited the freedom of movement of Black people not allowing them to move in areas where they were not forced to live and work in rural spaces as they have always had. Consequently, the codes relegated African Americans only to some job fields. The northern cities were the first to gradually practice separation in many areas of social life, such as public transport, waiting rooms, bathrooms, schools, churches, hospitals, and even cemeteries.²⁶ This new wave of hate reached the Southern States too, meanwhile, the Supreme Court pronounced a series of decisions that paved the way to the institutionalization of segregation. The 1873 Slaughterhouse Cases limited the equality guaranteed by the XIV amendment. The verdict established a distinction between state and federal citizenship in civil rights matters. The state law held the protection and safeguarding of the U.S. citizen's civil rights. This new interpretation limited the power of federal government in civil rights issues.²⁷ In 1875 the sentence *United States v. Cruikshank* strengthened what had been already decided two years before. The federal institutions could intervene only when states violated citizens’ rights, but could do nothing if the plaintiff suffered a wrong by a person.²⁸ The case *Pace v. Alabama* of 1883 prohibited unions between people of different races to avoid miscegenation, which according to ideologies such as the “one drop rule,” considered people as Blacks even in case a person showed just one discernable trace of African feature.²⁹

²⁵ Wacquant, “From Slavery to Mass Incarceration,” 46.

²⁶ Wacquant, “From Slavery to Mass Incarceration,” 46.

²⁷ “Slaughterhouse Cases, 83 U.S. 36 (1872),” Justia U.S. Law, last accessed 26 May 2024, <https://supreme.justia.com/cases/federal/us/83/36/>.

²⁸ “United States v. Cruikshank, 92 U.S. 542 (1875),” Justia U.S. Law, last accessed 26 May 2024, <https://supreme.justia.com/cases/federal/us/92/542/>.

²⁹ David A. Hollinger, “The One Drop Rule & The One Hate Rule,” *Daedalus* 134, no.1 (2005): 18.

The example of Homer Adolph Plessy confirms the enforcement of the “one drop rule.” At the time of his arrest, Plessy described himself as “seven-eighths Caucasian and one-eighth African blood.” In 1892, Plessy bought a ticket to travel to New Orleans and sat in the white-only car of the train. His choice violated an 1890 Louisiana state law that provided separate railway carriages for white and colored races. Plessy decided to act as a plaintiff against Judge Hon. John H. Ferguson, convinced that the accusation moved against him violated the Equal Protection Clause of the XIV amendment. The Supreme Court dismissed Plessy’s claim and directed that if Blacks and Whites received equal treatment in the separated public transportation, segregation could not be considered unconstitutional. The Plessy v. Ferguson verdict validated the doctrine of “separate-but-equal” and segregation eventually became lawful on interstate railroads. In addition, the decision confirmed what was established by *United States v. Cruikshank* and added that the Court could not apply the XIV amendment on “social rights,” like choosing where to sit on public transport. Plessy v. Ferguson is conventionally considered the federal sentence that started segregation in the U.S. on a constitutional level: as long as Blacks enjoyed the same quality of service in public life and spaces, the fact that they were separated from whites was not considered a discriminating measure. The principle of “separate-but-equal” was extended to public schools in 1899 with the case *Cumming v. Board of Education*.³⁰

Significant results for the abolition of segregation occurred in the 1940s. The 1941 executive order 8802 abolished discrimination based on race and ethnicity in defense plants. Despite this, the order was once again issued with a double purpose since the U.S. was about to enter World War II and could not show to the world any symptom of inconsistency between what it represented and what it promoted.³¹ During World War II, the United States presented itself as the land of freedom and democracy in opposition to the tyranny of the European governments that it was fighting. The country had the eyes of the whole world on it, and it failed to stick to the model that it wanted to export. Segregation became an

³⁰ Molefi Kete Asante, *The African American People: A Global History* (New York: Routledge, 2012), 140.

³¹ National Archives, “Executive Order 8802: Prohibition of Discrimination in the Defense Industry (1941),” last modified 8 February 2024, last accessed 26 May 2024, <https://www.archives.gov/milestone-documents/executive-order-8802>.

acknowledged phenomenon, and the U.S. could not pretend anymore to bring the solution to totalitarianism in Europe while not providing equal treatment to all of its citizens. Nevertheless, this was a matter that could not be taken care of while the conflict was still ongoing, and as it had already happened in U.S. history, a dialogue on how to improve the condition of African Americans was delayed until the postwar years.

Although he had been a member of the Ku Klux Klan at the beginning of his political career, in 1946 President Harry S. Truman established the President's Committee on Civil Rights to examine the state of the civil rights in the country. In 1947, the Committee released the report *To Secure These Rights*, which stated the U.S. commitment to propose a series of laws that would have slowly eliminated segregation in most areas of social life.³² A remarkable turning point that truly prepared the ground for its ending was the sentence *Brown v. Board of Education of Topeka* of 1954, which was followed by *Brown II* in 1955. The sentence *Brown* made the doctrine of "separate-but-equal" unconstitutional, but it still had some limitations, such as the weaknesses of *Brown II* that gave the possibility to desegregate schools "with all deliberate speed."³³ Although the sentence marked the end of segregation in public education, it was the starting point of the Civil Rights Movement. The non-violent and voluntary approach started in 1955 and all the events that have characterized it undoubtedly played a huge role for the end of segregation.

In 1955, the civil rights organization National Association for the Advancement of Colored People (NAACP) planned to desegregate the public transport in Montgomery, Alabama. To do so, it needed a representative, a face that guided the protest and it was best believed that it had to be a respectable woman. Rosa Parks was the secretary of the local chapter of the NAACP when she decided not to give up on her seat in the white area of a bus after returning from work. She was arrested and spent some days in jail before she got released with the help of the organization. Parks was the candidate the NAACP was looking for, and her experience in the group made her accept the proposal offered by Edgar Daniel

³² President's Committee on Civil Rights, *To Secure These Rights* (New York: Simon and Schuster, 1947).

³³ "Brown v. Board of Education (1954)," National Archives, last reviewed 18 March 2024, last accessed 17 May 2024, <https://www.archives.gov/milestone-documents/brown-v-board-of-education>.

Nixon to become the symbol of the bus boycott movement.³⁴ To create a well-organized protest, Nixon, Ralph D. Abernathy, and Fred Gray founded the Montgomery Improvement Association and chose the Reverend Martin Luther King Jr as its president. The bus boycott lasted a year. It was a well-structured protest that allowed African Americans to show their disapproval of the segregation of public transport. The association assisted whoever was taking part in the campaign. Those who had to get to work could benefit from pool cars devised as replacement for all the people who could no longer take the bus to get to their workplace. The boycott caused great discomfort in Montgomery, and the media started to pay attention to what was going on in the capital of Alabama. After one year of protest, in December 1956, the Supreme Court confirmed the decision of the United States District Court of Alabama in the Browder v. Gayle case that had already declared the segregation on the Montgomery's public transport unconstitutional.³⁵

Another remarkable nonviolent protest started in 1960 in Greensboro, North Carolina. Four African-American university students from North Carolina A&T University decided to buy stationery from Woolworth and sat in the store's café although it was for white patrons only. Their example influenced other young university students to take part in the protests and later that year the Student Nonviolent Coordinating Committee (SNCC) was founded to create a guide for the student protests.³⁶ In 1961, a diverse group of activists adopted a similar demeanor, and decided to test a decision of the Supreme Court that forbid segregation in interstate transportation. As many states still enforced segregation, despite the federal decision, the protesters started to use the transport from the companies Greyhound and Trailways in Washington D.C. as if they were fully integrated to see what reaction they would get in return. The Congress of Racial Equality (CORE) organized the rides in other states of the South. White supremacists and the police antagonized that strategy, as they often attacked

³⁴ Rosa Parks and Jim Haskins, *La mia storia: Una vita coraggiosa*, trans. Chiara Libero (Milan: Mondadori, 2021), 78.

³⁵ "Browder v. Gayle, 142 F. Supp. 707 (M.D. Ala. 1956)," Justia U.S. Law, last accessed 23 May 2024, <https://law.justia.com/cases/federal/district-courts/FSupp/142/707/2263463/>.

³⁶ John A. Kirk, *Martin Luther King and the Civil Rights Movement* (Harlow: Pearson, 2013), 46.

the activists in Alabama. In November 1961 the Interstate Commerce Commission, pressured by the Kennedy administration, abolished segregation in interstate transportation.³⁷

By that time, Martin Luther King Jr. had already become the symbol of the Civil Rights Movement and the president of the Southern Christian Leadership Conference (SCLC) founded in 1957. Even if he did not arrange many of the protests on the first line, he will forever be remembered as the leader of civil disobedience. King, together with other civil rights activists such as A. Philip Randolph and Bayard Rustin, organized what is considered to be the core moment of the Civil Rights Movement. On that occasion he delivered his famous speech “I Have a Dream” and thanks to the rally, more than 250.000 people came together with the purpose of fighting for equality.³⁸ President Lyndon B. Johnson eventually signed the Civil Rights Act in 1964, repealing segregation in public spaces and in jobs. Much still had to be done for voting rights, as many African Americans were still struggling to register to vote. From March 7 to 24, 1965, the SNCC together with SCLC guided nonviolent marches in Alabama. Their impact brought to the approval of the Voting Rights Act in 1965, which prohibited literacy tests for those who had to register to vote, it imposed federal supervision on registration provisions in case voter turnout failed to reach 50 percent in the South, in addition, the law required the prior approval of the United States Department of Justice (DOJ) for changes to the electoral laws of individual states to prevent measures that would restrict the right to vote.³⁹

The Civil Rights Movement provided huge progress for African Americans, but it also gave the possibility to the white public opinion to create a new stereotype of the community. The media helped build the ideology of “law and order” right exactly in the Civil Rights period. White supremacists depicted the nonviolent protesters as troublemakers who jeopardized the stability of the country. Therefore, once again a whole community started to

³⁷ Kirk, *Martin Luther King*, 52.

³⁸ Kirk, *Martin Luther King*, 73.

³⁹ Asante, *The African American People*, 281.

be associated with criminality. After the approval of the laws that ended segregation, the attention shifted from “segregation to crime.”⁴⁰

African Americans were filled with hope, but they soon realized that it was just another wishful thinking, as their biggest American nightmare was just starting. A new symbolic representation of the Black race was falling on them: if in the slavery period being Black meant to be a slave, and the segregation relegated them to second-class citizenship, the new phenomenon of mass incarceration was about to label them as criminals.⁴¹

⁴⁰ Alexander, *The New Jim Crow*, 41-42 (quote 42).

⁴¹ Alexander, *The New Jim Crow*, 192.

An American Nightmare: Mass Incarceration

“We don’t see any American Dream, we’ve experienced only the American Nightmare. We haven’t benefited from America’s democracy, we’ve only suffered from America’s hypocrisy.”¹

2.1 A Fertile Ground for Criminalization: The Ghetto Uprisings

The Civil Rights Act and the Voting Rights Act are remarkable achievements in the Black Freedom Struggle. However, they did not provide complete equality in all aspects of social life. While the South was going through desegregation, steady problems affected major northern and western cities. The laws did not bring new hopes and solutions for the residents of the ghettos outside the South, who did not value the new legislation as much as expected. Socio-economic instability and discrimination were still largely present in their environment and represented the greatest concerns. The movement leaders had neglected these necessities for a long time by focusing on other priorities, but now it was time to address such inconvenient conditions.²

The previews chapter mentioned Wacquant's three “peculiar institutions” of control for African Americans. If slavery and segregation were fixed systems of oppression, the ghetto generated a more subtle means of control. White people never fully accepted integration with the Black community that lived in the cities. They hardly ever supported welfare and social programs and had the habit of moving to areas where they would avoid contact with other African Americans.³ A ghetto is a place where people with homogeneous ethnical backgrounds live together because they have been marginalized by a dominant group that

¹ Malcolm X, *The Ballot or the Bullet*, min. 25:40.

² Jeanne Theoharis, “Alabama on Avalon: Rethinking the Watts Uprising and the Character of Black Protest in Los Angeles,” in *The Black Power Movement: Rethinking the Civil Rights-Black Power Era*, ed. Peniel E. Joseph (New York: Routledge, 2006), 30.

³ Wacquant, “From Slavery to Mass Incarceration,” 49.

engages them under “stigma, constraint, territorial confinement, and institutional encasement,” thus creating what Wacquant calls an “ethnoracial prison.”⁴ In addition, according to the sociologist, there are analogies between the ghetto and the penitentiary system: they both create a dedicated space for a specific group. As we will see, the events occurring in the ghettos of the Northern cities in the post-Civil Rights era and the rise of the number of convicts in jails are strongly linked. This chapter aims to trace the landmark moments that caused what we consider to be the most damaging and impactful U.S. institution for African Americans: mass incarceration. Alexander has renamed this period “the New Jim Crow,”⁵ and to spot the similarities between segregation and the phenomenon of a growing prison population we must go back to its beginning. It is conventionally believed that mass incarceration started in the 1970s during Richard M. Nixon’s administration. His presidency began in 1969 and lasted until 1974, when he resigned due to the Watergate scandal. Professor Linda K. Mancillas states that while he was in charge, the prison population started to rise, thanks to the creation of the Drug Enforcement Agency (DEA), the Office of Drug Abuse Law Enforcement, and the Bureau of Narcotics.⁶ Anyway, the Civil Rights Movement and the riots of the urban ghettos in the 1960s both played a huge role in shaping it.

When African Americans moved from the South to northern and western cities to escape segregation, they had high hopes on how their life conditions would have improved.⁷ Unfortunately, dominant groups found a new way to marginalize them, and the ghetto became a place of alienation and isolation. The cities were potential promised lands where racism was not predominant, but eventually, it could be found everywhere. Moreover, the communities also had to bear the disadvantages of poverty. Such minority groups developed the social consciousness of representing “the entrapped underclass.”⁸ In 1967, The National

⁴ Wacquant, “From Slavery to Mass Incarceration,” 50-51.

⁵ Alexander, *The New Jim Crow*, 57.

⁶ Mancillas, *Presidents and Mass Incarceration*, 44.

⁷ Isabel Wilkerson, *The Warmth of Other Suns: The Epic Story of America’s Great Migration* (New York: Random House, 2010), 17.

⁸ Joseph Boskin, “The Revolt of the Urban Ghettos, 1964-1967,” *The Annals of the American Academy of Political and Social Science* 382, (March 1969): 5.

Advisory Commission on Civil Disorders, a task force created by President Lyndon B. Johnson to explore the reasons behind the escalating urban riots of the previous years, published a report highlighting African Americans' main complaints.⁹ According to the report, there were three levels of grievance: the first regarded the police practices, underemployment, and inadequate housing; the second addressed unequal education, poor recreational facilities and programs, and ineffectiveness of the political structure; and the third concerned disrespectful white attitudes, discriminatory administration of justice, inadequacy of federal and welfare programs.¹⁰ Between 1964 and 1967, almost one hundred major revolts took place,¹¹ and according to the quantitative study that sociologist Daniel J. Myers conducted with the event history analysis method, the main reason that caused urban riots during the 1960s was unemployment. In his research, Myers did not ignore the previous competition theory of 1992 of sociologist Susan Olzak, who stated that in a racist or migratory context, Whites dominated respectable occupations. Consequently, Blacks were relegated to low-prestige and low-paid jobs. Despite this, thanks to his quantitative analysis, Myers concluded that in a situation of discontent, Whites and Blacks may protest against the rival group. Therefore, if the Blacks were the ones protesting it meant that their condition was the most unbearable. The bigger the collective violence, the higher the unemployment rates of African Americans.¹²

In addition, Myers' study provided further explanations on why the riots had developed to such an extent in all the major cities. He believed that social networks contribute to the distribution of the revolts. These can vary from family and friends' connections to mass media sharing the events. Some riots surely received more attention than others in the national news, but even when national coverage was lacking, it was compensated by the regional one thanks to the local news or by groups sharing information on common problems.

⁹ Clyde Haberman, "The 1968 Kerner Commission Report Still Echoes Across America," *The New York Times*, (23 June 2020), last modified 7 October 2020, last accessed 1 June 2024, <https://www.nytimes.com/2020/06/23/us/kerne-commission-report.html>.

¹⁰ Boskin, "The Revolt of the Urban Ghettos, 1964-1967," 9.

¹¹ Boskin, "The Revolt of the Urban Ghettos, 1964-1967," 2.

¹² Daniel J. Myers, "Racial Rioting in the 1960s: An Event History Analysis of Local Conditions," *American Sociological Review* 62, no.1, (February 1997): 109.

Therefore, the “contagiousness of a phenomenon,” which is strongly influenced by the temporal and special proximity, and size and severity of the event, increases the diffusion of the occurrence. As a result of his research, Myers accounted for 410 riots in U.S. cities between 1961 and 1968.¹³

During the 1960s, the Watts upheaval in Los Angeles, which started on August 11, 1965, was the city uprising that made the problem of riots evident to the public eye. For two decades before the outbreak of the protest, Black Angelenos had already shown dissent for the lack of school, housing, and job integration. The citizens had reached a considerable level of disillusionment towards their life opportunities.¹⁴ On that summer day, Marquette Frye and his brother Ronald were pulled over by a police officer, and after Marquette failed the alcohol test, an altercation started between the officer and him. Ronald joined the discussion and many people in the surroundings did the same, to the point that even the boy’s mother arrived at the scene. The rebellion lasted until August 16, and gained widespread attention in the news. Almost 34 people died, hundreds were injured, and both White and Black’s people shops were damaged. Despite the extent of the revolt, the Watts rebellion did not improve the situation of the Black community in Los Angeles, but it rather fortified the stereotypes depicting them as violent. The actions were perceived less as a call for help than as a new way to create disorder. For the media, it “became easier to describe rioters as indiscriminate and criminal than to grapple with the substance of the uprising.”¹⁵ Moreover, the Civil Rights Movement, particularly after its achievements, was then associated with unlawful behaviors. While it was true that crime rates were rising, conservative politicians and public opinion could not distinguish the activities of the nonviolent protests, the urban riots, and the regular crime. In this unpleasant environment the rhetoric of “law and order” first gained ground.¹⁶

At the beginning of his presidency, Johnson was convinced that an effective way to shrink poverty, unemployment, and unrest, could be achieved by focusing on the improvement of education, health care, and housing. The Great Society’s domestic programs

¹³ Myers, “Racial Rioting in the 1960s: An Event History Analysis of Local Conditions,” 108.

¹⁴ Theoharis, “Alabama on Avalon,” 30.

¹⁵ Theoharis, “Alabama on Avalon,” 50.

¹⁶ Alexander, *The New Jim Crow*, 42.

launched by the president aimed at solving the economic and social problems behind crime.¹⁷ Despite his visionary approach to the solution of the issue, his political rivals accused him of being unconcerned about public safety. Therefore, the President was forced to address the country's disorders. Before being criticized by his opponents, the president believed that crime control should be under the local authorities' supervision, but his federal initiatives on the matter were the first steps towards mass incarceration. The mission of the Law Enforcement Assistance Administration, established within the DOJ by the 1965 Law Enforcement Administration Act, was to strengthen crime-control programs, especially in low-income urban districts, with innovative methods, through stricter laws, or thanks to research programs that would offer more knowledge on the development of the drug diffusion.¹⁸ In 1967, Johnson confirmed to be an "anti-crime leader" with the announcement of the Omnibus Crime Control and Safe Streets Act, which was the first federal program working as a block grant; its purpose was to distribute funds to state and local law enforcement agencies.¹⁹ During these years, the media and Johnson himself started to associate the problem of crime, safety, danger, and instability with the word "war." For example, the president argued that "I hope that 1965 will be regarded as the year when this country began in earnest a through, intelligent, and effective war on crime."²⁰ Phrases such as "War on Poverty" and "War on Crime" became the designation used by most politicians to address a situation that, in their opinion, could be solved only through aggressive and violent means as those of a war.

The association of poverty with crime was predominating in those years in part because the Federal Bureau of Investigation's reports tended to overstress street offences and to overlook white-collar felonies.²¹ It was believed that, in Black culture, criminality was a

¹⁷ Mancillas, *Presidents and Mass Incarceration*, 15.

¹⁸ Mancillas, *Presidents and Mass Incarceration*, 23.

¹⁹ Mancillas, *Presidents and Mass Incarceration*, 21.

²⁰ Lyndon B. Johnson, "Statement by the President on Establishing the President's Commission on Law Enforcement and Administration of Justice" 26 July 1965. Last accessed 6 June 2024, <https://www.presidency.ucsb.edu/documents/statement-the-president-establishing-the-presidents-commission-law-enforcement-and#:~:text=I%20HOPE%20that%201965%20will,by%20crime%20must%20be%20arrested.>

²¹ Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge, MA: Harvard University Press, 2016), 24.

choice of the individual, not a condition into which one would fall due to institutional abandonment.²² For former prisoners it was not easy to find a job once released, therefore they would often use penal welfare programs to survive.²³ Under this problematic perspective, the poor were not helped but criminalized for their unlawful actions. Even those who turned to crime for survival could not be justified.²⁴ In the United States, there was a rehabilitative conception of the prison, but after the 1960s reforms, a shift occurred, which came to be known as the “punitive turn.” This radical change started thanks to Johnson’s initiatives, but it consolidated only during Nixon’s presidency.

2.2 The Nightmare’s Beginning: The Nixon Presidency

Richard M. Nixon conducted his presidential campaign in extremely turbulent times for the country. It was in part thanks to this instability that the Republican candidate managed to win the 1968 elections. The South’s loyalty to the Democratic Party diminished after Johnson’s administration. His support for the cause of the Civil Rights Movement showed that the president endorsed racial integration and was charged with betraying Democrats’ usual protection of the States’ rights. By the end of his term, although he contributed to the introduction of law enforcement, Republicans were still accusing him of being too “soft on crime.” Nixon represented the right candidate for the time, he seemed neither too conservative nor too detached from the southern White’s needs and concerns that were not prioritized anymore by the Democrats. Therefore, Nixon’s presidency started within the frame of what is commonly known as the “Southern Strategy.”²⁵ After winning the elections, Nixon wanted to reassure all the citizens who had helped him win. Firstly, he proposed the appointment of conservative and anti-civil rights Supreme Court Judges.²⁶ Secondly, although he did not antagonize desegregation, he silently pleased the Southern electorate by

²² Reuben Jonathan Miller, “Race, Hyper-Incarceration, and US Poverty Policy in Historic Perspective,” *Sociology Compass* 7, no.7, (July 2013): 581.

²³ Miller, “Race, Hyper-Incarceration, and US Poverty Policy in Historic Perspective,” 580.

²⁴ Elisabetta Grande, *Il terzo strike: La prigioniera di America*, (Palermo: Sellerio Editore, 2007), 31.

²⁵ Michael A. Genovese, *The Legacy of Watergate and the Nixon Presidency: Nixon’s Curse* (Cham: Palgrave MacMillan, 2023), 20.

²⁶ Elizabeth Drew, *Richard M. Nixon* (New York: Henry Holt and Company, 2007), 44.

speaking out against busing, the practice that enabled school integration by providing transport to students from their area to different neighborhoods to create racially mixed classes.²⁷ Most importantly, the President's main goal was to consolidate the conservatives' validation as he described himself as a "defender of law and order."²⁸

Social unrest was not the only matter that Nixon had to deal with. Since the late 1960s drugs had crossed the U.S. border and were spreading all over the country. Between 1970 and 1975, there was a change in the South American drug market. Colombians were already used to smuggle other types of goods, and started to buy cheap coca paste from Bolivian and Peruvian peasants, and brought it to major cities such as Miami, New York, and Los Angeles.²⁹ Pablo Escobar is commonly remembered as the most famous Narcos because he introduced innovations to the market. For instance, working with Cuban dealers in Miami and New York, he created what can be considered an oligopoly in those metropolises.³⁰ If in 1969, 52 pounds of drugs were circulating in the country, in 1971 the number rose to 436 pounds.³¹ Drug abuse was escalating but in the era of the "punitive turn," addiction was not considered an illness, but as it had happened with poverty, it became another synonym for crime. Congress passed the Comprehensive Drug Abuse Prevention and Control Act in 1970 as one of the most remarkable law enforcement measures to cope with dependence. In a speech given on 17 June 1971, Nixon declared drug abuse as "America's public enemy number one," the "War on Drugs" officially started, and on that same day, he established the Special Action Office for Drug Abuse Prevention (SAODAP).³² The office aimed to take addiction under federal control with the help of programs that would study the diffusion of the phenomenon among young generations - especially Vietnam's veterans who were using drugs to cope with the war's trauma - with the hope of developing plans for rehabilitation.³³

²⁷ Drew, *Richard M. Nixon*, 42.

²⁸ Mancillas, *Presidents and Mass Incarceration*, 30.

²⁹ Paul Gootenberg, *Andean Cocaine: The Making of a Global Drug* (Chapel Hill: The University of North Carolina Press, 2008), 304.

³⁰ Gootenberg, *Andean Cocaine*, 306.

³¹ Gootenberg, *Andean Cocaine*, 307.

³² Mancillas, *Presidents and Mass Incarceration*, 37.

³³ National Archives, "FG 6-19 (Special Action Office for Drug Abuse Prevention) (White House Central Files: Subject Files)," last accessed 6 June 2024, <https://www.nixonlibrary.gov/finding-aids/fg-6-19-special-action-office-drug-abuse-prevention-white-house-central-files-subject#>.

Another pivotal milestone of this battle was the 1973 foundation of the Drug Enforcement Administration (DEA), resulting from the merger of the Bureau of Narcotics and Dangerous Drugs, the Office for Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, and the Narcotics Advance Research Management Team. The DEA's main purpose is to investigate and prosecute all those who violate the laws on substance use, to coordinate with local, state, federal, and international institutions to share information and new resources on the development of drug abuse, and increase the scientific knowledge of addiction.³⁴

Nixon's "get-tough" on crime approach became more evident when he started to support the mandatory minimum sentencing position of New York State's Governor Nelson Rockefeller.³⁵ Mandatory minimums are one of the main causes of mass incarceration, particularly in the following decades when crime rates rose even more. These are "legal provisions in each state and the federal government that require a specific minimum prison term for certain crimes, regardless of individual circumstances."³⁶ As we will see, these measures made sense if applied to violent crimes, but they were mainly used for lawsuits that dealt with non-violent matters, such as drug possession or abuse.³⁷ Aside from this, the President's approach created a dual perception of the actors participating in this market: users and dealers. White middle-class men who belonged to the first group were seen as the victims, while the second ones were the enemy to defeat.

During the Nixon administration addiction was not associated just with criminality, since anti-drug money was allocated to prevention and rehabilitation, too. Although the prison population did not increase as much as it would in the following years, from the start of his 1968 political campaign as a White House candidate, Nixon did not miss a chance to

³⁴ U.S. Department of Justice, "Drug Enforcement Administration," last accessed 5 June 2024, <https://www.justice.gov/doj/organization-mission-and-functions-manual-drug-enforcement-administration>.

³⁵ Mancillas, *Presidents and Mass Incarceration*, 40.

³⁶ Ashley Nellis, "How Mandatory Minimums Perpetuate Mass Incarceration and What to Do About It," in *The Sentencing Project*, (25 January 2024): 1.

³⁷ Nellis, "How Mandatory Minimums Perpetuate Mass Incarceration and What to Do About It," 1.

express his critical and problematic position on crime. It was the beginning of a new nightmare for the U.S. population that would affect in particular African Americans.

2.3 Blacks' American Nightmare: Mass Incarceration

After Nixon's resignation, President Gerald Ford took charge in 1974. He did not appeal to the conventional rhetoric of "law and order," but shifted the focus to maintaining "domestic tranquility."³⁸ He did not overlook the crime issue and committed himself to proposing the creation of new federal prisons and introducing mandatory incarceration for offenders using dangerous weapons, for those committing aircraft hijacking (as in the case of Melvin and Jean McNair, members of the Black Panther Party, who had hijacked a plane to flee to Algeria in 1972)³⁹, kidnapping, for traffickers of hard drugs, or those who caused personal injury.⁴⁰ In 1976, Democrat Jimmy Carter became the new president of the United States. With respect to public safety, he turned out to be a visionary politician; he was aware that the real solution to criminality was to create new job opportunities and cope with economic stagnation. In his opinion, crime was a societal problem; he wanted to reform the federal Law Enforcement Assistance Administration (LEAA) to prevent wrongdoings and provide reeducation for inmates.⁴¹

In the early 1980s, white conservatives could not bear the too-permissive approach of the Democratic party concerning criminality and welfare. The country was going through economic stagnation, and it was believed that the funds allocated for benefit programs constituted a significant expense. The Aid to Families with Dependent Children (AFDC) was a federal welfare program, active since 1962, and by the 1980s it was also the most criticized one. The poor were once again blamed for being unwilling to work, but in reality, in the economy of the time, they could do nothing but accept the aid provided by the government.

³⁸ Mancillas, *Presidents and Mass Incarceration*, 48.

³⁹ Chris Bockman, "The Black Panther who hijacked a jet to Algeria and started again in France," *BBC News*, 6 December 2020, last accessed 24 June 2024, <https://www.bbc.com/news/stories-55192772>.

⁴⁰ Mancillas, *Presidents and Mass Incarceration*, 51.

⁴¹ Mancillas, *Presidents and Mass Incarceration*, 55.

In the era of global industrialization, many corporations relocated their plants abroad, therefore the number of well-paid manufacturing jobs underwent a decline, and African Americans were once again forced to work in low-paid and exploitative conditions. Conservatives were strongly convinced that the high tax rates were a consequence of social assistance, and they could not avoid associating it with race, since the beneficiaries of such initiatives were mostly single Black mothers, who were forced to commit to underpaid jobs such as waitresses or cashiers.⁴² The Democrats' support for such programs caused their downfall and the consequent success of those who opposed such subsidies, in particular Republican candidate Ronald Reagan.⁴³ He did not just mirror the conservatives' needs, but in the 1976 Republican presidential primaries he addressed the problem of the “welfare queens.” In his perspective, these women did not need the grants; he depicted them as promiscuous, lazy, and willing to deceive the authorities to keep the allowance. Reagan misled public opinion with the Linda Taylor case; according to the republican candidate’s research, Taylor had “80 names, 30 addresses, 12 Social Security Cards” which allowed her to be eligible for the aid.⁴⁴ With his campaigns, Reagan took a stand against welfare programs, and his political orientation became clear to the future electorate. One of the first bills enacted by Reagan after becoming the 40th President of the United States in 1981, was the Omnibus Budget Reconciliation Act (OBRA). It aimed at reducing federal spending on programs such as AFDC, and it managed to decrease it by the end of 1988, almost at the end of Reagan’s administration.⁴⁵ With the cuts to appropriations for the welfare programs, more people turned to crime. It often happens that when people are jobless, homeless, and poor, they seek alternative means to make ends meet.⁴⁶ When institutions fail to provide economic assistance, some turn to criminal activities as a source of income and livelihood. The

⁴² Premilla Nadasen, Jennifer Mittelstadt, and Marisa Chappell, *Welfare in the United States: A History with Documents 1935-1996* (New York: Routledge, 2009), 65.

⁴³ Nadasen, Mittelstadt, Chappell, *Welfare in the United States*, 67.

⁴⁴ Nadasen, Mittelstadt, Chappell, *Welfare in the United States*, 189.

⁴⁵ Nadasen, Mittelstadt, Chappell, *Welfare in the United States*, 67.

⁴⁶ Salim Yaacoub, “Poverty, Inequality and the Social Causes of Crime: A Study between United States and Europe,” *International Journal of Science and Research (IJSR)*, (October 2017): 630, last accessed 25 June 2024, https://www.researchgate.net/publication/342977911_Poverty_Inequality_and_the_Social_Causes_of_Crime_A_Study_between_the_United_States_and_Europe.

reductions in social programs created a new social group known as the “urban poor,” a label associated with black families who benefited most from aid. With diminishing help, they sometimes felt compelled to turn to crime out of despair.⁴⁷

Once elected, the president’s close-minded approach contributed to the enforcement of “law and order” policies that expanded mass incarceration.⁴⁸ Reagan continued the rhetoric of the “War on Drugs” initiated by Nixon and introduced strict legislation against the diffusion of drugs. In 1982, the President’s wife Nancy Reagan began what became known as the “Just Say No” campaign. The First Lady committed to bringing awareness on addiction all around the country, particularly among young students who were introduced to substances for the first time.⁴⁹ This program proved to be ineffective because it conveyed the misleading message that it was enough to ignore dealers in order not to be involved in trafficking or to avoid substance abuse.

If the campaign’s ambition was to educate young Americans, the same result could not be achieved in the African American community, which was about to come into contact with a new harmful narcotic. As mentioned before, poverty kept on rising at the beginning of the 1980s; moreover, between 1982 and 1984 the importation of cocaine increased by 50 percent. Unfortunately, this period did not mark just the growth of cocaine diffusion, but also the introduction of a new variety of a drug obtained thanks to the process of freebasing. Once the base of the substance is free, it can be heated and then smoked, and cocaine is eventually turned into crack. According to neuroscientist Carl Hart, the effect of crack is faster and more immediate on users. The inhalation of the drug reaches the bloodstream and the brain faster thus making the abuser high in a very short time and with irreversible consequences. Crack soon became extremely widespread within the African American community, firstly because of its immediate effects which turned out to be a comforting escape from the miserable life conditions that poverty caused, and secondly, because it was cheaper and more accessible

⁴⁷ Miller, “Race, Hyper-Incarceration, and US Poverty Policy in Historic Perspective,” 581.

⁴⁸ Mancillas, *Presidents and Mass Incarceration*, 63.

⁴⁹ Mancillas, *Presidents and Mass Incarceration*, 64.

since one dose would cost from \$10 to \$15,⁵⁰ as opposed to \$400 for cocaine, which correspond to 1,500 in today's dollars.⁵¹ When the "crack epidemic" broke out it was inevitable to associate it with Black men using and selling drugs in the streets; the media portrayed the new stereotype of the "Black predator," the dealer who was willing to do anything to get rich thanks to the crack market. As evidence shows, the trading was more noticeable to the public eye, because it was set outdoors, whereas regular cocaine was sold behind closed doors. According to the executive director of the Sentencing Project Marc Mauer, in disadvantaged areas the drug market is more likely to take place on street corners, therefore making it more visible to the authorities.⁵²

Reagan's presidency lasted eight years, and in such a long period the core legislation that enabled the establishment of mass incarceration was enacted. After Nixon, Reagan was one of the stricter politicians concerning crime control. In 1982, upon the urging of his administration, Congress started to slowly dismantle the LEAA, because they deemed it to be too expensive and ineffective for its purpose. However, its abolition was not driven by the realization that law enforcement was not the best option to shrink crime. On the contrary, new stringent legislation followed the federal agency's demise. While campaigning for reelection in 1984, Reagan signed the Sentencing Reform Act, which increased the maximum prison sentence for those trafficking large quantities of heroin and cocaine. Still, its most problematic provision was the elimination of parole, which limited the possibility of being released from jail for exemplary behavior.⁵³ Despite this, the law established the U.S. Sentencing Commission, which wrote mandatory federal sentencing guidelines. This, together with the abolition of parole, meant that the only way to determine the judicial penalty

⁵⁰ Crack: Cocaine, Corruption & Conspiracy, directed by Stanley Nelson (2021; United States: Netflix, 11 January 2021), minute 12:00, last accessed 15 June 2024, <https://www.netflix.com/watch/80988518?trackId=255824129&tctx=0%2C0%2C8df3f9f5-cbb3-43e3-88b4-c42ab014a32c-541764598%2C8df3f9f5-cbb3-43e3-88b4-c42ab014a32c-541764598%7C2%2C%2C%2C%2C%2C%2CVideo%3A80988518%2CdetailsPagePlayButton>.

⁵¹ Christopher Woody, "Here's what's driven changes in cocaine prices on US streets since the 1980s," *Business Insider*, 26 October 2016, last accessed 24 June 2024, <https://www.businessinsider.com/us-cocaine-prices-change-2016-10>.

⁵² Marc Mauer, "The Endurance of Racial Disparity in the Criminal Justice System," in *Policing the Black Man: Arrest, Prosecution, and Imprisonment*, ed. Angela J. Davis (New York: Pantheon Books, 2017), 59.

⁵³ Grande, *Il terzo strike*, 53.

was by considering the weight of the drugs involved in the crime. As we will see, this legislation strengthened the prosecutor's power and diminished the judges' competence in court. During Reagan's administration, Congress passed one of the most relevant laws in U.S. history concerning crime control. Reagan signed the Comprehensive Crime Control Act, which reformed federal sentencing and bail, and extended penalties for major drug offenses. This 1984 measure confirmed the new bail policies and forfeiture procedures, thus overturning the federal sentence system.⁵⁴ Further anti-drug legislation was not missing in Reagan's second term. As we have seen, the diffusion of crack created social disparity also in the drug market, and the president did not miss the chance to confirm his ambition to continue the "War on Drugs" by signing the 1986 Anti-Drug Abuse Act. The law established the same mandatory minimum sentences for those trafficking different amounts of cocaine or crack: if a dealer was found with 5 grams of crack or 500 grams of cocaine the punishment was 5 years of prison; for 50 grams of crack or 5 kilograms of cocaine, the sentence was still of 10 years.⁵⁵ The aim of mandatory minimums can be both to prevent people from assuming an unlawful demeanor by stating the average penalty they will face and to keep in jail those considered dangerous for the society as much as possible.⁵⁶ The mandatory minimum 100-to-1 crack-powder disparity proves the unequal treatment that African Americans were receiving in the justice system. Evidence proves that crack cocaine was more common in Black communities, therefore the law provided a way to keep in jail for longer periods people who did not commit violent crimes, which not surprisingly were once again Black Americans. All the bills enacted during the Reagan administration ended with the Anti-Drug Abuse Act of 1988, which increased even more the mandatory minimum sentencing laws that constituted the core legislation leading to the rise of the prison population.⁵⁷

In the middle of the "law and order" era, many Americans believed that the only way to maintain public safety was to keep people behind bars.⁵⁸ Political scientist Peter K. Enns studied past sociological surveys on public opinion regarding punitiveness between the 1960s

⁵⁴ Mancillas, *Presidents and Mass Incarceration*, 67.

⁵⁵ Mancillas, *Presidents and Mass Incarceration*, 70.

⁵⁶ Anne L. Foster, *The Long War on Drugs* (Durham: Duke University Press, 2023), 127.

⁵⁷ Mancillas, *Presidents and Mass Incarceration*, 73.

⁵⁸ Mauer, "The Endurance of Racial Disparity in the Criminal Justice System," 63.

and the 1990s. He analyzed responses on four main themes: punishment, the death penalty, the criminal justice system, and confidence in the police. The results confirmed that most people supported the reinforcement of punishment and the criminal justice system, sustained the death penalty, and did not feel safe, thus lacking much confidence in the police. Consequently, Enns confirmed that the concept of punitiveness rose among Americans during those decades. Furthermore, he added that this public sentiment tended to affect politicians to become increasingly “tough on crime.” Political actors simply followed the people’s fears and responded to their demands. According to the research, public punitiveness influenced mass incarceration for approximately 20 percent of state and federal imprisonment.⁵⁹ The rates of convicted people started to rise dramatically since the beginning of Reagan’s presidency. Studies show that when it started, African Americans did not constitute the majority of the U.S. population and they were not the community that used drugs the most; nonetheless, they increasingly populated prisons. They were mostly convicted for non-violent crimes, and it was reported that in 1991- a couple of years after the end of Reagan’s presidency- Black men had a 29 percent possibility of being in jail at some stage of their lives as opposed to 5.9 percent for Whites and 17.2 percent for Latinos.⁶⁰ Professor Ronnie B. Tucker conducted a study in 2014 that shows the disproportion of the prison population in more recent times: out of a total of 1,402,404 males imprisoned, 453,500 are White and 516,900 are Black.⁶¹

The impact of the “War on Drugs” was not the single catalyst for the mass imprisonment of African Americans. The justice system proved to be extremely discriminatory from arrest to conviction, and felons also faced discrimination after being released. According to Alexander, this long process is divided into three phases: the roundup, the period of formal control, and the invisible punishment.⁶² The XIV Amendment of the U.S. Constitution protected citizens from being stopped without a warrant until *Terry v. Ohio* of 1968. In this ruling, the Supreme Court allowed police officers to stop any suspect who

⁵⁹ Peter K. Enns, "The Public's Increasing Punitiveness and Its Influence on Mass Incarceration in the United States," *American Journal of Political Science* 58, no. 4 (October 2014): 868.

⁶⁰ Tucker, "The Color of Mass Incarceration," 139.

⁶¹ Tucker, "The Color of Mass Incarceration," 137.

⁶² Alexander, *The New Jim Crow*, 181.

seemed dangerous or about to commit a criminal action.⁶³ In the 1980s, when police were willing to do as much as they could to help the cause, *Terry v. Ohio* justified practices such as consent searches and pretext stops. In the first case, the officer would ask the suspects to search their bags, but what would often occur was that people agreed because they felt intimidated, even if they had the option of refusing. Eventually, most of the people who got caught fell into the trap and got arrested and they were hardly ever innocent.⁶⁴ Another way to catch dealers immediately was the pretext stops. As with consent searches, this practice would conventionally take place in poor disadvantaged neighborhoods and consisted of stopping cars that were potentially breaching the traffic rules and using this excuse to search the vehicle in the hope of finding something incriminating.⁶⁵ Once suspects were arrested, the period of formal control started, and this surely represented the most critical stage. What many did not know was that police officers were the ones who made the arrests, but their power was quite limited when it came to making accusations. They helped figure out the probable causes, but the prosecutors decided the charges of the defendant.⁶⁶ During the trial, the prosecutor may have accepted the officer's accusation or increased them based on an arbitrary decision, which proved to be often justified by a racist motive.⁶⁷ At this stage, the role of mandatory minimums was pivotal for the future of the inmate, because the prosecutor may have charged a person with a mandatory-eligible crime and consequently forced the accused, if convicted, to serve in prison even for minor misdemeanors.⁶⁸ Prosecutors often had the ambition of maintaining public order and safety, and they did it to the detriment of poor and Black suspects.⁶⁹ Another disadvantage was the lack of legal representation. The Supreme Court provided the possibility of requesting a public legal representative for the people who cannot afford it. Anyway, this system proved to be weak, as defendants can be represented either by a public defender, a role that is conventionally covered by young and

⁶³ "Terry v. Ohio, 392 U.S. 1 (1968)" Justia U.S. Law, last accessed 15 June 2024, <https://supreme.justia.com/cases/federal/us/392/1/>.

⁶⁴ Alexander, *The New Jim Crow*, 63.

⁶⁵ Alexander, *The New Jim Crow*, 66.

⁶⁶ Angela J. Davis, "The Prosecution of the Black Man," in *Policing the Black Man: Arrest, Prosecution, and Imprisonment*, ed. Angela J. Davis (New York: Pantheon Books, 2017), 178.

⁶⁷ Davis, "The Prosecution of the Black Man," 180.

⁶⁸ Nellis, "How Mandatory Minimums Perpetuate Mass Incarceration and What to Do About it," 2.

⁶⁹ Grande, *Il terzo strike*, 90.

unexperienced attorneys, or by court-appointed attorneys, who are lawyers paid by the public system who receive too little wage for the amount of time they should spend to study the case in depth to win it.⁷⁰ As a consequence, almost no one ever went to trial, because the sentence and the effort of the whole process may have caused more harm than good; the defendants often recurred to plea bargaining hoping that the prosecutor made a mild decision on the future of the convicted.⁷¹ After “doing time” the inmates hope to start their life from day one, but the third stage of “invisible punishment” that waits for the former prisoners in the free world never fully releases them from the cage. They often have difficulties finding new job placements and housing.

George H. W. Bush became the new president of the United States in 1989. Before even starting his term, he followed his predecessor Reagan's strategy of “politicization of crime.”⁷² For most of the election campaign against Democratic candidate Michael Dukakis, Bush did not seem to have a chance to win, but a complete turning point changed the course of the presidential race. In 1988, Willie Horton was an African American inmate convicted of murder, who was allowed to spend a weekend outside of prison thanks to the furlough program of Massachusetts. While outside, he kidnapped a couple, raped the woman, and stabbed the man.⁷³ After this episode, an advertisement was released stating that Dukakis was allowing “murderers to have weekend passes,” and that the democratic candidate did not oppose the program; this led him to lose the presidential campaign. The Republican party strategically took this chance to prove that Bush would be better than Dukakis at taking care of criminality if elected. The advertisement relied on the Whites’ primitive fear of the Black American rapist, which dated back to slavery times.⁷⁴ The manipulation of the Willie Horton incident showed that the “law and order” mentality was still effective in the country, although Bush was not considered its most severe leader, his approach still contributed to the

⁷⁰ Grande, *Il terzo stike*, 95.

⁷¹ Alexander, *The New Jim Crow*, 85.

⁷² Roger Lancaster, “How to End Mass Incarceration,” *Jacobin*, 8 September 2017, last accessed 17 June 2024, <https://jacobin.com/2017/08/mass-incarceration-prison-abolition-policing>.

⁷³ Peter Baker, “Bush Made Willie Horton an Issue in 1988, and the Racial Scars Are Still Fresh,” *The New York Times*, 3 December 2018, last accessed 17 June 2024, <https://www.nytimes.com/2018/12/03/us/politics/bush-willie-horton.html>.

⁷⁴ 13th, directed by Ava DuVernay, minute 32:00.

development of mass incarceration. By the end of the 1980s, the Republican Party had demonstrated to be more and more concerned with crime control. It supported the victim's rights movements, established the death penalty for more than 30 federal crimes, and denied bail, a practice that was going to increase the prison population.⁷⁵ Furthermore, the construction of new prison buildings was rising, because those that already existed were overcrowded. In 1989, Bush requested 6 billion dollars for the "War on Drugs" law enforcement, which had to be spent by the Office of National Drug Control Policy directed by Bill Bennett. To diminish the drug diffusion, Bush thought that the alliance between the government, private enterprise, and the victim's rights voluntary associations, such as the National Families in Action, would help bring awareness on addiction, and in 1980 he signed the Drug-Free Schools and Communities Act.⁷⁶ At the beginning of the new decade, public opinion was always more worried about the diffusion of substances, because the media kept on portraying stereotyped imaginaries of Black people. According to the American analytics and advisory company Gallup, it was only in the mid-1980s that citizens considered drug abuse one of the country's most serious problems. A survey conducted in 1986 confirmed that 42 percent of Americans regarded crack and other types of drugs the most dangerous substances circulating in society.⁷⁷ In 1990, Bush signed another of the core laws that contributed to mass incarceration, the Crime Control Act. The measure increased the funding for local and federal law enforcement agencies, codified a Crime Victims' Bill of Rights, and instructed the U.S. Sentencing Commission to amend the sentencing guidelines.⁷⁸

Another president of the United States who was responsible for the increase of the prison population, along with Nixon and Reagan, is surely Democrat Bill Clinton. His strict approach to crime had already manifested itself during the presidential campaign of 1992. When he made the final decision to proceed with the death penalty for the African American Ricky Ray Rector, Clinton was still the governor of Arkansas. Rector had been sentenced to life in prison and also received the death penalty for the murder of Arthur Criswell and police

⁷⁵ Mancillas, *Presidents and Mass Incarceration*, 83.

⁷⁶ Mancillas, *Presidents and Mass Incarceration*, 85.

⁷⁷ Jennifer Robison, "Decades of Drug Use: The '80s and '90s," GALLUP, 9 July 2002, last accessed 26 June 2024, <https://news.gallup.com/poll/6352/Decades-Drug-Use-80s-90s.aspx>.

⁷⁸ Mancillas, *Presidents and Mass Incarceration*, 88.

officer Robert Martin. However, after killing the policemen, he shot himself in the head, causing permanent brain damage. The Supreme Court ruled in *Ford v. Wainwright* (1986) that executing a person incapable of understanding the reasons for capital punishment violated the VIII amendment. In the end, the Rector's legal representatives appealed for clemency. The final decision laid with the governor of Arkansas, Bill Clinton, who not only denied clemency but flew to Little Rock in the middle of the campaign to oversee the execution.⁷⁹

He turned out to be strict both on crime-control matters and welfare programs. While running for president in 1992, Clinton started a campaign to “end welfare as we know it.” Doubts on the effectiveness of welfare programs kept on rising among Americans, and the future president himself believed that something had to drastically change; he believed that economic support should provide “a second chance, not a way of life.” The prejudice that poor people took advantage of such opportunities was still widespread.⁸⁰ This long anti-welfare campaign culminated in 1996 with the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). One of the key points of this piece of legislation was the replacement of AFDC with the Temporary Assistance for Needy Families (TANF). Thanks to this system of block grant, states were not obliged to provide any allowance to poor families, and they only received a fixed amount of money that Congress had to reconfirm every year. The PRWORA encouraged marriages by promising tax reductions to those who created a “traditional” family. Furthermore, it required recipients to engage in work-related activities to obtain benefits. The positions did not offer training and the possibility of improvement; as a consequence, the amount of money spent on welfare programs surely declined, but the number of people in poor conditions increased.⁸¹

Clinton's contribution to the development of mass incarceration is undeniable. By the end of his second term, the prison population reached the highest numbers ever seen. As soon

⁷⁹ Laura Choate Conway, Rickey Ray Rector (Execution of), *CALS: Encyclopedia of Arkansas*, last updated 2 February 2022, last accessed 26 June 2024, <https://encyclopediaofarkansas.net/entries/rickey-ray-rector-6860/>.

⁸⁰ Nadasen, Mittlestadt, Chappell, *Welfare in the United States*, 78.

⁸¹ Nadasen, Mittlestadt, Chappell, *Welfare in the United States*, 80.

as he became president, he requested 3.4 billion dollars to increase the number of police officers to 50,000 and supported the death penalty. In 1994, Clinton signed the Violence Against Women Act to cope with the rising number of cases of domestic violence against women.⁸² Arguably, Congress passed the third most compromising bill in the matter of mass incarceration in 1994, the Violent Crime Control and Law Enforcement Act. The law provided 30 billion dollars for the introduction of new police officers and the construction of new prisons, it introduced new federal crimes punishable by the death penalty, but most importantly it gave birth to the “three strikes and you’re out” plan.⁸³ As it occurs in baseball, the batter has three possibilities before leaving the pitch. This metaphor was ironically used for defendants; those who committed their third felony⁸⁴ after they had been already convicted for previous violent crimes, faced life sentences.⁸⁵ Another provision of the act was the “truth in sentencing”, which wanted to avoid the possibility of being released on parole, by mandating that offenders had to fulfill at least 85 percent of their sentence.⁸⁶ At this point in U.S. history, the construction of new prisons was unstoppable due to the increase in the number of inmates. All the laws enacted, and the political strategy started in the 1970s eventually gave birth to the third discriminatory institution in the United States. The rulings introduced to create this system, together with the contribution of corporations, shaped what some activists and scholars name the “prison industrial complex.” Firstly, the building of prisons was profiting construction industries, additionally, more private companies started to rely on the inmate’s workforce to fulfill their income. Behind the prison walls, all kinds of

⁸² Mancillas, *Presidents and Mass Incarceration*, 93.

⁸³ Mancillas, *Presidents and Mass Incarceration*, 95.

⁸⁴ Felony is an offense punishable by criminal law. It can be classified under different categories depending on the seriousness of the crime. Despite this, not all States divide felonies into different categories, but in each State, the minimum term of imprisonment for felonies is one year and the maximum term may be life imprisonment or death penalty. See “Felony,” *Legal Information Institute*, Cornell Law School, last accessed 22 July 2024, <https://www.law.cornell.edu/wex/felony>.

⁸⁵ Grande, *Il terzo strike*, 61.

⁸⁶ Mike Elk and Bob Sloan, “The Hidden History of ALEC and Prison Labor,” *The Nation*, 1 August 2011, last accessed 17 June 2024, <https://www.thenation.com/article/archive/hidden-history-alec-and-prison-labor/>.

goods were consumed and produced from electronic devices to hygiene products. Black bodies might have been useless in the free world but generated profit if imprisoned.⁸⁷

In the era of mass imprisonment, the demand for new prisons was fulfilled thanks to private construction industries that were faster than public ones at building new prisons. Once private construction companies built the new jails, the whole system became privatized also with the help of private corporations such as the GEO group and the CCA, the first private prison corporation founded in 1983, that ran the prisons. Therefore, the longer people were kept in penitentiary facilities, the more they generated profit for the industries. Inmates generated benefits both as consumers and as a workforce. Organizations such as Dial Soap, Famous Amos, and VitaPro Foods provided food and personal hygiene products to convicts, who as free men were too poor to afford but could consume as inmates.⁸⁸ Such food companies also profited from visitors by filling the vending machines with expensive junk food.⁸⁹ The small towns where prisons were situated underwent a complete transformation during mass incarceration. The carceral industry sustained the entire economy of these areas; prisoners' relatives were customers of the local businesses, such as shops, restaurants, and motels used by the prisoners' kinsfolk. However, the inmates' labor within the penitentiaries was the greatest source of income.⁹⁰ In the times of the "prison industrial complex," many firms tended to close their branches both in the United States and abroad because they understood that they could "hire" the prisoners. This was the case with AT&T, Lockhart Technologies, and Boeing Corporation.⁹¹ Most of these companies were under the lobby organization American Legislative Exchange Council (ALEC), founded in 1973, whose members are private companies and mostly republican politicians.⁹² Some of the members of ALEC were companies such as Walmart -one of the biggest long-guns sellers and the largest retailer store of bullets in the United States- PhRMA, AT&T, Verizon, and most

⁸⁷ Davis, *Are Prisons Obsolete?*, 88.

⁸⁸ Grande, *Il terzo strike*, 123.

⁸⁹ Patrisse Khan-Cullors and Asha Bandele, *When They Call You a Terrorist: A Black Lives Matter memoir* (New York: St. Martin's Griffin, 2018), 162.

⁹⁰ Cullors, Bandele, *When They Call You a Terrorist*, 166.

⁹¹ Grande, *Il terzo strike*, 125.

⁹² "What is ALEC?," *NPR*, 24 January 2019, last accessed 17 June 2024, <https://www.npr.org/2019/01/24/688332761/what-is-alec>.

importantly the CCA.⁹³ When the prison population started to rise, the company made contracts with states to make sure that the facilities that they were building would always be filled with people even if they did not commit crimes. Arguably, the punitive turn occurred exactly to keep people behind bars, because they generated economic growth. In this frame, there was no space for reeducation. The members of the private companies within ALEC, thanks to their close relationship with the politicians who were members of the lobby group, helped write some of the provisions that contributed to mass incarcerations: “three strikes and you’re out,” the mandatory minimum sentencing laws, and truth in sentencing, and even the “stand your ground” were all proposed by ALEC.⁹⁴

This evidence not only proves that the criminalization of Black people and their association with criminality were justified by the never-ending structural racism of the U.S. history, but it also demonstrates that political and economic advantages gave birth and constituted the third discriminatory institution towards African Americans. The impact of law enforcement perpetrated since the 1970s, starting from Nixon’s presidency, until the end of Clinton's administration, has undoubtedly created societal problems for a large portion of the U.S. population that still pays the consequences of its damages. In 2015, former President Clinton apologized for being responsible for the over-imprisoned crisis.⁹⁵

2.4 Blacks’ Representation during Mass Incarceration

Since slavery, African Americans have always been depicted through stereotyped images that generated negative perceptions of them. From a very young age, people of color have been considered either lazy and dumb or violent and savage. During enslavement, the image of “the Sambo” portrayed the slave as happy, naïve, docile, incapable of organizing any activity, and therefore dependent on their master’s decisions and orders. Then, the white actor Thomas Dartmouth Rice played the character of “Jim Crow” in his minstrel shows in New York. Rice dressed in costumes, painted his face Black and imitated African American

⁹³ 13th, directed by DuVernay, minute 55:00.

⁹⁴ Elk, and Sloan, “The Hidden History of ALEC and Prison Labor.”

⁹⁵ Mancillas, *Presidents and Mass Incarceration*, 103.

dance and demeanor to portray a character that was a caricature of dark-skinned men. Another common prejudice was the myth of “the Savage.” A few advocates of Evolutionism and scientific popularizers such as John Fiske and Nathaniel Shalel believed that Black people presented peculiar anatomical characteristics similar to chimpanzees, such as longer arms, ticker mouths, shorter noses, and lighter brains. According to these beliefs, Blacks were considered less valuable than Whites.⁹⁶ This trend was also present at the times of desegregation when in schools the Black students’ motivation was always compared to their white classmates’ achievements.⁹⁷

These ideas not only influenced the perception of African Americans but also affected the consideration that Black people had of themselves. According to intercultural communication and discourse analysis scholars Ron and Suzanne Wong Scollon,

Stereotypes limit our understanding of human behavior and of intercultural discourse because they limit our view of human activity of just one or two salient dimensions and consider those to be the whole picture. Furthermore, they go on ideologically to use the limited view of individuals and of groups to justify preferential or discriminatory treatment by others who hold greater political power.⁹⁸

During mass incarceration, the news was filled with new stereotypes of Black men, who were commonly described as addicts, drug dealers, and violent abusers. Since the Reagan administration, the War on Drugs was battled both through legislation and the media. Nancy Reagan’s contribution to the anti-drug campaign should not be underestimated. In the 1980s, television was accessible to most Americans. Therefore, it could be used as a tool to showcase the disadvantages and consequences of addiction to young audiences. However, the “Just Say No” campaign was strongly problematic because it did not provide effective

⁹⁶John S. Haller, *Outcasts from Evolution: Scientific Attitudes of Racial Inferiority, 1859-1900*, (Urbana: University of Illinois Press, 1971).

⁹⁷Evi Taylor, Patricia Guy-Walls, Patricia Wilkerson, Rejoice Addae, “The Historical Perspectives of Stereotypes on African-American Males,” *Journal of Human Rights and Social Work* 4, (7 May 2019): 215.

⁹⁸Lukas Bleichenbacher, *Multilingualism in the Movies: Hollywood Characters and Their Language Choices*, (Tübingen: Francke Verlag, 2007), 32.

solutions to avoid dependence. According to this initiative, the individuals were responsible for their choices and drugs were avoidable by just turning down the offer when asked to try a substance. The First Lady's battle blamed users instead of helping them to deal with their habits.⁹⁹ In 1986, the tragic death of the young African American basketball player Len Bias caused more panic over drug consumption. The Boston Celtics had just drafted Bias from the University of Michigan, when he died of an alleged overdose after assuming crack cocaine for the first time. His passing confirmed the assumption that the United States faced a drug epidemic that reached even future star athletes. Consequently, after a few months, President Reagan signed the Anti-Drug Abuse Act of 1986.¹⁰⁰ To generate more fear through the media, the Partnership for a Drug Free America (PDFA) launched the notorious spot "This is Your Brain on Drugs" in 1987. The video depicted a man frying an egg to show the consequences of narcotics on the human brain. After claiming the famous catchphrase, the spot ended with the provocative line: "Any questions?" Such social advertisement only stigmatized the drugs' dangers instead of educating the audience on how to prevent them and cure the physical and mental health problems they caused.¹⁰¹

In the decades in which mass incarceration developed, substance abuse was not the only issue on the politicians' agenda. Some of their greater concerns were also welfare problems and crime. As we will see, Black women carried the burden of the stereotypes connected to poverty, whereas Black adolescents and men represented the stigma of felonies.

Black women have been stereotyped since slavery too. These images were created by a patriarchal system that discriminated against them on the basis of race, class, and gender to maintain socio-political power and to justify the treatment that they received from both white men and women.¹⁰² For instance, the image of "the Jezebel" represented a promiscuous lady.

⁹⁹ Sage Ceja, "The Role of Policy and Media in Reagan's War on Drugs," *UC Santa Barbara: The Undergraduate Journal of History* 2, no.1 (Spring 2022): 38.

¹⁰⁰ Jon Shuppe, "30 Years after Basketball Star Len Bias' Death, Its Drug War Impact Endures," *NBC News*, 19 June 2016, last accessed 2 July 2024, <https://www.nbcnews.com/news/us-news/30-years-after-basketball-star-len-bias-death-its-drug-n593731>.

¹⁰¹ Livia Gershon, "The Story Behind 'This is Your Brain on Drugs,'" *JSTOR Daily*, 19 October 2022, last accessed 2 July 2024, <https://daily.jstor.org/the-story-behind-this-is-your-brain-on-drugs/>.

¹⁰² Jennifer Bailey Woodard and Teresa Mastin, "Black Womanhood: 'Essence' and its Treatment of Stereotypical Images of Black Women," *Journal of Black Studies* 36, no. 2 (November 2005): 270.

Such consideration of Black women's sexuality was associated with them during slavery to justify the rape by white slave owners. Masters also practiced this abuse to make sure that the pregnancy would bring new slaves.¹⁰³ Another stereotype that portrayed the Black women's submissive position was "the Mammy." It represented the good and loyal servant who cared for the master's family; this narrative excused the exploitation of domestic work within the white household.¹⁰⁴ On the other hand, this depiction was contrasted by "the Matriarch," which, in opposition to "the Mammy," was described as aggressive, angry, and incapable of providing a good upbringing to her children. According to this perspective, the mother's behavior shaped the future of the following African American generations to the point that it never allowed them to come out of poverty.¹⁰⁵ These old controlling images of Black women can be found again in more recent stereotypes that were created during Reagan's presidency. Some of the old narratives were reused for different purposes to characterize figures such as "the Welfare Queen" or "the Baby Mama." Both "The Matriarch" and "The Welfare Queen" had a connection with poverty. The prejudice consisted in assuming that Black women, who were looking after their families alone, aimed at being autonomous, but in reality, ended up being dependent on welfare programs, because they did not have the economic support of other family members. Most of the time "welfare queens" were also "baby mamas": women who intentionally became pregnant to keep the financial assistance or to increase it. This was a belief that judged Black's women immoral and irresponsible sexuality just as much as the image of "the Jezebel" did.¹⁰⁶ These sexist and racist stereotypes made those who were victims of it feel less of a citizen. After centuries of mistreatment, many women have developed the "Strong Black Women Schema" as a coping mechanism. This was a way to create psychological resistance to all forms of oppression. Black women defined themselves as strong, independent, and self-reliant. Despite its positive connotations, this behavior may also affect mental health. Firstly, it represented a forced

¹⁰³ Jennifer L. Turner, "Beyond 'Welfare Queens' and 'Baby Mamas': Low-Income Black Single Mothers' Resistance to Controlling Images," in *Black Matrilineage, Photography, and Representation: Another Way of Knowing*, ed. Lesly Deschler Canossi, Zoraida Lopez-Diago (Leuven: Leuven University Press, 2022), 55.

¹⁰⁴ Woodard, Mastin, "Black Womanhood," 271.

¹⁰⁵ Woodard, Mastin, "Black Womanhood," 272.

¹⁰⁶ Turner, "Beyond 'Welfare Queens' and 'Baby Mamas,'" 57.

reaction to years of subjection and prejudice from oppressive groups for which women of color should not be responsible; secondly, it suppressed women's true feelings and emotions which sometimes did not allow them to be the embodiment of strength and stability.¹⁰⁷

As anticipated, mass imprisonment was fostered thanks to the laws and the media, which influenced the public perception of crime. Black men were accused of being responsible for drug diffusion, but most importantly for violent crimes. Newspapers and television put a new label on African American men, who were often named criminals. On 19 April 1989, the *New York Times* published a terrible story that involved a 28-year-old white female jogger, Trisha Meili, whom five teenagers had allegedly raped. On that day, the group, that eventually became known as the "Central Park Five", was out at night in the park, but they were not implicated in the aggression of the woman. Nonetheless, the police arrested the boys and forced them to confess on a videotaped interrogatory in which they were severely intimidated. They all admitted to being involved in the abuse, but no trace of their DNA matched the one found on the crime scene. They were all accused of rape and attempted murder and spent from six to thirteen years in prison until the real rapist Matias Reyes confessed he was guilty in 2002.¹⁰⁸

In those times, the narrative of such tragic cases often presented a victimization of the white female and an extreme criminalization of the rapist. The "Central Park Case" is an example of this rhetoric, but it was mostly remembered for having introduced the term "wilding" to refer to the act of sexual assault. Due to this association, the two words became synonyms, and "wilding" was also used by many newspapers that published stories on street crime and urban violence, in which the lawbreakers were mostly Black or Latino young men. The word became an umbrella term for all those acts that concerned youth violence.¹⁰⁹

Scholars Michael Welch, Eric Price, and Nana Yankey conducted content analysis research on the occurrence of the term "wilding" in four of the most famous New York

¹⁰⁷ Turner, "Beyond 'Welfare Queens' and 'Baby Mamas,'" 64.

¹⁰⁸ Natalie P. Byfield, *Savage Portrayals: Race, Media, and the Central Park Jogger Story* (Philadelphia: Temple University Press, 2014).

¹⁰⁹ Michael Welch, Eric Price, and Nana Yankey, "Youth Violence and Race in the Media: the Emergence of 'Wilding' as Invention of the Press," *Race, Gender & Class* 11, no.2 (2004): 41.

newspapers between 1989 and 1997. On 156 articles examined, it emerged that 50 percent of the stories associated “wilding” with “sexual violence,” whereas 21 percent of other cases referred to “assault and battery.”¹¹⁰ Most importantly, the research showed that the race of both the victims and the suspects, who were generally either Black or Latino, was mentioned.¹¹¹ Furthermore, newspapers used other synonyms that conveyed similar meanings, such as the more general adjective “wild” or the noun “wolfpack,” which reconnected Black males to the savages as it occurred in the past.¹¹²

After the emergence of the term “wilding,” another symbolic definition was introduced to address young criminals. In 1995, one year after Clinton signed some of the strictest laws against violent crimes, the academic John J. Dilulio Jr. introduced the expression “superpredator” in the title of a cover story he wrote for the conservative magazine *The Weekly Standard*. According to Dilulio, some Americans grew up in a context of moral poverty. This environment lacked loving, caring, and responsible adults who were incapable of giving good teaching to newer generations. As a consequence, these adolescents were more inclined to develop criminal behaviors. When these children missed a mentor figure, they could become “superpredators.” Dilulio further explained the definition of the term in a CBS interview in April 1996, when he stated that “superpredators” were impulsive and remorseless young juvenile criminals who could “kill and rape, without giving it a second thought.”¹¹³ The Marshall Project president Carroll Bogert, and Professor Lynnell Hancock conducted a study that accounted for almost 300 uses of the word in 40 newspapers and magazines from 1995 to 2000.¹¹⁴ In 1986, the term reached its highest diffusion, due to a case that had happened two years before. Derrick Hardaway was 14 years old when he was driving the car with his 16-year-old brother Craig, who shot Robert Sandifer. He was

¹¹⁰ Welch, Price, Yankey, “Youth Violence and Race in the Media,” 43.

¹¹¹ Welch, Price, Yankey, “Youth Violence and Race in the Media,” 45.

¹¹² Welch, Price, Yankey, “Youth Violence and Race in the Media,” 47.

¹¹³ John J. Dilulio Jr., “The coming of the super-predators,” *Washington Examiner*, 27 November 1995, last accessed 5 July 2024, <https://www.washingtonexaminer.com/magazine/1558817/the-coming-of-the-super-predators/>.

¹¹⁴ Carroll Bogert and Lynnell Hancock, “The Media Myth that Demonized a Generation of Black Youth,” *The Marshall Project*, last accessed 5 July 2024, <https://www.themarshallproject.org/2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth>.

nicknamed “Yummy” and was himself hunted by the police for the murder of a teenage girl. Yummy’s face became the symbol of “superpredators” as his picture was put on the cover page of *Time* magazine with the headline “So young to kill, so young to die.” Derrick Hardway mentioned that he carried the burden of that stereotype throughout his life, despite growing up in a united and loving family as a child. In an interview for the Marshall Project in 2020, he stated that his conviction was not the effect of “moral poverty,” but rather the consequence of a terrible choice he had made as a kid.¹¹⁵ Aside from this, the term gained even more popularity when First Lady Hilary Clinton used the word “superpredators” to refer to young drug dealers in a speech at Keene State College, in which she presented the improvements of the Crime Bill of 1994.¹¹⁶ Her speech confirmed that, even in the 1990s, the war against crime was once again fought both through legislation and the media, as it had been during Reagan’s presidency.

During the Clinton administration, Black boys and men suffered from the consequences of stereotypes connected to criminality. They influenced not only the public but particularly police officers, who interacted with the suspects the most.¹¹⁷ These fixed images consolidated in their minds and created the phenomenon of “racial profiling.” Even if it is difficult to give a fulfilling definition, this practice, which is still applied nowadays, generally consists of judging Black men suspiciously “for no reason other than race.” The “race-only” motive drives this perspective, whereas in other cases officials are moved by the “race-plus” pattern when applying racial profiling to suspects. In this case, ethnicity is another element that aggravates an already doubtful behavior.¹¹⁸ Racial profiling normally occurs in pretext stops to drivers. Studies show that dark-skinned people are more likely to

¹¹⁵ Derrick Hardway interview by Carroll Bogert, “I Wasn’t a Superpredator. I Was a Kid Who Made a Terrible Decision,” *The Marshall Project*, 20 November 2020, last accessed 5 July 2024, <https://www.themarshallproject.org/2020/11/20/i-wasn-t-a-superpredator-i-was-a-kid-who-made-a-terrible-decision>.

¹¹⁶ Hilary Clinton, Speech at Keene State College, 28 January 1996, last accessed 5 July 2024, <https://www.youtube.com/watch?v=jOuCrA7ePno>.

¹¹⁷ Kirstin Henning, “Boys to Men: The Role of Policing in the Socialization of Black Boys” in *Policing the Black Man: Arrest, Prosecution, and Imprisonment*, ed. Angela J. Davis (New York: Pantheon Books, 2017), 72.

¹¹⁸ Renée McDonald Hutchins, “Racial Profiling: The Law, the Policy, and the Practice,” in *Policing the Black Man: Arrest, Prosecution, and Imprisonment*, ed. Angela J. Davis (New York: Pantheon Books, 2017), 107.

be stopped and searched for traffic violations than Whites, but studies have proved that pedestrians were affected by this practice just as much as motorists.¹¹⁹ In 2007, statistician Andrew Gelman and Professors Jeffrey Fagan and Alex Kiss conducted a study on the numbers of the “Stop-and-Frisk” operations of the New York Police Department. The data were collected from January 1998 to March 1999. The analysis was based on three major groups, Blacks, Latinos, and Whites. The crimes in which they were involved were mainly violent, drug, weapon, or property crimes. The data showed that Blacks and Latinos represented respectively 51 percent and 33 percent of the stops, despite being just 26 and 24 percent of the New York population. Furthermore, Blacks were stopped 23 percent more than Whites, whereas Hispanics 39 percent more than Whites. Additionally, Blacks and Latinos were suspected more of violent or weapon crimes.¹²⁰

The “Stop-and-Frisk” operations were a key component of the “zero tolerance” policing strategy implemented during Rudolph Giuliani’s terms as mayor of New York City from 1994 to 2001. With the assistance of Police Commissioner William Bratton, they developed a program aimed at reducing the crime rate. This initiative was based on the “broken windows” theory, introduced in 1982 by criminologists James Q. Wilson and George Kelling. According to this idea, maintaining public order by addressing minor crimes would prevent the occurrence of more serious offenses. The strict enforcement by city authorities was intended to deter individuals from committing more significant felonies. Additionally, Bratton introduced the CompStat system to collect data on crimes occurring in New York City. The system enabled the identification of the most dangerous areas, allowing for more effective allocation of police resources for the “Stop-and-Frisk” operations. The Mayor’s office reported that the crime rate in New York dropped by 44.3 percent from 1993 to 1997.¹²¹

By the second half of the 1990s, such practices had negative psychological consequences on minority groups, which have started to feel less valued by law enforcement.

¹¹⁹ Hutchins, “Racial Profiling,” 110.

¹²⁰ Andrew Gelman, Jeffrey Fagan, and Alex Kiss, “An Analysis of the New York City Police Department’s ‘Stop-and-Frisk’ Policy in the Context of Claims of Racial Bias,” *Journal of the American Association* 102, no. 479, (September 2007): 822.

¹²¹ Judith A. Green, “Zero Tolerance: A Case Study of Police Policies and Practices in New York City,” *Crime and Delinquency* 45, no. 2 (April 1999): 172.

The “group-position thesis” better explains the frustration this attitude may cause. This theory focuses on intergroup competition in society, which can be provided thanks to material reward, status, and power. According to this idea, dominant and privileged groups trust and appreciate institutions more, when they receive appropriate behavior. On the other hand, if minority groups are mistreated by authorities, they will lose their trust in them.¹²² The consequence of racial profiling, together with all the past stereotypes that still affect the reputation of African Americans, has turned into a deep sense of distrust in the establishment, which was consolidated by the early 2000s. The police force did not provide protection and reassurance to minority communities but represented a further enemy in their lives. The officers’ attitude when they approach a perp generates a deep sense of danger.¹²³ In these cases, the bias is bidirectional: both the officers and the suspects expect a peculiar treatment from the other. One side assumes that it faces a criminal, and the other is worried about being unfairly mistreated. During the teenage years, thanks to school and home education, each individual should develop a positive “legal socialization,” an awareness that allows people to value the orders of law enforcement. For Black youth, it was hard to develop such consciousness. Therefore, Black families raised their children trying to prepare them for these kinds of encounters. The goal was to avoid too emotional and exaggerated reactions, which may worsen the situation due to panic. Older African American generations, who may have already had unpleasant conversations with officers, prepared their children to respect authority by teaching them what utterances and behaviors should be avoided when stopped.¹²⁴

Despite this, the relationship between minority communities and police is complex, and the twofold prejudice will perhaps never fully disappear. A more recent study of 2005 proved that Black and Latino communities were still distrustful of authorities. Sociologists Ronald Weitzer and Steven A. Tuch interviewed Whites, Blacks, and Latinos from metropolitan areas of more than 100,000 population. The answers had to be given based on

¹²² Ronald Weitzer and Steven A. Tuch, "Racially Biased Policing: Determinants of Citizen Perceptions," *Social Forces* 83, no. 3 (March 2005): 1010.

¹²³ Henning, "Boys to Men," 82.

¹²⁴ Henning, "Boys to Men," 75.

personal experience and exposure to media. The first major result showed that 75 percent of Blacks and 54 percent of Hispanics believed that they were treated worse than Whites. Secondly, Blacks and Latinos thought that their neighborhoods were treated unfairly in comparison to others. Thirdly, minority community members deemed the police's attitude still biased. Finally, 92 percent of blacks, 83 percent of Latinos, and 70 percent of Whites believed that racial profiling was widespread in the United States.

Stereotypes of the African American community have generated major social and psychological problems for many generations. These have always been present in the long history of the Black Freedom Struggle and have reshaped themselves along with the development of mass media. A 2023 report by the Pew Research Center has demonstrated that 63 percent of African Americans still believe that they are covered negatively in the news. More importantly, only 14 percent hope to be treated more fairly in the future.¹²⁵

2.5 Life after Release from Prison

The hardships of individuals who experience conviction do not end after release. Mass incarceration significantly impacts the lives of African Americans, shaping their existence in numerous ways. It perpetuates stereotypes, strains relationships between minority groups and law enforcement, and entrenches a biased and racial justice system. Aside from the people sentenced to life or the capital punishment, one may assume that after serving, the future of those out of jail can start anew, but this is rarely the case. The carceral system, especially in the “punitive turn”, does not prioritize the re-education of inmates. Additionally, the stigma of incarceration continues to influence former prisoners' life prospects indefinitely. Detainees find numerous obstacles in many areas, such as housing, employment, voting rights, and driving license suspension. Furthermore, convictions ruin the personal relationships with relatives, and communities. Scholars refer to these enduring consequences as the “invisible punishment” of mass incarceration, which adds to all the previous

¹²⁵ Pew Research Center, “Views on how Black People are covered in the News,” 26 September 2023, last accessed 7 July 2024, <https://www.pewresearch.org/journalism/2023/09/26/views-on-how-black-people-are-covered-in-the-news/>.

mistreatments that people face before and during imprisonment. It emerges that life after release is no less troublesome than trial and punishment.¹²⁶ When defendants comply with plea bargaining, they unconsciously enable the justice system to cause what Alexander names the “civil death,” a condition in which felons are permanently relegated to second-class citizenship.¹²⁷

Both the public and private housing systems have discriminated against people with criminal records. The Housing and Urban Development (HUD) is a Federal Department established in 1965 during the Johnson administration. Its main aim is to provide affordable homes for all citizens. It operates thanks to the public housing authorities (PHAs), whose role is to screen tenants for eligibility. In the middle of the War on Drugs, Congress passed the Anti-Drug Abuse Act of 1988. The law strongly affected the accommodation market, because one of its provisions allowed PHAs to evict tenants with drug-related criminal records from public housing. This exclusion applied not only to past convicts but also to drug possession suspects or if any family member or guest was involved in any drug-related criminal activity or addiction. Under the Clinton administration, stricter screening rules for applicants were introduced. The president signed the Housing Opportunity Program Extension Act of 1996, which allowed PHAs to gather more information on applicants’ past with assistance from the National Crime Information Center and local police departments. This was followed by the Quality Housing and Work Responsibility Act of 1998, which imposed more work requirements to promote economic independence among tenants to avoid eviction.¹²⁸ While these policies were ostensibly introduced to enhance safety, they have contributed to homelessness, particularly in minority communities and among families connected to crime.

When prisoners were released, one of the most effective ways to prevent recidivism was to provide them with employment. Similar to housing, it was nearly impossible for former inmates to find work once their punishment ended. Criminal records were heavily

¹²⁶ Jeremy Travis and Bruce Western, “Poverty, Violence and Black Incarceration,” in *Policing the Black Man: Arrest, Prosecution, and Imprisonment*, ed. Angela J. Davis (New York: Pantheon Books, 2017), 296.

¹²⁷ Alexander, *The New Jim Crow*, 139.

¹²⁸A Drug Policy Alliance Publication, *Annual Report on Uprooting the Drug War: The War on Drugs Meets Housing* (New York, Drug Policy Alliance: 2021), 2.

considered in the job market, which has systematically excluded African Americans and Latinx individuals with past convictions. The discrimination occurred throughout the entire hiring process, from job advertisements to interviews. Blacks and Latinx people often encountered announcements explicitly stating that those with previous detentions were ineligible for the position.¹²⁹ If a candidate managed to bypass this barrier in the job offer, it often reappeared in the application process. Interviewees were frequently required to answer “check the box” questions about their incarceration history.¹³⁰ Even if this did not reveal a connection to crime, employers could still conduct background checks to ensure the candidate had no prior detentions. These might cause the exclusion from the position even if the job seekers had been sentenced for minor crimes. Professors Bryan L. Sykes and Michelle Maroto conducted a study that estimated former prisoners' household wealth between 1996 and 2011. During this period, white families with an incarcerated relative saw their employment rate drop from 64 percent to 45 percent. The employment rate for Black families was 54 percent at the beginning of the period and fell to 26 percent in 2011.¹³¹ Additionally, in 2008 the Center for Economic Policy Research reported that the United States had lost 1.7 million workers due to employment barriers imposed on people with criminal records.¹³² One further obstacle was the driving license suspension that some states imposed on offenders. After being released, many of them still needed to pay fines and fees connected to traffic misdemeanors or court debts, which they often could not afford. If these obligations were not paid on time, their driving license might be suspended as a penalty. This measure further

¹²⁹ A Drug Policy Alliance Publication, *Annual Report on Uprooting the Drug War: The War on Drugs Meets Employment* (New York, Drug Policy Alliance: 2021), 5.

¹³⁰ Alexander, *The New Jim Crow*, 146.

¹³¹ Bryan L. Sykes and Michelle Maroto, “A Wealth of Inequalities: Mass Incarceration, Employment, and Racial Disparities in U.S. Household Wealth, 1996 to 2011,” *RSF: The Russell Sage Foundation Journal of the Social Sciences* 2, no. 6 (October 2016): 146.

¹³² These data indicated that research on the consequences of mass incarceration on wealth problems was relatively new. This is likely because offenders sentenced during mass imprisonment have only recently been released from jail. See Center for American Progress, *Annual Report on One Strike and You're Out: How Can We Eliminate Barriers to Economic Security and Mobility for People with Criminal Records* (Washington, Center for American Progress: December 2014), 10.

restricted the job and social opportunities of former prisoners by limiting their mobility, making it difficult to access employment, education, and other essential services.¹³³

Felony disenfranchisement is the suspension of the voting rights of those convicted of a criminal offense. This measure imposed additional obstacles to the lives of inmates. Given that mass incarceration disproportionately affected Blacks and Latinx, disenfranchisement appeared more as a method to curtail the political influence of minority communities than merely a punishment for offenders. In a democratic country, excluding any group from voting for any reason undermines the stability of the democracy itself, as it sets a precedent for further restrictions on civil rights.¹³⁴ The exclusion from civic participation among inmates and former prisoners exacerbated their marginalization and emphasized their disadvantaged status. Conversely, ensuring the right to vote while in prison or restoring it immediately after release could strengthen their connection to the community and foster a sense of agency.¹³⁵

Laws on this issue vary by state in the United States. Maine and Vermont are the only states where prisoners retain the right to vote. In other states, such as Alabama and Mississippi, voting eligibility depends on the specific felony. Despite this, few incarcerated people manage to vote; either because of the poor knowledge of the registration procedures in prisons or due to absenteeism caused by lack of access to the media, which prevents people from creating informed opinions on candidates and contemporary issues.¹³⁶ However, some offenders may never regain the right to vote due to complex bureaucratic procedures. In many states, one may vote only after serving the full sentence, including prison, parole, and probation. The Sentencing Project published a report in 2020 detailing the number of disenfranchised people in the U.S. population. In 1976, 1.17 million people were disenfranchised, and this number rose to 3.34 million in 1996. By 2010, 5.85 million offenders were banned from voting, followed by 6.11 million in 2016. The most recent data of 2020 estimated 5.17

¹³³ Joni Hirsch and Priya Sarathy Jones, "Driver's License Suspension for Unpaid Fines and Fees: The Movement for Reform," *University of Michigan Journal of Law Reform* 54, no.4 (January 2021): 875-891.

¹³⁴ Kevin Muhitch and Nazgol Ghandnoosh, "Expanding Voting Rights to All Citizens in the Era of Mass Incarceration," *The Sentencing Project* (March 2021): 2.

¹³⁵ Nicole D. Porter, "Voting in Jails," *Annual Report on The Sentencing Project* (Washington, The Sentencing Project: 2020): 12.

¹³⁶ Porter, "Voting in Jails," 5.

million disfranchised offenders. According to this study, 1 in 16 African American adults of voting age was disfranchised.¹³⁷

To provide some examples on how felony disenfranchisement operates, we could mention the case of the Florida's 2000 presidential and Georgia's 2018 gubernatorial elections. In 2000, Florida's strict felony disenfranchisement laws prevented many former inmates from voting, disproportionately affecting African American voters. Given that George W. Bush won Florida by 537 popular votes out of almost six million, the exclusion of these potential electors likely influenced the overall outcome of the presidential election.¹³⁸ Similarly, in the 2018 Georgia gubernatorial election, almost 266,000 people could not vote due to felony disenfranchisement; 118,511 of which were on probation, 23,000 on parole, and 54,806 on felony incarceration.¹³⁹ This might have influenced the result of the elections, in which the Republican Brian Kemp became the governor of Georgia, defeating the Democratic candidate Stacey Abrams, a former African American member of the Georgia House of Representatives. The Supreme Court's ruling in *Shelby County v. Holder* of 2013, significantly impacted this election by weakening protections against voter suppression. The ruling invalidated Section 4 of the Voting Rights Act, which required certain states and local governments with histories of racial discrimination in voting, including Georgia, to obtain federal preclearance before changing their voting laws or practices. Without the supervision of institutions such as the DOJ or a US District Court, Georgia implemented several measures that suppressed votes. These actions strongly affected African American voters and other minorities, who were more likely to face obstacles to voting and raised significant concerns about the integrity and fairness of the electoral process in the absence of the protections previously provided by the Voting Rights Act.¹⁴⁰ Both cases demonstrated the impact that

¹³⁷ The Sentencing Project, *Report on Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction*, (Washington, The Sentencing Project: 30 October 2020), 4.

¹³⁸ Anthony Jamal Phillips and Natalia Deckard, "Felon Disenfranchisement Laes and the Feedback Loop of Political Exclusion: the Case of Florida," *Journal of African American Studies* 19, no.3 (September 2015): 8.

¹³⁹ "Facts Sheet on Felony Disenfranchisement in Georgia," Reform Georgia: Building a Better Justice System, University of Georgia, 2019, last accessed 22 July 2024, <https://www.senate.ga.gov/committees/Documents/ReportonFelonyDisenfranchisementinGeorgia.pdf>.

¹⁴⁰ P.R. Lockhart, "Georgia, 2018's Most Prominent Voting Rights Battleground, Explained," *Vox*, 7 November 2018, last accessed 22 July 2024, <https://www.vox.com/policy-and-politics/2018/10/26/18024468/georgia-voter-suppression-stacey-abrams-brian-kemp-voting-rights>.

felony disenfranchisement has. To limit its impact, in 2018, Amendment 4 was approved in Florida to restore the voting rights of offenders upon completion of their sentence.¹⁴¹ Similarly, Fair Fight Action, a nonprofit association founded by Abrams to fight voting rights suppression in Georgia, filed a suit after the controversy of the 2018's election, to restore its entire system of voting laws.¹⁴² Furthermore, Florida's and Georgia's practices of felony disenfranchisement apparently violate the "equal protection" clause of the XIV amendment. Political rights are explained in sections 2 and 3. Republicans interpreted that disenfranchisement was illegitimate if based on "race, color or previous enslavement," but could be applied if a citizen was involved in any "rebellion, or other crime."¹⁴³ Federal courts generally agreed. For instance, in July 2024, the US Fifth Circuit Court of Appeals upheld a 1890 statute of Mississippi that disfranchises offenders in as many as twenty-two criminal categories for their lifetime.¹⁴⁴

Reintegration into society was extremely challenging due to various fundamental and practical aspects of an individual's life; basic needs were barely met. However, a major issue was a less visible burden: the psychological consequences of conviction on offenders and their relatives. Upon release, many people developed a deep feeling of shame and self-hatred, stemming not only from the disgrace of their unlawful actions but also from their inability to rebuild their lives after prison. Many African Americans, who have personally been convicted or have a relative who has, avoided sharing their experience by remaining silent or lying about their past. This behavior was detrimental, as it perpetuated stigma within the community and exacerbated the negative impact of criminal records.¹⁴⁵

¹⁴¹ Nichole Jerrick, "Felony Disenfranchisement in Florida and the Passing of Amendment 4," *University of Illinois Chicago Law Review*, 13 November 2018, last accessed 22 July 2024, <https://lawreview.law.uic.edu/news-stories/felony-disenfranchisement-in-florida-and-the-passing-of-amendment-4/>.

¹⁴² Fair Fight Action and Care in Action v. Robyn A. Crittenden et al., filed 27 November 2018.

¹⁴³ Jean Schroedel, Melissa Rogers, Joseph Dietrich, and Blake Garcia, "Revisiting the Origins of Felony Disenfranchisement in the United States," *Studies in American Political Development*, (2024): 13.

¹⁴⁴ US Court of Appeals for the Fifth Circuit, Hopkins et al. v. Watson, 19-60662, 18 July 2024, last accessed 19 July 2024, <https://www.ca5.uscourts.gov/opinions/pub/19/19-60678-CV1.pdf>.

¹⁴⁵ Alexander, *The New Jim Crow*, 164.

Pretending not to know or have known prisoners was fictitious as evidenced by a 2006 study. Sociologists Hedwig Lee, Tyler McCormick, Margaret T. Hicken, and Christopher Wildeman conducted research analyzing how many incarcerated individuals respondents know, categorized into acquaintances, family members, neighbors, or trusted people. Data from the General Social Survey (GSS) revealed Black women were more likely than white women to know someone in jail across all four categories: 35 percent vs. 15 percent for acquaintances, 44 percent vs. 12 percent for family members, 22 percent vs. 4 percent for neighbors, and 17 percent vs. 5 percent for trusted people. Similar disparities were found among men, with Black males knowing more detained individuals than white males, especially among family members.¹⁴⁶

This study is particularly evocative because it highlights how mass incarceration influences the personal lives of U.S. citizens. The victims of mass imprisonment are not just convicts, but individuals with a network of human relationships disrupted by their punishment. The phenomenon affects primarily Black women. Besides experiencing higher incarceration rates than white women, they also face the consequences of their male partners' incarceration, as these men often are the fathers of their children. In the previous paragraph, we explain the impact of criminalization stereotypes on young and adult African Americans, but this stigma also extends to their families. Black women bear the dual burden of being labeled as "bad mothers" and the struggles their children face. Sociologists Sinikka Elliott and Megan Reid conducted a qualitative study revealing that Black mothers view the relationship between their children and law enforcement as unjust, ubiquitous, and high stakes situations. These women worry about the severity that their children may confront, not just on the streets, but also in schools and other seemingly safe environments. They fear the extreme consequences that encounter with police officers may provoke for the future of their sons and daughters.¹⁴⁷ To mitigate these risks, Black mothers adopt various strategies to educate their children on self-preservation. One of these, which we have already anticipated

¹⁴⁶ Hedwig Lee, Tyler McCormick, Margaret T. Hicken, and Christopher Wildeman, "Racial Inequalities in Connectedness to Imprisoned Individuals in the United States," *Du Bois Review: Social Science Research on Race* 12, no. 2 (Fall 2015): 275.

¹⁴⁷ Sinikka Elliott and Megan Reid, "Low-Income Black Mothers Parenting Adolescents in the Mass Incarceration Era: The Long Reach of Criminalization," *American Sociology Review* 84, no. 2 (2019): 206.

in the previous paragraph, is cautionary tales. Black women warn their children to always maintain a “good behavior,” outline potential scenarios they may face, advise them to avoid dangerous streets, and even suggest appropriate clothing to prevent misunderstandings. Another strategy is “sheltering,” which consists of limiting the children's outdoor activities to preclude any contact with crime or law enforcement. This often results in isolation through homeschooling or the use of electronic entertainment, such as video games, to keep them away from the streets where they are exposed to more dangers.¹⁴⁸ Lastly, mothers encourage their children to comply with punishments from school, police, or court with the hope that their obedience will prevent more severe repercussions.¹⁴⁹

The study shows that women highly value education as a mean to keep teenagers out of trouble. However, it is in schools where children with incarcerated parents often suffer the most. For children born in 1990, by the age of fourteen, the risk of having an incarcerated parent ranged from 25.1 to 28.4 percent for African Americans, as opposed to from 3.6 to 4.2 percent for white teenagers. The consequences of having an imprisoned or recently released parent cause many problems for children. They may have fewer economic and educational opportunities and carry the stigma of criminality throughout their lives, from school to the workplace, increasing the risk of replicating these behaviors in the future. Additionally, the imprisonment of a partner can lead to divorce and single parenthood, which may provoke in children a conflictual relationship with the biological parent when they grow up with a stepparent.¹⁵⁰

Imprisonment profoundly affected the lives of those who experience it, not only before and during incarceration but also after release. The stigma of criminal records prevented offenders from restarting a regular life. It imposed obstacles on fundamental needs such as securing housing, finding employment, and participating in politics. Moreover, these consequences extended beyond the former inmates and impacted the future of the next

¹⁴⁸ Elliot, Reid, “Low-Income Black Mothers,” 211.

¹⁴⁹ Elliot, Reid, “Low-Income Black Mothers,” 214.

¹⁵⁰ Holly Foster and John Hagan, “The Mass Incarceration of Parents in America: Issue of Race/Ethnicity, Collateral Damage to Children, and Prisoner Reentry,” *The Annals of the American Academy of Political and Social Science* 623, (May 2009): 179-194.

generations. Children with incarcerated parents have fewer opportunities compared to their peers, demonstrating that mass incarceration has created generational trauma for the minority communities involved.

The Land of Violence

*“When I speak, I don’t speak as a Democrat or a Republican, nor an American. I speak as a victim of America’s so-called democracy. You and I have never seen democracy, all we’ve seen is hypocrisy.”*¹

3.1 The Experience of the Nightmare

The previous chapter offered a historical and sociological overview of the developments of mass incarceration since the 1970s and its impact on present-day generations of African Americans and Latinx. The following paragraph aims to cast light on the personal experiences of those who have endured imprisonment. By exploring these narratives, we can gain a deeper understanding of the traumas suffered by inmates and why the penitentiary system often fails to bring about positive changes.

Before sharing these biographical stories, it is important to highlight some of the most serious health conditions that prisoners may develop in correctional facilities. Since 1980, the US Department of Health and Human Services (DHHS) has published reports evaluating public health and proposing solutions to medical problems within the population. However, it was not until 2010 that the DHHS formally recognized incarceration as “a determinant for health disparities.”² The conditions that prisoners may manifest are diverse and severe. First, many inmates have or develop serious mental illnesses (SMI), which are often mishandled by facility staff, who, along with other prisoners, frequently exploit and victimize individuals suffering from such disorders. The resulting mental health deterioration can lead inmates to engage in self-harm or, in the worst cases, suicide, whose rates in jails increased by 85 percent between 2001 and 2018. Staff are typically unprepared to address these crises and often

¹ Malcolm X, *The Ballot or the Bullet*, min. 25:20.

² David H. Cloud, Ilana R. Garcia-Grossman, Andrea Armstrong, and Brie Williams, “Public Health and Prisons: Priorities in the Age of Mass Incarceration,” *The Annual Review of Public Health* (21 December 2022): 410.

respond with punishment rather than treatment. Instead of providing effective solutions and care, operators force inmates into social isolation.³ Secondly, many prisoners die from overdoses while incarcerated or shortly after their release, due to relapses. Medications like Methadone and Naloxone, which respectively treat addiction and prevent overdose deaths, are rarely available in state prisons, unlike federal facilities.⁴ Other serious illnesses, such as infectious diseases like HIV and hepatitis, spread due to unsanitary conditions, overcrowding, and congregate living. Furthermore, inmates are at risk for all those “noncommunicable diseases,” such as cancer, and hypertension. These conditions are exacerbated by the poor lifestyle in prison, which includes inadequate diets, lack of physical activity, and infrequent medical screenings that could aid in early detection and prevention.⁵

When it comes to the prison system, one might argue that detention is a necessary consequence for those who commit serious crimes. However, regardless of one’s stance on imprisonment, basic human needs must be met for all individuals. In 1994, the United States ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁶ Despite this, after the United Nations (UN) adopted the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2002, the United States neither signed nor ratified the new version of the previous treaty.⁷ According to the UN, a protocol is an updated version of a convention that provides additional interpretations, rights, and obligations. For a state to be bound by these new duties, the protocol must be signed and ratified again.⁸ The main update in OPCAT

³ Cloud, Garcia-Grossman, Armstrong, Williams, “Public Health and Prisons,” 412.

⁴ Cloud, Garcia-Grossman, Armstrong, Williams, “Public Health and Prisons,” 413.

⁵ Cloud, Garcia-Grossman, Armstrong, Williams, “Public Health and Prisons,” 415.

⁶ The convention or “treaty” entered into force on 26 June 1987. The United States signed it in 1988 and ratified it in 1994. See “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” *United Nations*, last accessed 27 July 2024, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

⁷ “Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,” *United Nations*, last accessed 27 July 2024, <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-against-torture-and-other-cruel>.

⁸ “Definition of key terms used in the UN Treaty Collection,” *United Nations Treaty Collection*, last accessed 27 July 2024, https://treaties.un.org/Pages/Overview.aspx?path=overview/definition/page1_en.xml.

was the introduction of international and national bodies to oversee the conditions of inmates, ensuring they were not subjected to torture or other cruel treatment. The lack of data on prisoners' conditions by federal institutions, coupled with the United States' failure to ratify the 2002 protocol, highlights the country's controversial stance on convict management. While the Bureau of Justice Statistics has conducted some voluntary surveys, these efforts fall short of the comprehensive oversight intended by OPCAT, raising concerns about the U.S. commitment to humane treatment in its prisons.⁹

As we will see, the consequences of this decision shaped the system described in the stories. These narratives, written by prisoners, reveal that their human rights were at risk. The prison autobiographical narratives have developed since the 1970s.¹⁰ According to Criminal Justice professor Vanessa Lynn, inmates are driven to write about their prison experience to make sense of their detention. These stories serve to transform traumatic events into something meaningful. Some autobiographies denounce poor prison conditions, while others are tales of redemption, with many blending both elements. Additionally, these narratives often become cautionary tales. African American readers, whether involved in criminal activities or not, receive lessons and warnings not only from their families, as discussed in the previous chapter, but also through these autobiographical accounts.¹¹ Another significant theme in these writers' lives is the exploration of Black history, which many study while imprisoned. Evidence shows that this education positively influences many authors, helping them move from a state of self-mortification to one of historical consciousness. By deepening their understanding of their history, they gain insights into their present situation and find ways to improve their future. Studying their past without a colonial lens empowers the African American community, broadens their self-perception, and provides context for their unlawful actions. Blacks, who learn their history in prison, discover that they have always lived in a society that undermined their capabilities, spoiled their existence, and relegated them to a secondary social status. When poverty, subordination, racism, and prejudice are the prevailing conditions, aggressive responses may become a common coping mechanism.

⁹ Cloud, Garcia-Grossman, Armstrong, Williams, "Public Health and Prisons," 418.

¹⁰ Lynn, "Prison Autobiographical Narratives," 69.

¹¹ Lynn, "Prison Autobiographical Narratives," 66.

This perspective does not seek to normalize or justify crime but explains why a significant group of people committed unlawful actions out of despair for their miserable lives.¹²

Even though the first two autobiographies we will discuss predate the era of mass incarceration, they are noteworthy for their literary legacy. The first is *The Autobiography of Malcolm X*. According to Lynn, African American inmates widely read this book, as it stands as a seminal work within the genre of prison autobiographical narratives.¹³ At the time of his arrest, Malcolm X was engaged in various criminal activities, including drug dealing, gambling, racketeering, and burglaries. In 1946, he was arrested with his accomplice Shorty and sentenced to eight to ten years for nearly fourteen crimes. For incarcerated individuals, reading Malcolm X's autobiography is comforting as he candidly details his criminal past and the consequences of street life. In particular, the chapter that covers his incarceration mentions some of the difficulties of prison life: the poor conditions of the facility, the struggle with addiction, and the pervasive feelings of anger. However, it also illustrates the potential for personal growth and learning. Malcolm X was fortunate to have the support of his siblings, who encouraged him to use his time constructively by studying and reading. In 1948, his sister Ella facilitated his transfer to Norfolk prison, which was significantly better, with access to a library, cultural groups, and lectures. Simultaneously, his brother Reginald introduced him to the Nation of Islam through letters and visits, which became a pivotal turning point in Malcolm X's life. In his autobiography, he offers an alternative narrative of Black history and culture, challenging the conventional portrayal of Black people shaped by Christian religious beliefs and white culture norms, which often depicted Blackness as eviand dangerous.¹⁴ His story inspires inmates to reflect on their actions, acknowledge their past transgressions, and embark on a path of redemption.

Activist, author, and professor Angela Y. Davis had a markedly different experience compared to Malcolm X, but her autobiography and her subsequent works on the penitentiary system are equally remarkable. In 1970, Davis had already been dismissed from her position

¹² Lynn, "Prison Autobiographical Narratives," 80.

¹³ Lynn, "Prison Autobiographical Narratives," 67.

¹⁴ Malcolm X, as told to Alex Haley, *The Autobiography of Malcolm X* (New York: Ballantine Books, 1965), 202-220.

at the University of California, Los Angeles (UCLA) due to her affiliation with the U.S. Communist Party and the Black Panther Party. Her reputation was further tarnished that year by her support to the Soledad Brothers case. It involved three African American inmates at Soledad Prison in California accused of killing a white prison guard in retaliation for a fight in which another white officer had killed three Black prisoners. Later that year, the FBI and the media suspected that Davis's involvement went beyond mere support for the Soledad Brothers. On 7 August 1970, Jonathan Jackson, the sibling of one of the Soledad Brothers, stormed the Marin County Courthouse in California armed with weapons. Jackson distributed the arms to the convicts present at the trial and attempted to take Judge Harold J. Haley and other hostages to negotiate the release of the Soledad Brothers. During the incident, Jackson and Judge Haley died and the prosecutor was injured.¹⁵ Davis was charged with kidnapping, murder, and conspiracy because one of the weapons used by Jackson was registered in her name. A few weeks later, the FBI placed Davis on its Most Wanted Fugitive list. After hiding for months, Davis was arrested in New York on 13 October 1970.¹⁶ She spent nearly two years in jail until she was acquitted of all charges on 4 June 1972, thanks to a dedicated legal team and the widespread support from the Free Angela Davis Movement.

In 1974, she published her autobiography, which includes chapters detailing her prison experience. Upon her arrest, Davis spent much of her time in the 4b section of the New York prison, designed for mentally ill inmates. She was initially concerned about being placed in this section, fearing it might imply she was psychologically unstable. However, this decision was made because the facility lacked a separate area for political prisoners, therefore that area of the building was the only one that could keep her isolated. In her autobiography, Davis reflects on her sufferings and her firm belief in her innocence and the political significance of her case, bolstered by support from fellow activists. During her imprisonment, she became a keen observer of the U.S. prison system, which arguably made her one of the most informed prison activists globally. The women in the 4b section of the New York facility were not allowed to wear their clothes or possess any object; even toilet paper had to

¹⁵ Angela Davis, *An Autobiography* (New York: International Publishers, 1974), 9.

¹⁶ Davis, *An Autobiography*, 15.

be requested from the guards. The mental illnesses were inadequately treated, as prison staff sedated prisoners with Thorazine to keep them quiet. Davis recounts an episode involving a schizophrenic white inmate, who hallucinated every night, imagining a Black man with whom she had altercations. She hurled racist and vile remarks at her imaginary antagonist, yet no psychologist investigated the underlying causes of her trauma. Davis viewed this neglect as representative of the deeply ingrained racism among prison staff, who did not consider the woman's delirium as problematic and racially biased.¹⁷ Additionally, she described the poor hygienic condition of the facility, which was dirty, foul-smelling, and infested with rats. She observed that prisons systematically eroded inmates' ability to think due to isolation, lack of cultural engagement, and limited human contact. Davis fought against this by reading extensively and studying her case as part of her legal defense team. As an educated political prisoner, she was better equipped to endure these hardships, aware of the white supremacist mechanism at play. Nonetheless, she acknowledged being targeted for staff provocations more than once. When she was extradited to the Marin County Jail in California, she found the conditions marginally better than in New York. However, she frequently clashed with staff members who persistently attempted to provoke her, aiming to destabilize her mental and emotional state.¹⁸

In her autobiography, Davis denounced the inadequate medical care received for their afflictions, which extended beyond mental illnesses to include various "noncommunicable diseases." Physicians at the facility revealed a lack of care not only for the mental health issues of the 4b prisoners but also for pregnant women, cancer patients, and drug addicts.¹⁹ In her subsequent works, Davis continued to highlight the suffering endured by female inmates in U.S. prisons. In her notable 2003 book *Are Prisons Obsolete?*, she shed light on the sexual assaults perpetrated against female inmates in U.S. prisons.²⁰ Furthermore, in her

¹⁷ Davis, *An Autobiography*, 35.

¹⁸ Davis, *An Autobiography*, 247-251.

¹⁹ Davis, *An Autobiography*, 51-52.

²⁰ Davis, *Are Prisons Obsolete?*, 78.

2016 work *Freedom is a Constant Struggle*, she addressed the severe hardships faced by imprisoned transgender women of color.²¹

After presenting two major examples of prison autobiographical narratives before the era of mass incarceration, it is crucial to explore true stories that have detailed the prison system since the 1970s. One such narrative is *Life from Death Row* written by Mumia Abu-Jamal. Abu-Jamal, a journalist, activist, radio speaker and member of the Black Panther Party. To supplement his income, he also worked as a taxicab driver. On 8 December 1981, while on his night shift, he became involved in an altercation between his brother William Cook and a police officer named Daniel Faulkner. When the police force arrived at the scene, they found Faulkner dead and Abu-Jamal severely wounded, with a gun registered in his name nearby. In 1982, he was convicted of first-degree murder and sentenced to death. His case has attracted significant international attention, because of the multiple ambiguities of his trial, including an inexperienced judge, a weak defense legal team, fabricated confessions of the defendant, and unprecise testimonies. Furthermore, he was largely tried *in absentia*.²² After Abu-Jamal had spent nearly thirty years on the death row, his sentence was commuted to life imprisonment without parole in 2011.²³

According to Abu-Jamal, in 1991, African Americans comprised 11 percent of the U.S. population but accounted for 40 percent of the death row inmates. At the time, he was serving in the State Correctional Institute at Huntingdon in Pennsylvania.²⁴ In his book, he mentions many of the hardships faced by inmates in that section of the prison. They were forced to remain in their cells for 22 hours a day, with only two hours allowed outside. Family visits were humiliating for both the inmates and their visitors, who had to endure invasive frisks, while prisoners were subject to degrading body-cavity strip searches. Physical contact was

²¹ Angela Y. Davis, *Freedom is a Constant Struggle: Ferguson, Palestine and the Foundations of a Movement*, ed. Frank Barat (Chicago: Haymarket Books, 2016), 80.

²² "A Life in Balance: The Case of Mumia Abu-Jamal," *Report Amnesty International* (17 February 2000), last accessed 28 July 2024, <https://www.amnesty.org/en/documents/AMR51/001/2000/en/>.

²³ Death row is defined as the section of a prison that holds prisoners who have been sentenced to death and are awaiting execution. See the definition at Legal Information Institute, Cornell Law School, last accessed 27 July 2024, https://www.law.cornell.edu/wex/death_row.

²⁴ Mumia Abu-Jamal, *Life from Death Row* (Reading: Addison-Wesley Publishing Company, 1995), 7.

prohibited, as prisoners were handcuffed and separated from their relatives by “shatterproof glass, steel trim, and wire mesh.”²⁵ During his incarceration, Abu-Jamal witnessed suicide attempts, hallucinations, and brutal treatment by guards. Medical staff treated inmates with Thorazine, and Haldol, which caused terrible body ticks and shakings.²⁶ One particularly shocking account is the episode of “Manny’s attempted murder.” Manny, an African American prisoner with epilepsy, experienced increasingly severe and frequent seizures after his medication was mixed with Haldol, worsening his liver condition. Upon hospitalization, physicians discovered that the anticoagulant used for epilepsy should not have been combined with Haldol. Although Manny survived, no investigations was conducted to hold the responsible staff member accountable.²⁷ Like Davis, Abu-Jamal realized that prisons are inhumane places. He wrote,

Those who are harmed become further damaged, and the merely warped are twisted. Empty unproductive hours morph into years of nothingness... What societal interest is served by prisoners who remain illiterate? What social benefit is there in ignorance? How are people corrected while imprisoned if their education is outlawed? Who profits from stupid prisoners?²⁸

Evidence shows that Abu-Jamal highlights a major theme of autobiographical prison narratives: the awareness that the prison system is designed to abandon its inmates, denying them rehabilitation, improvement, and the tools necessary to re-enter society if they ever do.

The theme of the prison system’s failure to rehabilitate, prevalent in Abu-Jamal’s narratives, also recurs in other stories from the era of mass incarceration, particularly during the War on Drugs, which disproportionately affected Black ghettos. The first worth mentioning is Shaka Senghor’s *Writing My Wrongs*, published in 2017. Senghor’s teenage years in Detroit were marked by street life; he became a dealer at fourteen. After being shot and severely injured in the drug trade, he experienced dark feelings of fear, uncertainty, and

²⁵ Abu-Jamal, *Life from Death Row*, 10.

²⁶ Abu-Jamal, *Life from Death Row*, 22.

²⁷ Abu-Jamal, *Life from Death Row*, 59.

²⁸ Abu-Jamal, *Life from Death Row*, 66.

danger, prompting him to carry a weapon for protection. At nineteen, Senghor shot and killed a man, which resulted in his conviction for second-degree murder and a 19-year prison sentence. He was released at 38 in 2010, succeeding his third attempt at parole board. During his two decades in jail, he faced similar conditions to those described in other autobiographies. However, like Malcolm X's autobiography, *Writing My Wrongs* is not just a critique of the U.S. prison system, but also a tale of redemption. Senghor endured humiliation by police officers, filth, nauseating smells, mental annihilation, and the traumatic suicide of a fellow inmate, caused by homophobic comments he had received in that environment.²⁹ Despite being placed in solitary confinement, Senghor did not yield to despair. Instead, he experienced a profound transformation while incarcerated. Senghor attributes his change to several factors: the unwavering support of his family, especially his father and fiancée; his mental escape through reading and writing; and the inspiration he drew from Malcolm X's autobiography. As noted in Lynn's study, many inmates find solace in reading Black history and Malcolm X's autobiography. Senghor surely pertains to this group, and if we look at his account, it is evident that he read Malcolm X's story not just as not only a pastime but also a guide to reach something very similar.³⁰ Senghor exemplifies this, using the African American leader's story as a mentor for his own redemption. While he acknowledges his wrongdoings, he contextualizes them within the broader environment of the 1980s and 1990s city ghettos where many African Americans lived. Despite this, his book reveals the struggles endured behind prison walls and the hopelessness of his life expectations for a young man in Detroit. Through literature, he made sense of his actions and understood the reasons that led a generation to react to life's struggles with violence:

I discovered layers upon layers of scars, from feeling unloved and abandoned, to feeling like no one would ever care for me or stand up in my defense. I discovered that, like many young males who grow up in distressed neighborhoods, I probably suffered from post-traumatic stress disorder...I didn't have the tools to

²⁹ Shaka Senghor, *Writing My Wrongs: Life, Death, and Redemption in an American Prison* (New York: Convergent Book, 2017).

³⁰ Senghor, *Writing My Wrongs*, 143-144.

process all I had experienced, and those feelings had festered like rotten meat, turning into the source of violence that had possessed me for all of these years.³¹

What Senghor realized in prison was that his experience was not merely a punishment for his actions but part of a broader system that ensnared an entire generation of Black men and women, relegating them to a state of perpetual subordination. His determination to improve himself was also driven by the fear that his son might fall into the same trap. Senghor began his career as an author while still incarcerated, when he published his first articles. Despite the challenges he faced upon release — such as finding employment, rebuilding his life, and adapting to new technologies — he has since become an author, educator, and advocate for criminal justice reform.³²

A deeper understanding of how mass incarceration impacted not only inmates but also the families within the African American community during the War on Drugs is vividly presented in *When They Call You a Terrorist* published in 2018 by activist and Black Lives Matter Movement founder Patrisse Khan-Cullors. In this autobiography, Cullors goes beyond detailing prison conditions to highlight the myriad struggles faced by the families involved in the system. From a young age, she understood the dire consequences of being Black in the United States; even schools were not safe for Patrisse and her siblings. She lived with her family in the area of Van Nuys in Los Angeles. Cullors witnessed her brothers being arrested repeatedly from a very young age. Hoping for better opportunities, their mother moved the family to another area of the city but yielded little improvement. The family soon realized that no place or city offered better opportunities to Black people in the 1990s. Cullors' narrative provides a concrete and poignant description of life in an environment dominated by law enforcement that was not there to help but rather to harm.

For my brothers, and especially for Monte, learning that they did not matter, that they were expendable, began in the streets, began while they were hanging out with friends, began while they were literally breathing while Black. The extraordinary presence of police in our communities, a result of a drug war aimed

³¹ Senghor, *Writing My Wrongs*, 250.

³² Senghor, *Writing My Wrongs*, 329.

at us, despite our never using or selling drugs more than unpoliced white children, ensured that we all knew this. For us, law enforcement had nothing to do with protecting and serving, but controlling and containing the movement of children who had been labeled super-predators...³³

Growing up she realized that they were part of a larger mechanism that considered prisoners “valuable” because they provided a cheap or even free labor force for corporations.³⁴ This system incarcerated many generations of parents, leaving countless children without adult figures to guide and mentor their lives.³⁵

Patrisse’s brother Monte Cullors was first arrested for robbery in 1999. It took two months for his relatives to discover which prison he was in. Once located, he was found to be significantly skinnier and bearing signs of torture. Although he was released in 2003, it soon became clear that he was not in good condition. His mental health had been severely affected by his experience and he was later diagnosed with schizoaffective disorder, which included bipolarism. Monte was arrested again for battery in 2006, a consequence, according to his sister, of the complete loneliness that expected him upon his release. Both Monte and his family quickly realized that the authorities were not equipped to reintegrate former prisoners, especially those with serious mental illnesses.³⁶ The 2006 arrest followed an altercation with the police while he was having a psychotic attack. During the arrest, he was subjected to severe police brutality, including being tased despite his mental instability. Anyway, he was charged with felony assault and placed to the Twin Towers Correctional Facility of Los Angeles. It was only through the tireless efforts of Patrisse and their family that he was eventually released.

Cullors’ narrative underscores the profound bias within the penitentiary system and bears witness to the immense harm inflicted on the African American community during the era of mass incarceration.

³³ Cullors, Bandele, *When They Call You a Terrorist*, 41.

³⁴ Cullors, Bandele, *When They Call You a Terrorist*, 63.

³⁵ Cullors, Bandele, *When They Call You a Terrorist*, 77.

³⁶ Cullors, Bandele, *When They Call You a Terrorist*, 146.

To conclude, the last story we want to share in this paragraph is Kalief Browder's. In 2010, at the age of 16, Browder was walking home after a party when a police officer stopped him and accused him of stealing a backpack. Once he was arrested, his family could not afford to pay bail and he was detained despite his innocence. Browder spent 33 months in the Rikers Island prison in New York waiting for his trial. Much of the time he was in solitary confinement for allegedly assaulting police officers. During his time in prison, he was asked to plea bargain to shorten his sentence; if he refused, he faced the possibility of spending 15 more years in prison. He chose to fight the justice system and establish his innocence. Although he was terrified by the conditions he endured, Browder remained steadfast in his decision. He attempted suicide multiple times while in prison, despite requesting psychological assistance.³⁷ After his release, Browder struggled with deep depression and tragically took his own life in 2015 at the age of 22. As Browder's mother later affirmed, the young man did not kill himself; rather, a deeply flawed system took his life. In one of his last interviews, Browder expressed the devastating impact of his incarceration:

If I had just plaid guilty then my story would have never been heard, and nobody would have took the time to listen to me. I'd have been just another criminal.³⁸

Whether the stories reported in this paragraph regard defendants who were guilty or innocent, whether some managed to redeem themselves while others did not, or whether many are still victims of the system, what emerges is that the latter is built to harm, brutalize, and kill its own citizens. As Senghor states in one of his TED Talks, his story, like Malcolm X's, is one of the few that ended on a positive note. However, since the majority of the inmates imprisoned during mass incarceration are eventually released, positive experiences like his should not be one-in-a-million cases, but rather the norm.³⁹

³⁷ Kalief Browder, interviewed by Marc Lamont Hill, *16 Year Old Falsely Imprisoned For 3 Years in Rikers Island*, HuffPost Live, 3 December 2013, last accessed 28 July 2024, <https://www.youtube.com/watch?v=56zIBGdHoZQ>.

³⁸ Kalief Browder, interviewed by ABC News, *Kalief Browder's Life Behind Bars and Who He Might Have Been*, ABC News, 18 June 2015, last accessed 28 July 2024, <https://www.youtube.com/watch?v=kv6gSI4JcFA&t=46s>.

³⁹ Shaka Senghor, "Why Your Worst Deeds Don't Define You," 23 June 2014, last accessed 28 July 2024, <https://www.youtube.com/watch?v=GtXyGFMBWBs>.

3.2 Mass Incarceration: A New Form of Violence

Prison autobiographical narratives illustrate that mass incarceration is manifested not just by the rising numbers of inmate population, but also thanks to the description of complex, individual stories. According to Davis, the penitentiary system, as we still know it today, has always been taken for granted. Her experience as an anti-prison activist has led her to understand that the carceral system deceives citizens into believing they live in a safe environment because those who are deemed dangerous are spatially separated from society.⁴⁰ We have seen the structure and arms of mass incarceration, it is now important to analyze how the event places itself in the whole frame of Blacks history. Before mass imprisonment, African Americans faced two major challenges: slavery and segregation. Scholars have noted the similarities between these two oppressive systems and mass incarceration, but rather than simply identifying these analogies, we should seek the common thread that connects them.

While many scholars have addressed mass incarceration academically, the phenomenon has gained widespread attention following Alexander's 2010 book *The New Jim Crow*, which sold almost 1 million copies and spent nearly 250 weeks on *The New York Times Best Sellers* list,⁴¹ and producer and filmmaker Ava DuVernay's 2016 documentary *13th*, winner of three Emmys and nominated in the category Best Documentary Feature at the Academy Awards and counting nearly 15.000.000 views⁴². The movie emphasizes that understanding contemporary U.S. history requires looking back to the past. Through expert testimonies, the picture effectively presents the complex nature of mass incarceration to a broad audience.⁴³ The title itself refers to the XIII amendment, highlighting the economic exploitation within the prison industrial complex, a hidden aspect of mass incarceration. The documentary reveals that racism is not the only structure underpinning mass imprisonment; economic incentives play a significant role, much like they did with slavery. Just as slaves

⁴⁰ Davis, *Are Prisons Obsolete?*, 14.

⁴¹ "Everything and Nothing Has Changed. Ten Years after The New Jim Crow Was first published," *The New Press*, 5 February 2020, last accessed 10 August 2024, <https://thenewpress.com/blog/book-excerpts/everything-nothing-has-changed-ten-years-after-new-jim-crow-was-first-published>.

⁴² *13th*, directed by Ava DuVernay, views on YouTube, last accessed on 11 August 2024, <https://www.youtube.com/watch?v=krfcq5pF8u8>.

⁴³ *13th*, directed by DuVernay.

were exploited for labor, inmates are used to profit major U.S. companies. The metaphor suggests that despite changes over time, mass imprisonment can be seen as a modern form of servitude, which predominantly affects minority groups.

Alexander is one of the interviewees in the movie, offering her extensive knowledge of the topic. In her book, *The New Jim Crow*, she highlights the similarities between slavery and mass incarceration. However, her core argument focuses more on the analogies that the prison system has with segregation, as the title of her volume suggests. Her contribution goes beyond listing the common elements of the two oppressive systems; she presents them with great accuracy and criticism. Alexander emphasizes how mass imprisonment perpetuates the oppression of African Americans, paradoxically beginning right after the Civil Rights Movement, a time of high hopes for minority groups. Nevertheless, the seeds of the new era of oppression were planted exactly in that period. Alexander defines mass incarceration as “a new caste system thinly veiled by the cloak of colorblindness.”⁴⁴ She argues that despite the achievements of the Civil Rights Movement, prejudice against minority groups, particularly Blacks, was not fully overcome and was gradually reshaped into an oppressive structure that harmed many lives. This occurred primarily because U.S. society remains entrenched in “structural racism.” To illustrate this, Alexander uses Iris Marion Young’s “birdcage” metaphor, which links racism to the many wires of a birdcage that trap a bird. Just as the wires are interconnected to prevent the bird’s escape, racism operates on multiple layers of society to deny full freedom. If the cage is never fully dismantled, a new caste system can always be reconstructed, as happened with mass incarceration.⁴⁵ Alexander claims that U.S. society is still deeply colorblind, with few Americans recognizing the pervasive impact of this system on various aspects of life.⁴⁶

⁴⁴ Alexander, *The New Jim Crow*, 211.

⁴⁵ Alexander, *The New Jim Crow*, 179.

⁴⁶ “Colorblindness is rooted in the belief that racial group membership and race-based differences should not be taken into account when decisions are made, impressions are formed, and behaviors are enacted.” While the colorblind approach and the rhetoric of “race does not matter” may seem like a good path to follow, they are problematic because ignoring race also means ignoring the differences and inequalities it causes. See Evan P. Apfelbaum, Michael I. Norton, and Samuel R. Sommers, “Racial Color Blindness: Emergence, Practice, and Implications,” *Association for Psychological Science* 21, no. 3 (2012): 205-209.

In drawing parallels between the segregation era and mass incarceration, Alexander shows that while some analogies are more evident, others are more metaphorical. Among the clearest parallels is the historical emergence of both systems, which Alexander affirms were created to deflect the anger and resentment of white elites by scapegoating minority groups. Another striking similarity she highlights is the “legalized discrimination” inherent in both institutions. Just as Jim Crow laws relegated Black individuals to the status of second-class citizens, the legislation enacted during the War on Drugs disproportionately targeted African Americans for minor offenses, leading to unequal treatment by the justice system and higher incarceration rates. Alexander also points to other discriminatory elements common to both organizations, including political disenfranchisement, exclusion of Blacks from juries, and the racial biases of the U.S. Supreme Court.⁴⁷

However, beyond these evident differences, Alexander identifies two more metaphorical associations that are particularly problematic: the “racial segregation” and the “symbolic production of race.” The first refers to the spatial division both systems created. While one might assume that such conditions would not be replicated after the abolition of segregation, Alexander explains that prisons themselves function as places of exclusion from society. This separation persists even after individuals are released, as they often return to ghettos that offer limited opportunities to their residents. Thus, mass incarceration, like the Jim Crow era, has created and perpetuated isolation, barriers, and ostracism from society.

The second metaphorical connection is the creation of the stigma, a thread that runs through slavery, segregation, and mass incarceration. In the past, African Americans were labeled as slaves and then second-class citizens; during mass incarceration, particularly due to the influence of media, they have been marked as criminals. This shows that while the stereotype may change in connotation, its deep racial roots remain firmly entrenched. Furthermore, as seen in the testimonies of the prison autobiographical narratives and as Alexander herself notes, the “criminal” label has repercussions not only for the individuals directly affected but also for their relatives.⁴⁸

⁴⁷ Alexander, *The New Jim Crow*, 189.

⁴⁸ Alexander, *The New Jim Crow*, 193.

Despite these analogies, Alexander acknowledges that her parallelism is only partly accurate, as the two systems exhibit significant differences. Perhaps, the most remarkable insight from her comparison lies not in the similarities or differences, but in her identification of what she calls the “new caste system.” Alexander’s argument centers on the frustration of living in a society where structures have been reshaped to perpetuate new forms of discrimination. One significant difference between the Jim Crow era and mass incarceration is the “absence of racial hostility.”⁴⁹ According to the author, it was “racial indifference,” rather than outright hostility, that facilitated the creation of the prison system. While some may view law enforcement as a substitute for the Ku Klux Klan, it is inappropriate to equate the status of Black individuals during segregation with their position since the 1970s. Although racial inequality persists, Black Americans have had more opportunities in recent decades than in the past. Another key difference lies in the fact that the War on Drugs and mass incarceration also impacted whites, creating what Alexander refers to as “white victims of racial caste.” While Blacks and Latinx were disproportionately affected, many whites were also swept up in the tide of arrests and imprisonment. In contrast, during the segregation era, white people experienced relatively minor inconveniences — such as restrictions on interracial marriage — without enduring the profound suffering inflicted on Blacks. The third difference Alexander presents is the controversial support of “get tough” policies by some African Americans. She notes that many in the community bolster stringent policies on crime, particularly in response to violent offenses. For instance, according to a Gallup survey, 58 percent of Blacks backed the 1994 Violent Crime Control and Law Enforcement Act, as opposed to 49 percent of whites.⁵⁰ However, this approval is often specific to violent crime rather than a blanket endorsement of all strict policies. When faced with a choice between increased criminality or stricter law enforcement, many understandably opt for the latter to feel safer in their communities. A somewhat analogous situation occurred during segregation when some African Americans cooperated with the Jim Crow system to avoid provocations from the Ku Klux Klan. However, the difference lies in the nature of this collaboration: while

⁴⁹ Alexander, *The New Jim Crow*, 197.

⁵⁰ Rashawn Ray and William A. Galston, “Did the 1994 crime bill cause mass incarceration?,” *Brookings Institution*, 28 August 2020, last accessed 10 August 2024, <https://www.brookings.edu/articles/did-the-1994-crime-bill-cause-mass-incarceration/>.

the previous generations may have tolerated segregation to avoid violence, they likely never truly agreed with the oppression they faced. In contrast, some African Americans during the era of mass incarceration may have genuinely believed that stricter prison sentences were necessary to ensure safety.⁵¹

Yale law professor James Forman Jr. wrote an article about some of the weaknesses in the arguments of “new Jim Crow” advocates. While he acknowledges the importance of Alexander’s work in bringing the issue of mass incarceration to a broader audience and agrees that there are similarities between segregation and mass incarceration, Forman cautions against equating these two complex periods. One of his major criticisms concerns the historical roots of the two systems. Although many scholars assert that segregation served to appease white elites after the Reconstruction and mass incarceration emerged from urban unrest following the Civil Rights Movement, Forman argues that this comparison overlooks a critical factor: the rise in violent crime during the late 1960s and the early 1970s, which President Nixon addressed forcefully.⁵² Like Alexander, Forman notes that some African Americans supported the construction of new prisons, particularly as a means to combat violence. However, he criticizes “new Jim Crow” scholars for downplaying the role of violent offenses in increasing the prison population, focusing instead on the War on Drugs and the unequal sentences for drug-related misdemeanors. Statistics by the U.S. DOJ between 1995 and 2001 show that violent crimes were the leading cause of incarceration across all communities with 596,100 inmates (including 267,800 Black prisoners, 208,100 whites, and 102,600 Latinx), followed by property crimes at 233,000, and drug offenses at 246,100.⁵³

Forman also argues that “new Jim Crow” advocates overlook the role of class in mass incarceration. He points out that the prison system disproportionately affects poor communities, while educated and affluent Blacks are less likely to be incarcerated, either because they have better life opportunities or because they can afford bail and legal

⁵¹ Alexander, *The New Jim Crow*, 205.

⁵² James Forman, “Racial Critiques of Mass Incarceration: Beyond the Jim Crow,” *Yale Law School Research Paper* 87, no.243 (26 February 2012): 113.

⁵³ Paige M. Harrison and Allen J. Beck, “Prisoner in 2002,” *Bureau of Justice Statistics: Bulletin*, (July 2003): 10.

representation. In contrast, segregation targeted all dark-skinned people, regardless of socioeconomic status, based on immutable characteristics.⁵⁴ Additionally, Forman reiterates Alexander's point that mass incarceration did not exclusively harm the Black community; whites and Hispanics were also victims of this system.⁵⁵ Finally, Forman warns that the effort to draw parallels between the two systems to highlight the persistence of racism in the United States should not overshadow the collective memory of the "old Jim Crow," a period of profound suffering for African Americans that may have been even worse in some respects.⁵⁶

As much as one may debate on whether it is appropriate or not to draw the similarities and the differences between these oppressive structures, the most important element is that experts who are aware and informed on this topic work together to find productive and efficient solutions to the drawbacks of the U.S. penitentiary system. Forman stresses the importance of creating a multi-racial movement, as he believes that if other groups are left out of the discussion, they will be less likely to join the cause. Additionally, he believes that reforms should be applied to how the prisoners are treated within the prison and what opportunities await them once released. If new possibilities are not created in and out of prisons, it will be unlikely that crime rates truly diminish.⁵⁷ Most importantly, Forman underlines the role played by violence and the fear of it, which, as we have seen with Senghor's case, was the main reason why he reacted to the brutality he received with more aggressive and fatal behaviors which led him to prison.⁵⁸

Sociologists Aaron Gottlieb and Kalen Flynn provide empirical support for Alexander's and DuVernay's comparison between slavery and mass incarceration. In a 2021 study, Gottlieb and Flynn examined the enduring impact of slavery's legacy on the criminal justice system. Their research revealed that former slave states tend to impose stricter and

⁵⁴ Forman, "Racial Critiques of Mass Incarceration," 131.

⁵⁵ Forman, "Racial Critiques of Mass Incarceration," 138.

⁵⁶ Forman, "Racial Critiques of Mass Incarceration," 141.

⁵⁷ Forman, "Racial Critiques of Mass Incarceration," 143.

⁵⁸ Forman, "Racial Critiques of Mass Incarceration," 145.

longer prison sentences, demonstrating how the historical institution of slavery continues to influence contemporary penal practices.⁵⁹

Another common thread connecting slavery, segregation, and mass incarceration is violence. Davis highlighted this point during a 1972 interview at California State Prison. When asked whether she endorsed violence as a tool for revolution, she clarified that it should not be immediately equated with brutality; instead, the real value of a revolution lies in its goals. She emphasized that those who ask her, or any African Americans, if violence is the only means to achieve their objectives often fail to grasp the deep-seated struggles Blacks have endured since being forcibly deported from Africa to America. Davis argued that brutality has been a constant presence since the era of slavery and segregation, and it is inevitable that it would sometimes provoke aggressive responses in people who had always experienced it.⁶⁰ In subsequent interviews, she has elaborated that questions about the legitimacy of coercion should not be directed at her but at the institutions that have long relied on it, such as the police, the prison system, and the military.⁶¹ She noted that while lynchings and Ku Klux Klan attacks are now gone, modern police brutality and state violence demonstrate that the underlying problem remains unresolved.⁶² This systemic violence is perpetuated, particularly within prisons. Davis contended that for inmates accused of violent crimes, institutions and society should ask themselves “Why is the person bad?”⁶³ Simply incarcerating individual without addressing the root causes of their actions is not a viable solution to crime. Moreover, prisoners are often not rehabilitated in jails, as they are not taught alternative ways to solve conflicts, but they rather become victims of even more aggressive treatment from police officers.

The persistence of structural racism has been evident throughout slavery, segregation, and mass incarceration—systems all marked by pervasive aggression toward African

⁵⁹ Aaron Gottlieb and Kalen Flynn, “The Legacy of Slavery and Mass Incarceration: Evidence from Felony Case Outcomes,” *Social Service Review* 95, no. 1 (March 2021): 27.

⁶⁰ Angela Y. Davis, interview by Göran Hugo Olsson, *The Black Power Mixtape 1967-1975*, Story AB., 1972, distributed in the United States by IFC Films.

⁶¹ Davis, *Freedom is a Constant Struggle*, 17.

⁶² Davis, *Freedom is a Constant Struggle*, 23

⁶³ Davis, *Freedom is a Constant Struggle*, 27.

Americans. According to Davis, racism is so deeply embedded in U.S. history that it has not only manifested in new forms of oppression, such as the prison system but has also become a coping mechanism in both public and private human interactions. She argues that to dismantle policing and imprisonment as they function today, and to demilitarize the police, institutions must first confront and acknowledge the truth about racism and violence in the United States.⁶⁴

In his book and speeches, Senghor describes how violence became ingrained in the human interactions of the street life he experienced. Aggressive coping mechanisms were so deeply internalized in his mind that he seldom considered the consequences of his actions on himself and others. Davis's assertion that "the personal is political," underscores this idea — what individuals experience within their families and communities is what they often project onto others. In the United States, violence has not only persisted through the centuries but it has also permeated various layers of society, from families to entire communities.⁶⁵ Senghor's testimony supports this theory; he recounts that the first time he endured oppression and cruelty was within his own family. As a victim of child abuse, he eventually fled to the streets to escape his sufferings. There, seasoned hustlers exploited the vulnerabilities created by poverty and mistreatment for their gain. In the early days as a young drug dealer, Senghor was robbed, nearly beaten to death, and shot. In his opinion, the cycle of violence continued because, after being shot, no one helped him recover from the psychological trauma it caused. As a result, he returned to his community more fearful, angry, and isolated. Months later, he found himself on the other side of the gun, shooting a man to death.⁶⁶ In a later podcast, Senghor and his interviewer discuss how, for many African Americans, one "can only be as good, as the choices we can make."⁶⁷ When life's possibilities are as limited and fraught as those in the street life of U.S. urban centers, and when history teaches that one has been consistently mistreated with violence, it can be

⁶⁴ Davis, *Freedom is a Constant Struggle*, 74

⁶⁵ Davis, *Freedom is a Constant Struggle*, 84.

⁶⁶ Shaka Senghor, "Writing My Wrongs: Shaka Senghor at TEDxMidwest," 27 November 2013, last accessed 7 July 2024, https://www.youtube.com/watch?v=IV_uAL9ADBU.

⁶⁷ Shaka Senghor, interview by Devi Brown, "Finding Enlightenment with Shaka Senghor," *Deeply Well with Devi Brown*, Spotify, 7 March 2024.

difficult to unlearn the belief that it is the only response, making it harder to see that other ways of resolving conflicts are possible.

When asked whether prison abolition is possible, Davis argues that as long as the U.S. institutions fail to address systemic issues such as racism, poverty, unemployment, lack of education, and inadequate health care, prison will never fully disappear or be meaningfully reformed. She contends that unless the United States commits to prioritizing people's needs, prisons will continue to serve as places where society's major problems are hidden rather than resolved.⁶⁸ Echoing Aleander's argument, Davis asserts that prison currently functions as a "vast garbage bin" where people of color and immigrant populations are confined, fostering the illusion that society is safer and isolated from violence when in reality, it remains a deeply entrenched characteristic of the United States.⁶⁹

⁶⁸ Davis, *Freedom is a Constant Struggle*, 17.

⁶⁹ Davis, *Freedom is a Constant Struggle*, 86.

This is America

“Once you change your philosophy, you change your thought pattern. Once you change your thought pattern, you change your attitude. Once you change your attitude, it changes your behavior pattern. And then you go into some action. As long as you got a sit-down philosophy, you’ll have a sit-down thought pattern. And as long as you think that old sit-down thought, you’ll be in some kind of sit-down action. They’ll have you sitting in everywhere.”¹

4.1 21st-Century Solutions to Mass Incarceration

Mass incarceration began nearly fifty years ago, and while the phenomenon has recently gained more attention, a complete solution to the problem remains elusive. However, some important legislation addressing the issue was enacted during the 2010s. The prison population started to rise in 1973, and it reached its highest peak in 2009. It gradually started to decline in the early 2010s.² At that time, African Americans made up 42.1 million people of the U.S. population, with 568,500 individuals incarcerated. By 2020, Black citizens had grown to 47.9 million, with 389,500 people in jail.³ This represents a 31.5 percent decrease in the number of incarcerated African Americans over the period.⁴ Despite this decrease, the persistent disproportionate number of Black inmates epitomizes their lingering disadvantages in present-day U.S. society.

When African American Democratic candidate Barack Obama became the 44th president of the United States on 20 January 2009, many citizens believed his victory would mark a turning point in the history of the Black Freedom Struggle, and that it represented the

¹ Malcolm X, *The Ballot or the Bullet*, min. 16:00.

² Nellis, “Mass Incarceration Trends,” 1.

³ Mohamad Moslimani, Christine Tamir, Abby Budiman, Luis Noe-Bustamante, and Lauren Mora, “Facts About the U.S. Black Population,” *Pew Research Center*, 18 January 2024, last accessed 16 August 2024, <https://www.pewresearch.org/social-trends/fact-sheet/facts-about-the-us-black-population>.

⁴ E. Ann Carson, “Prisoners in 2020-Statistic Tables,” *U.S. Department of Justice: Bureau of Justice Statistics*, December 2021, <https://bjs.ojp.gov/library/publications/prisoners-2020-statistical-tables>.

end of racism in the country. Nevertheless, despite these expectations, evidence shows that under his two administrations, people of color continued to be victims of police brutality, highlighting that law enforcement remained deeply racially biased.⁵ Upon taking office, Obama faced many pressing issues, most importantly the recovery from the Great Recession of 2008, fragile immigration policies, economic inequality, education, a large number of citizens lacking health insurance and the crime issue.⁶

Although mass imprisonment was not a priority on Obama's agenda, he was one of the first presidents to address the matter, demonstrating his commitment to the issue by signing into law the Fair Sentencing Act (FSA) in 2010. This legislation marked a significant shift, as it repealed the mandatory minimum sentences for crack cocaine possession and reduced the sentencing disparity between crack and powder cocaine from a 100-to-1 to an 18-to-1 ratio.⁷ The FSA did not explicitly address whether its provisions were retroactive, leaving uncertainty about whether it applied to offenses committed before the passing of the statute. The ambiguity was resolved by the Supreme Court in the 2012 cases of *Dorsey v. United States* and *Hill v. United States*. In both decisions, the Supreme Court ruled that defendants like Edward Dorsey and Corey Hill could benefit from the reduced sentencing guidelines, even though their crimes were committed before the FSA was enacted, as long as they were sentenced after the law took effect.⁸ The law had been previously amended on 1 November 2011 to allow further sentence reductions for certain offenses. The majority of those who benefited from these modifications were African Americans, with 85.7 percent receiving sentence reductions due to the amendment.⁹ Attorney General Eric H. Holder, the first African American to head the DOJ, was a strong advocate of the law's retroactivity, and to compensate for this shortcoming, Obama granted commutations. Eugenia Jennings, an African American was the first beneficiary. She had been sentenced to 22 years in prison for

⁵ Asante, *The African American People*, 342.

⁶ Asante, *The African American People*, 343.

⁷ Mancillas, *Presidents and Mass Incarceration*, 121.

⁸ *Dorsey v. United States*, 567 U.S. 260 (2012).

⁹ "U.S. Sentencing Commission Final Crack Retroactivity Data Report Fair Sentencing Act," *U.S. Sentencing Commission*, December 2014, https://www.ussc.gov/sites/default/files/pdf/research-and-publications/retroactivity-analyses/fair-sentencing-act/Final_USSC_Crack_Retro_Data_Report_FSA.pdf.

selling 13.9 grams of crack cocaine. On 21 December 2011, Obama ordered her release, allowing Jennings to leave prison eight years before her due date.¹⁰

Nevertheless, the racially biased attitudes in law enforcement, which had become entrenched during mass incarceration, continued to influence decisions in the U.S. justice system, even in this new period of great hope. One case that gained widespread attention for its questionable handling was that of Marissa Alexander in Florida. In 2010, Marissa Alexander, an African American woman, was a victim of domestic violence at the hands of her estranged husband, Rico Gray. During an altercation, Gray threatened his wife, prompting Marissa Alexander to fire a warning shot into the ceiling in self-defense. Although no one was injured, she was arrested and charged with aggravated assault with a deadly weapon, facing a mandatory 20-year prison sentence. Her case is a stark example of the justice system's inequitable treatment, as Judge James H. Daniel denied her legal team's request to invoke Florida's "Stand Your Ground" law, which permits individuals to use force, even deadly, if they feel their life is in danger. The judge argued that there was insufficient evidence to prove Alexander acted in self-defense.¹¹ In contrast, a Latin American vigilante, George Zimmerman, who fatally shot African American teenager Trayvon Martin in Sanford, Florida, on 26 February 2012, was not arrested due to the same "Stand Your Ground" law. This discrepancy highlights the racial bias within law enforcement, as Zimmerman, who claimed self-defense without substantial proof, was indicted but eventually acquitted of all charges, while Alexander, who was trying to protect herself, was not afforded the same legal protection.¹² Although Zimmerman has never been imprisoned, Alexander served three years of her sentence before accepting a plea deal in November 2014. She spent an additional sixty-five days in prison and was released on probation in house detention.¹³

¹⁰ Josh Gerstein, "Obama issues his first commutation to federal prisoner," *Politico*, 21 November 2011, last accessed 17 August 2024, <https://www.politico.com/blogs/under-the-radar/2011/11/obama-issues-his-first-commutation-to-federal-prisoner-041007>.

¹¹ Kali Nicole Gross, "African American Women, Mass Incarceration, and the Politics of Protection," *The Journal of American History* 102, no.1 (1 June 2015): 25.

¹² Mary Altaffer, "Trayvon Martin timeline: Key events in the Sanford, Fla., shooting case," *NBC News*, 11 April 2012, last accessed 12 August 2024, <https://www.nbcnews.com/news/world/trayvon-martin-timeline-key-events-sanford-fla-shooting-case-flna711504>.

¹³ Gross, "African American Women, Mass Incarceration, and the Politics of Protection," 25.

The Obama administration is notably marked by the introduction of the “Smart on Crime” initiative, launched in 2013 under the direction of Attorney General Holder. As the head of the DOJ, the Attorney General represents the United States in legal matters, oversees the administration and operation of the DOJ’s offices, and provides legal advice to the President.¹⁴ The 2013 initiative represented a significant shift in the federal approach to crime, moving away from the “tough on crime” stance of previous administrations and towards a more progressive approach. The initiative did not only address the immediate problems within the criminal justice system but also recognized the broader consequences of mass incarceration, such as poverty, family disruption, recidivism, and the high federal costs of maintaining the prison system, which the DOJ estimated at \$80 billion in 2010.¹⁵ The action was structured around five main goals. The first one was to prioritize prosecutions of the most serious cases, particularly those involving national security threats, violent crime, and financial fraud to better protect the vulnerable members of society. The second objective was to reform sentencing to eliminate unfair disparities and reduce overburdened jails. The DOJ reported that expense of correctional facilities was second only to the health system, therefore they aimed at eliminating unfair disparities in sentencing and reduce overcrowding by revising punishment methods for non-violent crimes and ensuring that sentence lengths were proportionate to the offences committed; concerning this matter, the third goal was to pursue an alternative to incarceration by developing programs that offered alternatives to imprisonment for low-level, non-violent offenders. The fourth point pertained the improvement of reintegration: the U.S. Attorneys were required to devote time to the creation of reentry programs on a local level, such as connecting the released population with legal services to address obstacles and to reduce and eliminate fines at the local level. Lastly, the

¹⁴ U.S. Department of Justice, *Organization, Mission and Functions Manual*, n.d., last accessed 13 August 2024, <https://www.justice.gov/doj/organization-mission-and-functions-manual-office-solicitor-general>.

¹⁵ U.S. Department of Justice, "Smart on Crime: Reforming the Criminal Justice System for the 21st Century," August 2023, 1, last accessed 13 August 2024, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/smart-crime-reforming-criminal-justice-system-21st-century>.

program intended to allocate resources towards the understanding of the root causes of violence and continuously track the effectiveness of anti-violence strategies.¹⁶

This initiative was groundbreaking in its approach, aligning more closely with the recommendations of prison reform advocates. Obama also became the first president to visit a federal jail when he toured the El Reno Correctional Facility in Oklahoma City on 16 July 2015. During his visit, he addressed the enduring issue of mass incarceration, emphasizing the need to break the cycle of poverty, criminality, and imprisonment by providing better opportunities both inside and outside of prison. He expressed concern about overcrowding, and the high costs of the carceral system, and showed empathy towards the inmates. Obama remarked that the mistakes made by the convicts were not fundamentally different from those he made in his youth. The key difference is that he had second chances that allowed him to avoid a life of crime, while these individuals did not have the same opportunities. Despite not tolerating violent crimes offenders, Obama did not condemn young people living in poor environments for turning to crime. According to the president, a distinction between unlawful actions and youth mistakes should be made, especially because he believes that if put in front of different life opportunities young people might have avoided such illegal choices.¹⁷

Right after the end of the presidency of Obama, the prison population had reached its lowest level since the onset of mass incarceration. The DOJ statistics show that between 2007 and 2017, a period overlapping with his administration, the total prison population decreased by 6.1 percent. Federal prisons saw a reduction of 7.3 percent, while state facilities experienced a 5.9 percent decrease. Notably, the incarceration rate dropped by 12.7 percent for whites and by 19.7 percent for Blacks. However, the Hispanic prison population saw a 1.9 percent increase, largely due to immigration-related offenses, which emerged as a significant issue during this decade.¹⁸

¹⁶ "Smart on Crime: Reforming the Criminal Justice System for the 21st Century," 5.

¹⁷ "President Obama Visits the El Reno Federal Correctional Institution," *The Obama White House*, 16 July 2015, last viewed 13 August 2024. See the YouTube video at <https://www.youtube.com/watch?v=3hGZ7AMk39Q>.

¹⁸ Jennifer Bronson and E. Ann Carson, "Prisoners in 2017," U.S. Department of Justice: Bureau of Justice Statistics, April 2019, last accessed 13 August 2024, <https://bjs.ojp.gov/library/publications/prisoners-2017>.

This positive attitude toward criminal justice reform came to an abrupt halt when the Republican candidate Donald Trump began his election campaign. During his presidential run, Trump branded himself as an “old school law and order” politician. Even before starting his political career, Trump harbored racist attitudes. During the Central Park Five case, although he was already a well-known real estate magnate, Trump felt compelled to weigh in on an issue that had no direct relevance to him. Shortly after the incident, he took out full-page advertisements in several of New York’s most influential newspapers, calling for the return of the death penalty. These inflammatory headlines fueled widespread panic and intensified public bias against the accused, significantly shaping the opinion of many New Yorkers.¹⁹ Years later, while campaigning, Trump disseminated false claims about the supposed rise in criminal activity, stoking fears of violence and crime. More importantly, he manipulated public perception by portraying immigrants as a significant threat to U.S. security.²⁰ Trump’s stance was even more evident following a shooting on 7 July 2016. African American Micah Xavier Johnson killed six police officers in Dallas during a march to honor the lives of two African Americans recently murdered by other police officers in Louisiana and Minnesota. Investigations suggested that Johnson’s action was premeditated and that he wanted to avenge the two Black victims of police brutality.²¹ A couple of days later, Trump released a video in which he declared, “an attack on our police force is an attack on our country,” expressing strong solidarity with the police, whom he described as the protectors of civilization and the barrier against chaos. In his message, Trump mentioned the deaths of Sterling and Castile only briefly, focusing much more on the Dallas victims and emphasizing his support for law enforcement.²² After taking office in 2017, Trump’s “tough on crime” stance was confirmed by the appointment of the conservative Alabama Senator

¹⁹ Janaki Chadha, “Central Park Five member’s landslide City Council win represents power shift in Harlem,” *Politico*, 7 October 2023, last accessed 18 August 2024, <https://www.politico.com/news/2023/07/10/yusef-salaam-central-park-five-headed-to-city-hall-00105405>.

²⁰ Mancillas, *Presidents and Mass Incarceration*, 138.

²¹ Faith Karimi, Catherine E. Shoichet, and Ralph Ellis, “Dallas sniper attack: 5 officers killed, suspect identified,” CNN, 9 July 2016, last accessed 18 August 2024, <https://edition.cnn.com/2016/07/08/us/philando-castile-alton-sterling-protests/index.html>.

²² David Wright, Rachel Chason, “Trump: Dallas shootings have ‘shaken the soul of our nation’,” *CNN: Politics*, 9 July 2016, last accessed 18 August 2024, <https://edition.cnn.com/2016/07/08/politics/politicians-react-to-dallas-police-shooting-donald-trump/index.html>.

Jefferson Beauregard Sessions as the new U.S. Attorney General.²³ Sessions opposed any effort to modernize the criminal justice system, such as reducing sentences for drug-related and non-violent offenses and delayed legislative progress in these areas.²⁴ However, despite their shared views on criminal justice, Trump and Sessions' partnership ended in November 2017. Tensions between them grew, primarily due to Sessions' decision to recuse himself from the investigation into Russian interference in the 2016 presidential election, ultimately leading to his resignation.²⁵

Despite being one of the strictest “tough on crime” presidents of his generation, Trump took a surprising step forward toward criminal justice reform by signing the First Step Act on 21 December 2018, just one month after Sessions' retirement. This bipartisan legislation aimed to improve the federal prison system, addressing issues such as sentencing disparities, recidivism, and overcrowding. A key element of the First Step Act was its retroactive application of the Fair Sentencing Act of 2010, which allowed individuals sentenced under the old, harsher guidelines to have their cases reviewed and potentially reduced in line with the newer, fairer standards. However, this retroactive sentence reduction was not automatic, as individuals had to petition the court to have their judgment reconsidered. The Act also reduced mandatory minimum rulings for non-violent crimes, lowering a 20-year verdict to 15 years and a life sentence to 25 years.

In addition to these reforms, the First Step Act expanded access to rehabilitative programs, training, and educational activities for prisoners. It introduced early release programs, particularly for elderly or terminally ill inmates, restricted the use of solitary confinement in juvenile facilities to only limited circumstances, and permitted the placing of inmates in facilities as close to their primary residency as possible, and to an extent within 500 driving miles.²⁶ According to the Federal Bureau of Justice, the Act led to 35,917

²³ Mancillas, *Presidents and Mass Incarceration*, 139.

²⁴ Mancillas, *Presidents and Mass Incarceration*, 140.

²⁵ Veronica Rocha, Brian Ries, and Maegan Vazquez, “Attorney General Jeff Sessions fired by Trump,” *CNN Politics*, 8 November 2018, last accessed 13 August 2024, <https://edition.cnn.com/politics/live-news/jeff-sessions-out/index.html>.

²⁶ Congressional Research Service, “The First Step Act of 2018: An Overview,” 4 March 2019, last accessed 13 August 2024, <https://sgp.fas.org/crs/misc/R45558.pdf>.

releases, 4,146 orders for retroactive sentence reductions under the Fair Sentencing Act, and 4,739 approved punishment reductions.²⁷ One year after its enactment, African Americans represented the group that benefited the most from the reductions, accounting for 91.4 percent, followed by Hispanics at 4.2 percent and whites at 3.7 percent.²⁸ While the First Step Act had positive outcomes, prison reform advocates have highlighted several shortcomings. Chief among these is the inability of the Bureau of Prisons (BOP) to accommodate all eligible applicants in its rehabilitation programs. Although the Act helped reduce recidivism to 12 percent for participants, compared to a 45 percent rate in the general population, the BOP faced criticism for long waiting lists. For instance, in 2021, only 2,000 people earned a GED out of the 28,500 people who requested to enter literacy programs.²⁹ Moreover, the Act only applies to federal prisoners, leaving the majority of the U.S. prison population, who are in state prisons, without the benefits of this reform.³⁰

By the end of the presidency of Trump, the U.S. prison population had declined, largely due to the COVID-19 pandemic, which allowed a few inmates to be released for home detention. However, a broader trend of decreasing incarceration rates was evident from 2011 to 2021 across both federal and state facilities. Over this decade, the federal prison population diminished by 26.7 percent, while the state prison population fell by 24 percent. Despite these reductions, state prisoners continued to make up the majority of the U.S. inmates with 1,047,008 convicted in state facilities compared to 157,314 in federal jails. The overall

²⁷ Federal Bureau of Prison, "First Step Act," n.d., last accessed 13 August 2024, <https://www.bop.gov/inmates/fsa/>.

²⁸ U.S. Sentencing Commission, "The First Step Act of 2018: One Year of Implementation," August 2020, last accessed, 13 August 2024, https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2020/20200831_First-Step-Report.pdf.

²⁹ The Gradual Equivalency Degree (GED) is a substitute for a high school diploma that people who have not finished their studies can take afterward to prove their level of education. The GED test consists in an exam that if passed will indicate the candidate's level of education. Passing a GED test can offer better job opportunities and be accepted at U.S. universities. See "What is a GED?," GED Testing Service, 12 August 2019, last accessed 13 August 2024, <https://www.ged.com/blog/what-is-a-ged/>.

³⁰ Ashley Nellis and Liz Komar, "The First Step Act: Ending Mass Incarceration in Federal Prison," *The Sentencing Project*, 22 August 2023.

reduction accounts also for race differences, as the reduction is represented by 25.9 percent for whites, 31.8 percent for Blacks, and 19.8 percent for Hispanics.³¹

4.2 Lights and Shadows of the Biden-Harris Presidency

The administration of Trump represented a challenging period for African Americans in the United States, as the president frequently exhibited conservative and discriminatory attitudes. In 2020, Trump sought re-election as the Republican candidate. His Democratic opponent was former Vice President Joe Biden, who selected California Senator Kamala Harris as his running mate. Harris is the daughter of an Indian woman and a Black Jamaican father, who both emigrated to the United States to study at the University of California, Berkeley. Although her background did not fit the typical narrative of a struggling immigrant family, since her parents were affluent, Harris's candidacy was nonetheless groundbreaking. She was poised to become not only the first woman to hold the vice-presidential office, but also the first person of Indian and Black heritage. After an administration that largely overlooked the concerns of minority groups, Biden sent a powerful message to marginalized communities across the nation by choosing Harris. However, Biden and Harris faced scrutiny for their past stances and actions related to the criminal justice system, which did not always align with the interests of the African American community.

In 2020, Biden's victory marked a historic moment for the United States, characterized by a significant increase in voter turnout, with participation rising by 7 percentage points compared to the 2016 elections. Biden defeated Trump in the Electoral College with a margin of 306 to 232.³² His win was likely influenced by his extensive political experience, which many viewed as crucial after the previous administration, as well as the emergence of the COVID-19 pandemic and Trump's perceived lack of empathy in addressing the new

³¹ E. Ann Carson, "Prisoners in 2021 – Statistical Tables," U.S. Department of Justice: Bureau of Justice Statistics, December 2022, last accessed 20 August 2024, <https://bjs.ojp.gov/library/publications/prisoners-2021-statistical-tables>.

³² Ruth Igielnik, Scott Keeter and Hannah Hartig, "Behind Bidens's 2020 Victory: An examination of the 2020 electorate, based on validated voters," Pew Research Center, June 2021, last accessed 21 August 2024, <https://www.pewresearch.org/politics/2021/06/30/behind-bidens-2020-victory/>.

challenge.³³ A substantial portion of Biden’s supporters belonged to minority groups, with nearly four in ten voters being Black, Hispanic, and Asian. African Americans, in particular, were a strong base for the Democratic Party, with 92 percent voting for the former Vice President.³⁴ In terms of criminal justice system, the Marshall Projects published a report in August 2020 that provided a general overview of what the Democrats’ stance on the matter was. By that time Biden had become the presumptive nominee, and Harris was announced as his vice-presidential running mate shortly after this report’s release. The analysis highlighted that both Biden and Harris were committed to improving the criminal justice system, advocating for the abolition of certain stringent measures. Harris sustained the complete abolition of solitary confinement, while Biden favored its use only when necessary for the safety of a detainee. Both candidates called for the abolition of the federal use of private prisons and the end of cash bail. Additionally, Harris advocated the elimination of mandatory minimum sentences and encouraged states to do the same, while Biden supported their abolition for non-violent crimes only.³⁵

Despite their recent favorable positions on criminal justice, both Biden and Harris had historically adopted more rigid stances on the issue. While their views evolved over the years, particularly before assuming their current offices, they were once key players in a system that contributed to the rise of mass incarceration. It is important to contextualize their past decisions, as they were considered appropriate at the time by those in positions of authority. However, understanding their previous actions provides valuable insight into today’s scenarios.

Biden’s record on criminal justice is particularly controversial. Not only was he a strong proponent of the “tough on crime” approach, but he also played a significant role in creating some of the most stringent laws that fueled the growth of the prison population. During the height of the War on Drugs, from 1987 until 1995, Biden served as the head of

³³ Charlotte Alter, “How Joe Biden Won The White House,” *Time*, 7 November 2020, last accessed 21 August 2024, <https://time.com/5907674/joe-biden-wins-2020-election/>.

³⁴ Igielnik, Keeter, and Hartig, “Behind Bidens’s 2020 Victory,” 5.

³⁵ Katie Park and Jamiles Lartey, “2020: The Democrats on criminal justice,” The Marshall Project, 4 August 2020, last accessed 21 August 2024, <https://www.themarshallproject.org/2019/10/10/2020-the-democrats-on-criminal-justice>.

the Senate Judiciary Committee, which has a significant influence over nominations in the Department of Justice, the U.S. Sentencing Commission, the U.S. Parole Commission, and oversees key legislation, and petitions related to criminal justice.³⁶ In 1989, Biden delivered a speech criticizing President H.W. Bush's approach to crime, arguing that it was not "tough enough, bold enough, and imaginative enough to meet the crisis at hand." He supported harsher penalties for drug dealers, stringent measures against drug users to curb the market, and the creation of an international task force to target drug production at its source. Biden believed that the United States had sufficient resources to triple funding for law enforcement, and was convinced that the problem could be solved with more police officers, prosecutors, judges, and the construction of new prisons. His concerns extended beyond the general public to his own family, as he feared they might fall victim to violent drug-related offenses.³⁷

In the following years, Biden participated in sponsoring and drafting some of the most stringent laws about crime and drugs of the 1980s and 1990s, such as the 1984 Comprehensive Control Act, the Anti-Drug Abuse Act of 1986 and 1988, and the Violent Crime Control and Law Enforcement Act in 1994.³⁸ Biden's work during this period undoubtedly contributed to the expansion of mass incarceration. However, he subsequently acknowledged his mistakes, attributing them to his advisers. In a 2019 event, he admitted that the creation of mandatory minimums and the crack-cocaine sentencing disparity "was a big mistake when it was made."³⁹

Harris's past in the criminal justice system became a point of contention during her campaign as Vice President. Harris served as San Francisco District Attorney from 2004 to 2011, then as California Attorney General from 2011 to 2017, before beginning her term as

³⁶ U.S. Senate Committee on the Judiciary, "About the Committee," n.d., last accessed 21 August 2024, <https://www.judiciary.senate.gov/about/committee>.

³⁷ "Democratic Response to Drug Policy Address," *C-SPAN*, 5 September 1989, last accessed 21 August 2024, <https://www.c-span.org/video/?8997-1/democratic-response-drug-policy-address>.

³⁸ German Lopez, "Joe Biden's long record supporting the war on drugs and mass incarceration, explained," *Vox*, last updated 1 August 2019, last accessed 21 August 2024, <https://www.vox.com/policy-and-politics/2019/4/25/18282870/joe-biden-criminal-justice-war-on-drugs-mass-incarceration>.

³⁹ Arlette Saens, "Biden: 'I haven't always been right' on criminal justice," *CNN: Politics*, 21 January 2019, last accessed 21 August 2024, <https://edition.cnn.com/2019/01/21/politics/joe-biden-criminal-justice/index.html>.

a U.S. Senator. While it is challenging to fully reconstruct all the events she handled in these roles, her involvement in several controversies has drawn criticism. Some argue that Harris did not always live up to the image of a “progressive prosecutor,” a label she embraced in *The Truths We Hold*, a 2019 autobiography, in which she explores her family’s origins, upbringing, and most notably, her career in the criminal justice system.⁴⁰ One of the most contentious issues was her stance on the death penalty. As District Attorney, she clearly opposed capital punishment, notably refusing to seek the death penalty for the killer of police officer Isaac Espinoza in 2004. This decision was met with strong backlash from law enforcement groups, and the officer’s family, permanently straining her relationship with the city’s police force. Later, as Attorney General, Harris faced another difficult decision when a federal court ruling threatened to abolish the death penalty in California. Despite her opposition to capital punishment, Harris chose to appeal the ruling, citing legal flaws, a move that deeply disappointed many anti-death penalty advocates. Another controversy that arose when she was District Attorney pertained the wrongful conviction of Jamal Trulove, an African American man accused in 2007 of fatally shooting his friend Seu Kuka, in San Francisco. Trulove was convicted of first-degree murder and sentenced to 50 years in prison. He maintained his innocence in all of the trials on the ground of the unreliability of the eyewitness testimony. In 2015, he was acquitted of all charges for the insufficient evidence to convict him. Trulove later sued the city of San Francisco and was awarded 10 million dollars in damages for his wrongful conviction. As Harris was the District Attorney during this case, she has faced criticism for not ensuring the integrity of the prosecution and for not having intervened in the case as the head of the office, despite she admitted not being personally involved.⁴¹ During Harris’s tenure as San Francisco District Attorney, the felony conviction rate rose from 52 percent to 67 percent between 2003 and 2006. Many of these incarcerations were drug-related, with such cases increasing from 56 percent in 2003 to 74

⁴⁰ Kamala Harris, *The Truths We Hold: An American Journey* (New York: Penguin Press, 2019), 49.

⁴¹ Jamiles Lartey, “What These Decisions Tell Us About Kamala Harris’ Approach to Criminal Justice,” *The Marshall Project*, 27 July 2024, last accessed 22 August 2024, <https://www.themarshallproject.org/2024/07/27/kamala-harris-prosecutor-california-police-election-crime>.

percent in 2006.⁴² In this period, African Americans were nearly four times more likely to be arrested in San Francisco than in every other city in California. For every 100,000 citizens, the number of Black individuals detained was 5,044.8, whereas Non-African Americans arrested accounted for 1,408.8 people.⁴³

Another controversial episode involved Harris's support for anti-truancy laws. In 2010, as Attorney General, she championed the passage of a law to reduce student absenteeism, particularly in low-income communities. The law allowed prosecutors to charge parents with misdemeanors if their child was habitually truant; this potentially led to fines or jail time. Harris defended the law by emphasizing the importance of education. Still, critics argued that it effectively criminalized poverty, as many parents faced significant challenges, such as lack of transportation, unstable housing, and job insecurity, which made regular school attendance difficult for their children.⁴⁴ In 2013, 37 percent of Black elementary students were still truant, a percentage that was 15 points higher than the rate for all students.⁴⁵ Moreover, in 2011, as Attorney General of California, Harris opposed a Supreme Court order to release non-violent prisoners to reduce the state's overcrowded prisons, which at the time were operating under bad circumstances, such as poor hygienic and medical conditions, and suicidal attempts.⁴⁶

In *The Truths We Hold*, Harris attempts to address, even indirectly, some of the controversies of her career. Arguably, the book itself brought many of these inconsistencies to the forefront. Harris discusses several critical issues within the criminal justice system,

⁴² Hannah Giorgis, "Kamala Harris's Political Memoir Is an Uneasy Fit for the Digital Era," *The Atlantic*, 11 January 2019, last accessed 22 August 2024, <https://www.theatlantic.com/entertainment/archive/2019/01/kamala-harris-truths-we-hold-review/579430/>.

⁴³ "San Francisco's High African American arrest rate: Sorting through the data to expose facts," Center on Juvenile and Criminal Justice, December 2016, last accessed 27 August 2024, https://www.cjci.org/media/import/documents/sf_high_african_american_arrest_rate.pdf.

⁴⁴ Lartey, "What These Decisions Tell Us About Kamala Harris' Approach to Criminal Justice."

⁴⁵ CBS Sacramento, "California Study: Truancy Data Shows Racial Divide," *CBS News*, 12 September 2014, last accessed 27 August 2024, <https://www.cbsnews.com/sacramento/news/california-study-truancy-data-shows-racial-divide/>.

⁴⁶ Alexander Sammon, "How Kamala Harris Fought to Keep Nonviolent Prisoners Locked Up," *The American Prospect*, 30 July 2020, last accessed 27 August 2024, <https://prospect.org/justice/how-kamala-harris-fought-to-keep-nonviolent-prisoners-locked-up/>.

including mass incarceration and police brutality. She condemns the crack epidemic's devastating impact on African Americans and critiques the approach of treating addiction as a crime rather than a disease. Harris also reflects on her years as a prosecutor, where she witnessed some of the most tragic violent crimes, which led her to believe that serious consequences are necessary for those who commit such heinous acts. At the same time, Harris acknowledges that mandatory minimum sentences have disproportionately punished individuals for non-violent offenses, contributing to mass incarceration, a system she now seeks to dismantle. She argues that the criminal justice system has historically criminalized the poor and recognizes the persistence of racism in the U.S., particularly within law enforcement. Harris suggests that police officers undergo training to eliminate racial biases and reduce police brutality. If one reads Harris's book without considering her past decisions, she may appear to embody the "progressive prosecutor." She defines this figure in her book describing it as a prosecutor whose role is

To look out for the overlooked, to speak up for those whose voices aren't being heard, to see and address the causes of crime, not just their consequences, and to shine a light on the inequality and unfairness that lead to injustice. It is to recognize that not everyone needs punishment, that what many need, quite plainly, is help.⁴⁷

However, as we have seen, Harris's past actions did not always align with these principles. These inconsistencies continue to raise doubts on the Vice President's reliability and commitment to the ideal she now espouses. In 2019, before Biden secured the Democratic nomination for the upcoming presidential election, Harris outlined her criminal justice reform initiatives, expanding on the ideas she had previously discussed in her book. Her plan focused on ending the "War on Drugs" by legalizing marijuana and eliminating the sentencing disparity between crack and powder cocaine from 18:1 to 1:1. During her tenure While she was on charge as a Vice President, on 1 April 2022, the House of Representatives passed the Marijuana Opportunity Reinvestment and Expungement Act (MORE Act). Its enactment would have a major impact on African Americans since during mass incarceration

⁴⁷ Harris, *The Truths We Hold*, 49.

they have been mostly imprisoned for marijuana possession. The federal legalization of cannabis would end the threat of facing jail time even for small possession of the substance as it occurred in the past.⁴⁸ Harris also advocated the abolition of private prisons, death penalty, and solitary confinement. Additionally, her proposal emphasized the importance of rehabilitation, promoting job training, education, and reentry programs, while also advocating for the abolition of felony disenfranchisement after release. She further called for increased transparency in law enforcement, achieved through enhanced data collection and the demilitarization of police departments.⁴⁹

However, African Americans have not fully trusted Harris, as they often expressed their doubts, particularly on social media. In 2019, despite all her efforts to present herself as a symbol of the Black culture, tweets concerning the stereotype of “Copmala Harris,” addressed her controversial past as a prosecutor.⁵⁰ This same myth has returned to the major social media platforms during the 2024 summer, through memes and tweets demonstrating that Harris’s past implications with mass incarceration will once again not be ignored.⁵¹

During his 2020 presidential campaign, Biden also addressed the criminal justice reform and outlined several initiatives he would introduce if elected. While meaningful reform requires changes at the state level, the federal government can exert pressure on states to take action. For example, although Biden, as President, could not unilaterally abolish the death penalty in every state, he could influence states to slow down executions or encourage local governments to limit the use of cash bail between arrest and trial. Biden emphasized

⁴⁸ “The MORE Act Presents a Case for Marijuana Reparations,” *The Black Wall Street Times*, last updated 17 January 2023, last accessed 28 August 2024, <https://theblackwallsttimes.com/2022/04/18/the-more-act-presents-a-case-for-marijuana-reparations/>.

⁴⁹ Kamala Harris, “Kamala’s Plan to Transform the Criminal Justice System and Re-Envision Public Safety in America,” *Medium*, 9 September 2019, last accessed 23 August 2024, <https://kamalaharris.medium.com/kamalas-plan-to-transform-the-criminal-justice-system-and-re-envision-public-safety-in-america-f83a3d739bae>.

⁵⁰ Aaron Ross Coleman, “Black Culture Won’t Save Kamala Harris,” *The Nation*, 28 January 2018, last accessed 28 August 2024, <https://www.thenation.com/article/archive/black-culture-wont-save-kamala-harris/>.

⁵¹ Tandy Lau, “Is the ‘Copmala Curse’ Back?” *The Amsterdam News*, 25 July 2024, last accessed 28 August 2024, <https://amsterdamnews.com/news/2024/07/25/is-copmala-curse-back/>.

his intent to reduce mandatory minimum sentences, particularly for drug-related offenses. Most notably, he pledged to end the federal government's reliance on private prisons.⁵²

At the end of 2020, the total prison population in the United States was 1,182,166 people, with 142,028 held in federal prisons and 1,040,138 in state prisons. African Americans remained the largest incarcerated group, numbering 389,500, followed by 358,900 whites and 275,300 Hispanics.⁵³ Biden and Harris officially took office on 20 January 2021, and just six days later, on 26 January 2021, the President signed executive order 14006 addressing issues within the criminal justice system. This order specifically targeted the problem of mass incarceration and its disproportionate impact on people of color. It directed the Attorney General to stop renewing federal contracts with private companies that operated detention facilities, a significant step aimed at curbing the growth of mass incarceration.⁵⁴ Private corporations profited from the high number of detainees they pushed to keep inmates incarcerated for long periods, by encouraging staff members to lengthen the convicts' stay for minor infractions. Biden's executive order did not fully solve the problem, as it did not provide a solution for the single detainees in federal facilities. Yet, it represented a symbolic decision that opposed one of the main causes of mass incarceration, which is the involvement of private companies in the criminal justice system.⁵⁵

The Biden administration also encouraged prosecutors to avoid seeking mandatory minimum sentences for non-violent and drug-related crimes. Biden also made significant use of his clemency powers, granting 12 pardons and 117 sentence commutations. For instance,

⁵² The Marshall Project Staff, "What Biden's Win Means for the Future of Criminal Justice," *The Marshall Project*, 11 August 2020, last accessed 23 August 2024, <https://www.themarshallproject.org/2020/11/08/what-biden-s-win-means-for-the-future-of-criminal-justice>.

⁵³ Carson, "Prisoners in 2020-Statistical Tables."

⁵⁴ "Executive Order 14006 of January 26, 2021," *Presidential Documents: Federal Register* 86, no. 18, 29 January 2021, last accessed 27 August 2024, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/executive-order-reforming-our-incarceration-system-to-eliminate-the-use-of-privately-operated-criminal-detention-facilities/>.

⁵⁵ Lauren-Brooke Eisen, "Breaking Down Biden's Order to Eliminate DOJ Private Prison Contracts," *Brennan Center For Justice*, 27 August 2021, last accessed 27 August 2024, <https://www.brennancenter.org/our-work/research-reports/breaking-down-bidens-order-eliminate-doj-private-prison-contracts>.

he pardoned the first African American Secret Service agent Abraham W. Bolden Sr., although he had been convicted of attempting to sell a classified file.⁵⁶ Moreover, Biden proposed a 15-billion-dollar grant program aimed at reducing excessive incarceration, further underscoring his administration's commitment to criminal justice reform.⁵⁷

The most recent data on the prison population, as of the end of 2022, reveal a slight increase despite the Biden-Harris administration's repeated efforts to address mass incarceration and mitigate its harmful effects. Between 2021 and 2022, the total population in federal, state, and local correctional facilities grew by 1.7 percent; the number of incarcerated white citizens rose by 3.3 percent, while the Black prison population increased by 1.7 percent.⁵⁸

As the United States approaches the 2024 presidential election, the political landscape has shifted significantly. After Biden withdrew from the presidential race on 21 July 2024, Harris emerged as the Democratic Party's candidate, facing the Republican Trump. During the Democratic Convention held in Chicago from 19 to 22 August 2024, Harris formally accepted her candidacy and outlined some of her plans for the presidency. She stated that, influenced by the Civil Rights Movement, in which her parents were actively involved, and after having witnessed the struggle of a close friend whom her stepfather was sexually abusing, she chose to become a prosecutor to continue the fight against injustice. In her acceptance speech, she emphasized that "in our system of justice, a harm against anyone of us is a harm against all of us," and she recalled her courtroom mantra, "Kamala Harris for the people." She urged Americans to move beyond the divisive events of the past for the sake of the country's future. Instead of addressing mass incarceration in her speech, she

⁵⁶ "Clemency Recipient List," *The White House*, 26 April 2022, last accessed 28 August 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/26/clemency-recipient-list/>.

⁵⁷ National Urban League, "Evaluation for Progress Report on the Biden-Harris Administration," 2024, last accessed 24 August 2024, <https://nul.org/sites/default/files/2024-02/NUL-Biden-Progress-Report-web.pdf>.

⁵⁸ E. Ann Carson, "Prisoners in 2022-Statistical Tables," *U.S. Department of Justice*, November 2023, last accessed 24 August 2024, <https://bjs.ojp.gov/library/publications/prisoners-2022-statistical-tables>.

highlighted her achievements as a prosecutor, where she focused on delivering justice for crime victims.⁵⁹

Harris's first campaign advertisement features African American singers Beyoncé and Kendrick Lamar's song *Freedom*, from the 2016 album *Lemonade*.⁶⁰ Since its release, the song has become a powerful anthem for Black women's empowerment, highlighting the historical and ongoing struggles they face, from the legacy of slavery to contemporary issues. The music video accompanying the song vividly portrays these themes, juxtaposing rural landscapes reminiscent of the past with powerful imagery, including the mothers of victims of police brutality listening to Beyoncé as she sings on a porch. *Freedom* serves as a hymn for the Black Freedom Struggle, with Lamar's verse directly addressing issues such as racial profiling and the prison system. He denounces mass incarceration and systemic racism with lines like "open correctional gates in higher desert, open our minds as we cast away oppression." This verse underscores the connection between the prison system and racial injustice, highlighting how prisons, often built in remote areas, serve to obscure the harsh realities of mass incarceration from public view.⁶¹ Lamar was not new to this kind of exposé in his songs. His 2015 album *To Pimp a Butterfly* features the hit song *Alright*, which addresses multiple themes of the Black Freedom Struggle. On this same record, another track that recalls the prison system is *The Blacker the Berry*, in which he sings "I'm irrelevant to society... That's what you're tellin' me, penitentiary would only hire me," thus creating a connection to the work exploitation that Blacks endured in jail.⁶²

African American music is a powerful medium for expressing and condemning the injustices faced by people of color. A striking example from recent years is Childish Gambino's *This is America*. The song and music video are rich with contrasts, juxtaposing

⁵⁹ "Kamala Harris accepts the nomination for President of the United States," *Kamala Harris*, 24 August 2024, view 24 August 2024, watch YouTube Video at <https://www.youtube.com/watch?v=1aZLL63wITU>.

⁶⁰ "Kamala Harris Launches Her Campaign for President," *Kamala Harris*, 26 July 2024, Watch YouTube Video at https://www.youtube.com/watch?v=sHky_Xopyrw.

⁶¹ "Beyoncé-Freedom," *Genius*, 23 April 2016, last accessed 24 August 2024, <https://genius.com/Beyonce-freedom-lyrics>.

⁶² "The Blacker the Berry," *Genius*, 9 February 2015, last accessed 28 August 2024, <https://genius.com/Kendrick-lamar-the-blacker-the-berry-lyrics>.

positive elements of Black culture, such as dance and church choirs, with sudden eruptions of violence. These gunshots symbolize both general acts of violence against Black communities and specific events, such as the 2015 Charleston Church shooting, where nine African Americans were killed. Gambino mimics a harmed Jim Crow, with chaotic riots unfolding in the background, encapsulating the turmoil and resistance. The lyrics delve into issues like police brutality, gun violence, contraband, and the drug epidemic.⁶³

As much as one might hope for progress in the lives of African Americans with the new presidential elections, the deep-rooted structural racism that has shaped structural U.S. history and harmed people of color across generations remains unsolved. History shows that whenever one form of oppression appears to be dismantled, new circumstances give rise to different forms of inequality, affecting various aspects of minority group's lives. The potential election of a President from an underrepresented group does not guarantee the resolution of systemic racism. While there have been significant advancements, racial biases are still entrenched in U.S. society. The United States remains a place where Black people are not fully protected, often falling victim to violence, especially at the hands of the very institutions meant to safeguard them. On 6 July 2024, a tragic example of this ongoing issue occurred, when African American Sonia Massey called the police, fearing a break-in at her home. Two officers checked her house and found no intruder and began to ask for Massey's documents. As she searched for her identification, one officer, noticing a boiling pot on the stove, asked her to remove it to prevent a fire. Despite Massey's compliance and apology for any inconvenience, officer Sean P. Grayson felt threatened and, in a horrific turn of events, shot and killed Massey.⁶⁴

That recent incident shows that the problem of violence still affects the lives of African Americans regularly, and it leaves them with the constant fear of not being fully protected not even in their own house. As much as the politician's initiatives may reform the criminal

⁶³ Childish Gambino, "This is America," *Donald Glover*, 6 May 2018, last accessed 24 August 2024, Watch YouTube video at <https://www.youtube.com/watch?v=VYOjWnS4cMY>.

⁶⁴ Eric Levenson, "A step-by-step look at how law enforcement's visit to Sonya Massey's home went so wrong," *CNN*, 24 July 2024, last accessed 24 August 2024, <https://edition.cnn.com/2024/07/23/us/sonya-massey-police-shooting-what-went-wrong/index.html>.

justice system, a deeper understanding of how racism has developed in the country should always be a priority. Only by exploring all the historical events that have characterized the Black Freedom Struggle, one may hope to eradicate structural racism in the United States once and for all.

Conclusion

The research I conducted on mass incarceration challenged some of my previous assumptions, confirmed others, and overall allowed me to view the U.S. penitentiary system from a new perspective.

The *13th* documentary and *The New Jim Crow* associate mass incarceration with slavery and segregation, suggesting that it may represent the third biggest system of oppression in African American history. From some perspectives, it surely has some similarities with them. As it occurred with slavery, mass incarceration also generated economic profits; whereas similarly to segregation, the prison system also functioned as a way to keep a discriminated group separated from the larger society. With my thesis, I can argue that deciding if mass incarceration is a new form of slavery or Jim Crow is not the real question that researchers have to answer. These three phenomena have all undoubtedly harmed Blacks, and categorizing them according to the damage they caused will not solve problems that are still entrenched in U.S. society. Moreover, considering the question in these terms only undermines the historical memory of the previous events.

My research argues that the real common thread that connected them all was the constant presence of racism and violence that influenced and shaped their development. This insight was guided by Davis's analysis in her book *Freedom is a Constant Struggle*. Aside from the causes that brought racism and violence to the United States, these two components have always existed in the country and affected the lives of African Americans. These elements have never disappeared but have evolved into new structures that perpetuate ongoing mistreatment towards this community. My findings confirmed that the real issue is the tendency of U.S. institutions to solve problems with brutal force, a reality which inmates regularly experienced. The violence that people like Senghor had to face in his private environment, starting from his family and the street life, continued in jail, a place that should educate prisoners to distance themselves from those behaviors. But, as Davis points out, "the

personal is political.”¹ This assumption highlights that African Americans have lived with pervasive violence throughout their history and continue to fear its presence. Therefore, this habit can lead to the reproduction of violence in their private relationships, creating of a toxic circle. But as Senghor's story shows, and as Davis affirms, this cycle could be broken if one gets to the root causes of this brutality.

Presidential policies significantly influenced mass incarceration from the 1970s throughout the late 1990s. The “tough on crime” approach of Nixon, Reagan, H.W. Bush, and Clinton surely played a huge role in the creation of this system. During their administrations, they all conducted the “War on Drugs,” which aimed at solving the ongoing problem of narcotic diffusion and addiction by criminalizing those who traded the substance. To raise awareness of the risks of dependency, the presidents supported advertisement campaigns on this topic. At the same time, they also took action with the enactment of laws such as the Crime Control Act of 1984, the Anti-Drug Abuse Act of 1986, and the Violent Crime Control and Law Enforcement Act of 1994, which all brought severe consequences, as drug dealers were incarcerated for long periods.² More recent administrations, such as Obama’s, have gone in a different direction. Although the problem was not fully solved, at least Obama addressed this historical problem and tried to act upon it. Surprisingly, Trump also signed the First Step Act in 2018, which marked another important step forward.

During the election campaign of Biden and Harris, they both promised to address the issues within the criminal justice system, yet their past controversies had weakened their reliability on the matter. Despite the overall relevant decrease in the prison population over the past decade, in 2022 the number of inmates slightly rose. Figures aside, it is hard to affirm that the United States have represented an unbreakable symbol of democracy, as cases such as Massey’s demonstrate. My analysis of mass incarceration leads to the conclusion that the United States is still a country that does not fully provide equality to all citizens. Today, some African Americans manage to achieve their American Dream; this summer we have witnessed the remarkable success of the African American gymnast Simone Biles at the Paris

¹ Davis, *Freedom Is a Constant Struggle*, 84.

² Mancillas, *Presidents and Mass Incarceration*, 148.

Olympics 2024. However, while some Blacks make their dreams a reality, many others only face nightmares.

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Summary

In quanto studenti del corso di laurea magistrale Lingue moderne per la comunicazione e la cooperazione internazionale, oltre ad approfondire le lingue scelte, con un particolare riferimento alle tecniche traduttive, durante il nostro percorso abbiamo la possibilità di individuare degli insegnamenti che offrono conoscenze riguardo molteplici discipline con l'obiettivo di arricchire le competenze storico-culturali dei paesi di cui studiamo le lingue. Tali consapevolezza ambiscono a rafforzare le abilità di un buon mediatore culturale, il cui obiettivo dovrebbe essere quello di approcciarsi al suo ruolo da una posizione neutra. In particolare, corsi quali Storia degli Stati Uniti d'America, Sociologia del razzismo e delle migrazioni, Generi Saperi e Giustizia Sociale e Letteratura Anglo-americana forniscono un'ampia cognizione di questi aspetti e hanno generato il mio interesse rispetto a questioni storico-sociali. Pertanto, ho scelto come tema della mia tesi di laurea l'incarcerazione di massa sviluppatasi negli Stati Uniti d'America a partire dagli anni Settanta.

In particolare, il corso di Storia degli Stati Uniti d'America si è concentrato sull'approfondimento della storia del paese dalla prospettiva della comunità afroamericana. Dallo studio degli eventi da questo punto di vista, ho raggiunto nuove consapevolezza che mi hanno aiutata a riconsiderare alcuni dei principi fondamentali di cui gli Stati Uniti d'America sono da sempre portavoce, quali la libertà e la democrazia. Se si guarda alla storia del paese attraverso gli occhi degli afroamericani, si evince che tali ideali non sono stati sempre garantiti a tutta la cittadinanza. Durante il corso ci è stato consigliato di guardare il documentario *13th* diretto da AvaDuVernay, il quale paragona l'incarcerazione di massa con la schiavitù. Il film e le nuove consapevolezza raggiunte grazie al corso di storia hanno motivato la scelta della mia argomentazione.

L'incarcerazione di massa costituisce l'aumento esponenziale della popolazione carceraria. Negli Stati Uniti d'America questo fenomeno si è ampiamente sviluppato e ancora oggi il paese, che rappresenta la terza potenza mondiale per tasso di incarcerazione dopo Cuba e Rwanda. Come i dati dimostrano, gli afroamericani sono stati il gruppo maggiormente

colpito da questo evento. L'impatto che esso ha avuto sulla comunità ha portato alcuni esperti ad associarlo sia alla schiavitù, come nel caso del documentario, che alla segregazione. Nel 2010, Michelle Alexander ha pubblicato il libro *The New Jim Crow*, nel quale paragona il sistema carcerario americano proprio alla segregazione. Partendo da queste due analogie, il mio lavoro è nato con l'obiettivo di poter confermare o smentire tali paragoni. Inoltre, ritengo che lo studio di tali fenomeni storico-culturali possa essere utile agli studenti e alle studentesse del mio corso di laurea.

Pur volendomi concentrare sull'incarcerazione di massa, per poter analizzare le sue connessioni con la schiavitù e la segregazione è stato necessario approfondire anche tali fenomeni storici. Queste condizioni hanno sicuramente dato vita a due dei periodi più problematici per la popolazione afroamericana, e grazie alle mie ricerche ho constatato anche che sono indubbiamente connessi e legati alla crescita del fenomeno carcerario. Pertanto il primo capitolo della tesi offre un quadro generale dei principali momenti della schiavitù e segregazione.

Il paragrafo sulla schiavitù ha l'obiettivo di stabilire i motivi che hanno originato tale istituzione e perché furono proprio gli africani ad essere sottomessi a tale pratica. I primi schiavi arrivarono nel Nord America nel 1619 per colmare l'ampia richiesta di manodopera. La prima colonia a legittimizzare la schiavitù fu il Massachusetts, che con il *Massachusetts Body of Liberties* del 1641 trasformò la condizione di servitù degli africani in schiavitù, rendendoli proprietà dei propri padroni. Durante gli anni Sessanta del XVII secolo, le principali colonie del Sud istituzionalizzarono la schiavitù, che fu più dettagliatamente regolata dai codici degli schiavi, all'interno dei quali veniva confermata la sottomissione degli schiavi e i loro limiti. Stabilire se la schiavitù fu legittimata da una già consolidata prospettiva razzista o se questa si sia sviluppata per rafforzare la sua giustificazione è ancora molto difficile. Molti studiosi, infatti, ritengono che essa si sia imposta esclusivamente per soddisfare la richiesta di manodopera nelle colonie. Nonostante ciò, gli storici Carl N. Degler e David Elitis hanno dimostrato che atteggiamenti discriminatori nei confronti di persone nere erano già presenti nelle colonie americane. Il primo gruppo a subire tali pregiudizi fu infatti la popolazione indigena. Secondo queste considerazioni, l'emarginazione che

subirono gli africani non era altro che una nuova declinazione del razzismo che le popolazioni europee erano già abituate a praticare sulle le terre che avevano colonizzato prima di arrivare in Nord America.

La schiavitù fu ufficialmente abolita con la ratifica del XIII emendamento nel 1865. Nonostante ciò, fu proprio una clausola all'interno di questa modifica costituzionale a permettere la futura criminilazzazione degli afroamericani. La prima sezione dell'emendamento, infatti, afferma che né la schiavitù, né la servitù involontaria potevano esistere negli Stati Uniti "eccetto che come punizione per un crimine per il quale l'imputato sarà riconosciuto colpevole nelle forme dovute." Tale condizione avrebbe legittimato pratiche simili alla schiavitù come punizione per atti criminali.

Dopo l'abolizione della schiavitù si affermò la supremazia bianca e molti dei vecchi padroni di schiavi attraversarono ciò che Loïc Wacquant ha definito "doppio dilemma." Gli ex-proprietari erano in gravi difficoltà per aver perso una grande risorsa di forza lavoro, ma allo stesso tempo non intendevano condividere gli spazi con gli schiavi affrancati. Tra il 1865 e il 1866, per arginare questo problema molti stati del Sud emanarono i codici neri, leggi che avevano l'obiettivo di limitare i diritti e le libertà sia della sfera pubblica che privata degli afroamericani appena liberati. Il loro obiettivo principale era continuare a mantenere il controllo sulla comunità, affinché continuasse a costituire manodopera economica.

In questa fase gli stati del Sud affrontarono anche la Ricostruzione, un periodo durante il quale si cercarono di ristabilire le istituzioni politiche, sociali ed economiche degli stati devastati dalla Guerra Civile. Inoltre, si raggiunsero anche importanti successi in ambito dei diritti civili e politici con il XIV e XV emendamento, che furono rispettivamente ratificati nel 1868 e nel 1870. La prima modifica costituzionale conferì la cittadinanza a tutti gli individui nati negli Stati Uniti d'America, mentre la seconda garantì il diritto di voto a prescindere dalla razza, dal colore della pelle e da una eventuale precedente condizione di schiavitù. Tali emendamenti offrivano teoricamente nuovi diritti agli afroamericani, e questa possibilità non fu ben accolta dai suprematisti bianchi che iniziarono ad assumere atteggiamenti e regolamenti discriminatori meglio noti come le leggi di Jim Crow. Tali tendenze colminarono con la sentenza della Corte Suprema degli Stati Uniti nel caso Plessy

v. Ferguson del 1896 che sancì la dottrina del “separati ma uguali.” Tale decisione stabilì la costituzionalità della separazione nelle strutture pubbliche, in particolare i trasporti, per bianche e neri purché le condizioni fossero uguali.

La segregazione durò circa un secolo e la sua abolizione fu possibile grazie all’inizio del movimento per i diritti civili a partire dagli anni Cinquanta del Novecento. Nel secondo paragrafo del primo capitolo si ripercorrono gli eventi più significativi del movimento, quali il boicottaggio del trasporto pubblico a Montgomery, il contributo *della Southern Christian Leadership Conference* guidata da Martin Luther King Jr., i sit-in di Greensboro, e la marcia su Washington. Tale protesta nonviolenta terminò con l’approvazione del *Civil Rights Act* del 1964, che proibì la discriminazione razziale, religiosa e di genere nei luoghi pubblici, nell’istruzione e nel lavoro, e del *Voting Rights Act* del 1965, che eliminò alcune delle barriere che impedivano agli afroamericani di votare.

Schiavitù e segregazione sono state trattate in questa tesi per dimostrare che tali condizioni furono istituzionalizzate e in seguito abolite, ma in entrambi i casi la loro soppressione non costituì la fine della sottomissione della comunità nera. Proprio come afferma Alexander, nuovi semi di odio razziale si radicarono durante il movimento per i diritti civili e nacquero nuovi tumulti nelle principali città statunitensi. Durante la segregazione, infatti, molti afroamericani migrarono nelle città del Nord, dove non esisteva la segregazione *de lege*, con la speranza di non dover affrontare gli stessi soprusi ai quali dovevano sottostare al Sud. Nonostante ciò, una forma non istituzionalizzata di separazione fisica della comunità si presentò anche nelle città settentrionali. I neri abitavano principalmente i ghetti, nei quali furono isolati geograficamente. Nelle periferie affrontarono disoccupazione, crisi abitativa, mancanza di luoghi ricreativi, e discriminazioni da parte della popolazione bianca e delle istituzioni. Grandi rivolte si diffusero a macchia d’olio nelle principali città; la più grande fra queste si verificò a nel distretto di Watts a Los Angeles nel 1965.

La descrizione di questi due fenomeni è servita a spiegare all’interno di quale scenario si sia formata l’incarcerazione di massa. I tumulti portarono alla diffusione della dottrina di “legge e ordine,” di cui il primo portavoce fu il presidente Richard M. Nixon. Questo approccio mirava ad arginare le rivolte nelle città, causate principalmente dagli

afroamericani, le cui azioni vennero associate alla criminalità, senza ricercare l'origine di questa ribellione. Durante la presidenza Nixon, negli Stati Uniti d'America si assistè alla diffusione delle droghe. Le ripercussioni che l'assunzione di queste sostanze poteva causare mise in allerta tutta la popolazione e le istituzioni, fino al punto in cui Nixon dichiarò ufficialmente la "guerra alla droga" nel 1971, definendola come il primo nemico del paese. La battaglia iniziò con l'appoggio del presidente all'introduzione delle condanne minime obbligatorie, e l'istituzionalizzazione della Drug Enforcement Administration (DEA).

La situazione si inasprì negli anni Ottanta a fronte di una grave crisi finanziaria che colpì soprattutto gli afroamericani, che svolgevano lavori sottopagati. Per limitare queste difficoltà economiche essi furono costretti a usufruire dei sussidi statali, pratica che non fu ben accolta dai bianchi i quali li accusavano di approfittare di tali aiuti. Inoltre, in questo decennio una nuova droga si diffuse tra la comunità nera a causa dei suoi bassi costi e del facile consumo. L'epidemia del crack, derivato dalla combustione della cocaina, e il ricorso ai sussidi economici portarono gli afroamericani a essere associati a nuovi pregiudizi. In questo scenario il repubblicano Ronald Reagan riconfermò la strategia politica della "legge e ordine" e della "guerra alla droga," che fu ben accolta dagli elettori bianchi. Durante la sua presidenza furono emanate alcune delle leggi funzionali allo sviluppo dell'incarcerazione di massa, quali l'*Anti-Drug Abuse Act* del 1986, che sancì l'introduzione delle condanne minime obbligatorie per reati legati alla droga. La legge prevedeva pene severe, come una condanna a cinque anni di carcere senza la possibilità di libertà condizionale per il possesso di cinque grammi di crack, rispetto ai cinquecento grammi di cocaina in polvere per la stessa pena. Il rapporto 100:1 tra crack e cocaina ebbe particolari ripercussioni sulla carcerazione degli afroamericani, dato che essi erano soliti avere con più facilità dosi di crack che di cocaina; quest'ultima era acquistata soprattutto dai bianchi per i suoi costi maggiori.

Anche George H.W. Bush continuò la "guerra alla droga," ma ulteriori seri provvedimenti furono presi durante la presidenza di Bill Clinton. Nel 1994 la legge federale *Violent Crime Control and Law Enforcement Act* stabilì nuovi fondi per il rafforzamento dei dipartimenti di polizia locale e per la costruzione di nuovi carceri federali, e introdusse nuove condanne minime obbligatorie per reati violenti e il principio del "tre colpi e sei fuori."

Secondo tale politica penale venivano previste pene severe per i recidivi che dopo il terzo reato grave potevano dover affrontare l'ergastolo senza possibilità di libertà condizionale.

Queste leggi e provvedimenti sono stati riportati per dimostrare che l'incarcerazione di massa, come affermato da Alexander, è diventata una nuova forma di discriminazione istituzionalizzata. Inoltre, nel secondo capitolo viene anche evidenziato il contributo dei media nel generare nuovi stereotipi sugli afroamericani, quali quello della "Welfare Queen" e del "Superpredator." Il capitolo si conclude con dei riferimenti alle conseguenze che l'incarcerazione di massa ebbe sulle persone appartenenti alla comunità nera, concentrandosi sulle problematiche che le coinvolgevano anche dopo essere state rilasciate. Tra queste ho messo l'accento sulla difficoltà a trovare un alloggio e un'occupazione, sulla sospensione dei diritti di voto e sulle conseguenti problematiche psicologico-sociali.

Dopo aver riportato i principali eventi che condussero alla creazione dell'incarcerazione di massa, ho fornito esempi autobiografici di afroamericani incarcerati. Ho ritenuto opportuno offrire una descrizione del fenomeno anche da questo punto di vista; è infatti importante non limitarsi a considerarlo solo in termini quantitativi. Al contrario, tramite queste narrazioni, si può entrare a fondo nella psicologia di chi è stato coinvolto in questo sistema. Tale scelta è stata fatta per dare l'opportunità di poter empatizzare con i diretti interessati che sono stati spesso costretti a commettere atti illegali a causa delle circostanze in cui sono nati e cresciuti. Inoltre, questi racconti costituiscono anche una descrizione delle condizioni che i prigionieri devono sopportare.

Tramite questo approccio, sono riuscita a rispondere alla mia domanda di ricerca. Spesso si è convinti che il carcere sia una giusta conseguenza per chi commette azioni illegali e atti violenti. Allo stesso tempo, però, come suggeriscono le autobiografie di Angela Y. Davis, Shaka Senghor e Patrisse Khan-Cullors, pochi si interrogano su quali siano le profonde motivazioni che spingono un individuo ad agire in questi termini. Come suggerisce Davis, il filo conduttore che collega la schiavitù, la segregazione e l'incarcerazione di massa, è proprio la costante presenza della violenza nella storia degli afroamericani. Nella seconda parte del terzo capitolo, dopo aver analizzato le critiche ai parallelismi tra il periodo Jim Crow e il sistema penitenziario americano, affermo che il vero aspetto su cui gli studiosi

dovrebbero soffermarsi non è la ricerca di queste somiglianze, ma la risoluzione del problema del razzismo strutturale e della violenza che ancora si impongono nella società statunitense.

L'ultimo capitolo si concentra sugli scenari più recenti. L'elezione del primo presidente afroamericano è stata considerata da molti un riflesso della presunta risoluzione alla questione razziale negli Stati Uniti d'America. Il presidente afroamericano Barack Obama ha sicuramente parlato del sistema carcerario in termini completamente diversi rispetto ai suoi predecessori. Nonostante le tendenze chiaramente razziste del presidente Trump, alcuni passi in avanti su questo tema sono stati fatti anche durante la sua amministrazione.

Infine, viene presentata la campagna elettorale del 2020, in cui il candidato democratico Joe Biden e la candidata alla vicepresidenza Kamala Harris espressero l'intenzione di operare per la fine dell'incarcerazione di massa. Sebbene i candidati avessero pronunciato questa dichiarazione di intenzioni, entrambi presentavano un passato controverso che lascia dei dubbi sulle reali volontà dei candidati rispetto alla limitazione del problema. Nonostante le sue origini, la futura prospettiva di una presidenza di Kamala Harris, ancora non assicura la fine della questione razziale e dell'incarcerazione di massa, dato il comportamento severo che Harris ha adottato in passato nella veste di procuratrice distrettuale a San Francisco e di procuratrice generale della California.

L'incarcerazione di massa è iniziata negli anni Settanta e ha raggiunto il suo apice nel primo decennio del secolo scorso. A partire dal 2010, il numero degli individui in prigione ha iniziato a diminuire, ma nell'ultimo anno si è nuovamente presentata una minima ricrescita. Benché oggi alcuni afroamericani riescano a realizzare il loro sogno americano, molti altri affrontano ancora incubi.