

City University of New York (CUNY)

CUNY Academic Works

All Dissertations, Theses, and Capstone
Projects

Dissertations, Theses, and Capstone Projects

9-2017

The New American Slavery: Capitalism and the Ghettoization of American Prisons as a Profitable Corporate Business

David A. Liburd

The Graduate Center, City University of New York

[How does access to this work benefit you? Let us know!](#)

More information about this work at: https://academicworks.cuny.edu/gc_etds/2297

Discover additional works at: <https://academicworks.cuny.edu>

This work is made publicly available by the City University of New York (CUNY).
Contact: AcademicWorks@cuny.edu

THE NEW AMERICAN SLAVERY:
CAPITALISM AND THE GHETTOIZATION OF AMERICAN PRISONS AS A
PROFITABLE CORPORATE BUSINESS

by

DAVID LIBURD

A master's thesis submitted to the Graduate Faculty in Liberal Studies in partial fulfillment of
the requirements for the degree of Master of Arts, The City University of New York

2017

© 2017

DAVID LIBURD

All Rights Reserved

The New American Slavery:

Capitalism and the Ghettoization of American Prisons as a Profitable Corporate Business

by

David Liburd

This manuscript has been read and accepted for the Graduate Faculty in Liberal Studies in satisfaction of the thesis requirement for the degree of Master of Arts

Date

David Humphries

Thesis Advisor

Date

Elizabeth Macaulay-Lewis

Executive Officer

THE CITY UNIVERSITY OF NEW YORK

ABSTRACT

The New American Slavery:

Capitalism and the Ghettoization of American Prisons as a Profitable Corporate Business

by

David Liburd

Advisor: David Humphries

The labor of enslaved Africans and Black Americans played a large part in the history of colonial America, with the American plantation being the epicenter for all that was to be produced. While the two have never been completely tied together, capitalism and modern day slavery have been linked with one another. Some analysis sees slavery as a remote form of capitalism, a substitute, to an antiquated form of labor in the modern world.

Slave plantations adopted a new concentration in size and management, referred to by W.E. DuBois as a change "from a family institution to an industrial system."¹ This outlook shows either a brutal mental display or operational conceit. That is to say, both "slavery" and "capitalism" are abstracted in exacting traditional and historically intangible terms, or slavery and capitalism are distinguished as a separate social, and consequently political, structures. In each case, the relationship between slavery and capitalism is considered to be an "external,"

unintegrated relation. While slave labor signified a new interpretation as planters procured slaves not so much for social status, but more as commodity- producing labor. Slave labor developed into a great resource for value production.

One explanation for the disproportionate number of Blacks incarcerated in the American penal system is the continuation of laws that have long since been eradicated but are still active through new means of legislation. These pieces of legislation like the laws of the past, Jim crow Slavery parallel and embody the same outcome, the management to deprive and humiliate. This paper presents a connection of how previously abandoned historical sequences have been maintained and manifested into a new form of repression and containment of Blacks. The ever increasing incarceration of individuals of color Latino men and most prominently Black men, is a direct result of governmental legislations in the guise of wars on drugs and ghettos deemed to be out of control. These actions have continued to deny equal educational and employment opportunities to people of color while destabilizing cultural identities. The idea to imprison so many Blacks and to make the neighborhoods they live in as intolerable, only serves to publicize and affirm the association of the two. This association helps to maintain the socioeconomic differences that have been in place since slavery.

1. Dubois, W. E. B. *The Suppression of the African Slave-Trade to the United States of America* (Baton Rouge: Louisiana State University Press, 1969), 152.

Acknowledgements

It has been a stop start journey to get to this juncture. Many years in the making and I dedicate this effort to my Mum, Mrs. Violet Liburd and my late Dad, William and my family, friends and all the people who supported me, allowing me to get to this place. Appreciation to my advisor David Humphries and my good friend Leonard Robertson for all your advice and patience.

To all who have suffered and who continue to suffer in anguish due to the colour of their skin because of those who decided one ethnicity was superior to another.

Special thanks to Helen. Life is better with you.

Table of contents

Title page	i
Copyright	ii
Approval	iii
Abstract	iv
Acknowledgments	vi
Epigraph and Introduction	1
The Civil War and Slavery	11
Emancipation Proclamation and the 13 th Amendment	18
Colorblind Criminal Justice System	21
History of Prisons	31
Private Prison, Profits and the War on Drugs	37
The 13 th Amendment and U.S Incarceration	54
Conclusion	60
Notes	62
Appendix I, Figure 1	63
References	64

“The old plantation was a prison. The new prison is a plantation” (Wacquant, 2001.)

The labor of enslaved Africans and Black Americans played a large part in the history of colonial America, with the American plantation being the epicenter for all that was to be produced. While the two have never been completely tied together, slavery and modern day capitalism have been linked with one another. Some analyses see capitalism as a remote form of slavery, a substitute, to an antiquated form of labor in the modern world (Mandle, 1972). Slave plantations adopted a new concentration in size and management, referred to by W.E. DuBois as a change “from a family institution to an industrial system” (Du Bois, 1969). This outlook shows either a brutal mental display or operational conceit. That is to say, either slavery or capitalism are conflated using historically inaccurate terms, or they are distinguished as separate social, and consequently political structures. In each case, the relationship between slavery and capitalism is considered to be an “external,” unintegrated relation (McMichael, Evans, Rueschemeyer & Stephens, 1985). Planters procured slaves not so much for social status, but more as a commodity producing labor, developing slave labor into a great resource for value production.

This paper presents a connection of how previously abandoned historical sequences are being maintained and manifested into a new form of repression and containment of Blacks. The 2.3 million people behind bars in America, amounts to a fifth of the world’s prison population. This practice is carried out at an annual cost to taxpayers that amounts to more than \$75 billion a year. The harsh penalties were intended to lower crime, but instead they have made way to an unprecedented change in priorities that move away from policing (Tierney, 2013). Lawrence W. Sherman, an American criminologist on the faculty of the University of Maryland and Cambridge University in Britain has said, “The United States today is the only country I know of that spends more on prisons than police. In England and Wales, the spending on police is twice

as high as on corrections. In Australia, it is more than three times higher. In Japan, it is seven times higher. Only in the United States is it lower, and only in our recent history” (Sherman, 1990). Prior to mass incarceration which began to take hold in the 1980s, local policing accounted for more than 40 percent of the criminal justice budget and 25 percent went to prisons and parole programs. Yet since 1990, almost 35 percent has been directed to the prison system, while the criminal justice budget for local policing has decreased to just about 30 percent (Tierney, 2013). The idea to imprison so many Blacks and to make the neighborhoods they live in as intolerable, only serves to publicize and affirm the association of the two.

Slavery has been one of the most permeating of human institutions and has endured in many places. It has existed in societies subjugated by all major religions and varied beliefs, it legally lasted in some places into the twentieth century, and it endures more informally in places until this day. Although there are important differences from one economic and legal condition to the next, certain characteristics regarding who could be enslaved or who could be bought and sold are similar across conditions, and the study of these differences and similarities provides a useful basis for understanding human behavior and social institutions (Engerman, 1999).

The most exacting definition of one kind of slavery, “chattel slavery,” will be subject to consideration. “A slave is a human being who is the property of, and entirely subject to, another human being under the religious, social and legal conventions of the society in which he or she lives.” Being “the property of” indicates that an owner, limited only by the relationships within his society, can buy, sell, free, adopt, ill-treat or kill his slave whose children also belong to their owner, and who can expect to receive the same consideration. A slave has no freedom or personal rights and can become a slave voluntarily, by a legal decision or by force (Kelly, 1996). Slavery, chattel slavery was allowed by the Holy Quran and further defined in the Hadith - the

traditions of the Prophet Mohammed's lifespan. Chattel slavery was developed and organized in the sacred Shari'a decree codes overseen by members of the Ulama - those learned in its interpretation. Overall, its model of slavery developed from Roman Empire slavery procedures and its predecessors in Western Asia. The first example of slave trading and slave labor established in the New World involved, ethnically, not the Negro but the Indian, to be discussed later. Slavery in the Caribbean has been consistently identified with the Negro, putting a racial twist on what is an economic experience. Slavery was never a racist practice; racism was the consequence of slavery. Unfree labor in the New World was brown, white, black, and yellow; Catholic, Protestant and pagan. The chief distinction was that in one of the divisions of the world in Islam, the Dar el Islam, Christianity and Judaism were accepted as admissible if incomplete religions. Believers in them, if they made their secular submission to Islamic rulers, paid the necessary taxes and accepted Shari'a law, were citizens or Dhimi and were not subjected to chattel slavery, the exception being if they were sentenced to it due to crimes punished under Shari'a law in the same manner as Muslims were (Snowden, 1970). Later in this paper, the differences of how slavery exists today in our incarceration systems will be documented.

As this example suggests, in fact slavery is one of the oldest social institutions in human society. Original archaeological manuscripts document that in the Mediterranean basin, the Middle East, China, and other places slavery existed. Ancient civilizations in Egypt, Babylonia, Persia, Greece, and Rome were economically greatly reliant on slaves. Slavery thrived after the fall of the Roman Empire, and continued into medieval and early modern times. Five hundred years prior to Columbus sailing to the New World, the Vikings and the Arabs were foremost slave traders. Exploration by the Portuguese to Africa in the 1450s and 1460s, ended up with cargoes of slaves procured in the ports they visited. Many years before Columbus reached the

Americas the Inca, Aztec, and Maya all had existing complex slave constructs. Moreover, even in the area that became the United States, numerous Native American peoples held slaves and more often than not, those slaves tended to be captured neighbors. The island of Hawaii had a slave system before Europeans landed. In China, India, and in East Asia slaves were owned and traded. The founding of the New World helped in the expansion of slavery moving it from a family institution to an industrial system as stated by DuBois earlier. The enslavement of indigenous populaces predominantly by the Spanish and early 17th century by the English, led to approximately between 12 and 13 million Africans kidnapped and relocated to the New World (Fogel & Engerman, 1995).

“Slavery” has been used so loosely in European languages and in Christian societies that only by cautious definition can it be used in examining human relationships throughout the world. If slavery is considered to be an exclusive method of controlling individuals, this would appear to make all non-slavery look like freedom and, so thought to be a tolerant and desired progressive undertaking. After the American Civil War, wherever slavery was prohibited a man was considered to be free and no longer held in servitude. There needs to be a distinction drawn between slavery in relation to non-slavery, and in an American context, in the post-civil war when slavery was prohibited, between “legal” slavery and the use of slavery representing any form of human poverty and control. Any specific definition of slavery has legal, social, political, and economic facets. At times, it is difficult knowing, what exactly are its limitations among labor institutions. If on the other hand, slavery were considered just one portion, or one end, of a spectrum of controls, then some would debate that this makes slavery seem less evil and more benevolent than it was, compared to other forms of social control (Karras, 1998). A correct classification of the word’s relationship with terms in other languages and other historical

periods is crucial, especially when archaeologists attempt to identify slavery by research of material remains. It is problematic in Africa where Christian and Islamic concepts of slavery, both defined in alternative and convoluted legal systems with outside enforcement on large regions of the continent, combined with diverse indigenous African concepts communicated only by oral traditions before Arabic or European visitors added new sources. The interaction of Islamic and indigenous concepts culminated in a limited order of integration more easily documented from literary than material cultural evidence. The present-day ineffectiveness of archaeologists to identify slavery and its effect on cultures without using literary evidence is still one of the last “major field” problems involving the discipline (Insoll, 1998). It is crucial that investment into areas of interest that focus on revealing and discovering original evidence is undertaken sooner than later, as the preservation of any material tangible or living may be lost.

In certain parts of the world, slavery was an ill-conceived part of society until the middle of the 18th century. In ancient times, Plato supported slavery in his Republic. Aristotle understood some people were born to be slaves, and Thomas More imagined slaves in his Utopia. Popes divined slavery as a way to convert heathens, as did Protestant ministers. Some prophets opposed slavery like, Bartolomé de las Casas, the Bishop of Chiapas, the Mennonites who settled in Germantown, Pennsylvania, and the Puritan lawyer Samuel Sewall (Richards, 2003). Not until the mid-18th century Quakers headed by John Woolman along with Methodists like John Wesley, did any move to abolish slavery gain traction. Towards the end of the century, abolitionists in England began measures to stop the African slave trade. For the duration of the American Revolution, and after, the northern states sought to end slavery and some slave owners in the south voluntarily freed their slaves. In Haiti, a successful rebellion led to slaves deposing French rule to end slavery there. Throughout the New World until the 1830s when England put

an end to slavery in its American colonies, slavery continued to be an active enterprise. This enterprise endured in America until 1865 and in Brazil and Cuba until the 1880s. (Richards, 2003).

As mentioned previously, slavery did not spawn racism: racism was the direct result of slavery. The following classification shows that slavery was deemed functional for economic gains. The definition of international slavery is defined as follows: “Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” To this was added “practices similar to slavery”, including debt bondage, serfdom, compulsory marital arrangements and sale of children into labor. The U.N agency, International Labor Organization (ILO) defines debt bondage as, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt. If the value of these services as reasonably assessed is not applied towards the liquidation of the debt of the length and nature of those services are not respectively limited and defined (Labour, 2005). Any description of slavery has the slave beholden and in servitude. According to Loic Wacquant, “The single greatest political transformation of the post-civil rights era in America, is how America reverted back to the paltry social state that was once in vogue, and the authorization to create an enormous penal state that have re-created the country’s stratification, cities, and civic culture, and are recasting the very character of ‘blackness’ itself.” Jointly, these two coexisting and confluent drives have successfully redrawn the boundary, objectives, and processes of action of public authority when it comes to organization of the disadvantaged and stigmatized populations that remain at the bottom of the class, ethnic, and urban hierarchy. The parallel reduction of the welfare division and the increase of the criminal justice division of the American state have not been driven by new developments in poverty and crime, but have been

powered by a politics of hatred toward classes considered to be unworthy and noncompliant (Wacquant, 2010). Serfdom is the condition or status of a tenant who is by law, custom or agreement bound to live and labor on land belonging to another person. They are to render some type of determinate service to such other person, whether for reward or not, and is not free to change his or her status (Labour, 2005). The ILO is accountable for overseeing international labor standards. The ILO states that forced labor as work or service “exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” Strictly speaking, forced labor is comprised of unwilling entry to the labor relation, and coercion to persist within it. This is the internationally, legally accepted definition of forced labor, as cited by international (ILO) conventions. Numerous categories of forced labor, including slavery, serfdom and debt bondage are incorporated (Labour, 2005; Hammer, 2005).

The first instance of slave trading and slave labor developed in the New World, racially involved the Indian not the Negro. Poor whites came before the Negro as the successor to the Indian. Poor whites were servants; some were indentured servants, so called because they were able to sign an agreement before parting from their homeland. These agreements or contracts were indented by law, with an obligation to service for a specified amount of time as a supplement for their voyage. “Redemptioners,” made prior arrangements with the captain, and offered to pay for their passage once they docked or within an agreed time after. If they defaulted, the captain then sold the passenger, to the highest bidder. Convicts were also sent by the government to serve a stated time (Williams, 1944). Native Americans and Black people in the U.S. are two marginalized groups that face discrimination in opposing ways, reflecting their adverse roles in the founding of U.S. society. Native Americans were not slaughtered or banished from their land, glamorized, integrated, marshaled, bred White, or eradicated as the

genuine owners of the land, but as Indians. They were victims, murdered for where they are and victims murdered for who they are (Smith, 1987). To become a victim of settler colonization, all the native needed to do was remain at home (Rose, 1981). Disease and an incomplete diet saw the Indians precipitous demise, as they were unable to withstand the rigorous workload. The failure to adapt to the new way of life was also a key factor. “To subject the Indian to the mines, to their monotonous, insane and severe labor, without tribal sense, without religious ritual ... was like taking away from him the meaning of his life ... It was to enslave not only his muscles but also his collective spirit” (Williams, 1944).

The enslavement of Black people produced a comprehensive taxonomy that spontaneously enslaved the children of a slave and any other parent. In the midst of slavery, this taxonomy became fully racialized in the “one-drop rule”; this is to say that any quantity of African lineage, no matter how remote, and irrespective of physical and structural composition, makes a person Black. For Native Americans, non-Indian lineage allowed their nativity, producing “half-breeds,” a rule that continues in the practice of blood quantum regulations. In contrast to enslaved people, whose procreation increased their owner’s wealth, indigenous people hindered settler’s access to land, so their augmentation was determined dysfunctional. This in turn lead to the limiting racial classification of Native Americans and cleared the way for genocide. Although it cannot be said that the colonialism or extermination directed towards any one specific race – as race – can be taken for granted, there is an argument that it is controlled and completed through instructive management (Gellately & Kiernan, 2003).

In the colonies of New England, Indian slavery was unprofitable. Much of any form of slavery was unprofitable because the diversification of agriculture was not suited to all enslaved peoples. The Spaniards determined that one Negro was equivalent to four Indians. One

prominent figure in Hispaniola (the original name for the capital of the Dominican Republic, Ciudad Trujillo) demanded in 1518, that “permission be given to bring Negroes, a race robust for labor, instead of natives, so weak that they can only be employed in tasks requiring little endurance, such as taking care of maize fields or farms.” The prospective New World staples, sugar and cotton, required strength which the Indian lacked, the robust “cotton nigger” was what was required: “When compared with sums paid for Negroes at the same time and place the prices of Indian slaves are found to have been considerably lower” (Williams, 1944).

In 1827 America, supporters of southern industrialism praised the principles of black slave labor in textile mills. They reasoned that black slaves were more efficient, costing less maintenance than white laborers and that their market value increased as they honed more industrial and mechanical skills, adding that the industrial services of very young and very old slaves, who were borderline employable field work, made for an otherwise “idle” population. *The American Farmer* reported that it “would be a real mercy to the slaves-for the labor in a cotton factory is infinitely easier than in a cotton field” (*The American Farmer*, 1827, 235).

The economic benefits of slavery, researched in conventional studies towards the end of slavery, focused on market forces with reference to Adam Smith. In *The Wealth of Nations*, Smith writes that slaves can have no interest but “to eat as much as possible and to labor as little as possible” and that completed work done by slaves is certainly the “dearest of any” (that is, totally ineffective) and are destined to fade away if market forces are permitted to perform (Smith, 1937). Smith was certain, “that economic causes explained the abolition of bondage in Western Europe. Landowners simply came to realize that their profits would increase by giving labor a share of the produce” (Davis, 1966). If slave labor was determined to be comparatively unproductive, what was the reason for its emergence in supposedly modern industrial systems?

Smith explained this abnormality for his theory with a somewhat adlibbed revision. He claimed that slave owners engaged in the control of inferiors “out of a love of power, even to the detriment of their economic self-interest” (Davis, 1966).

Marxist critics are usually more rationally reliable. Slavery appears and disappears, in their view, because of market forces. Slavery must have been “rational” or else the system would not have been established, just as when it disappears, it is because the rationalistic formula has run its course and a new approach to production has materialized and become more efficient. Eric Williams, a well renowned contemporary analyst and author on the subject of the disappearance of slavery in the Western hemisphere, writes in his book *Capitalism and Slavery*, that the focus is on the history of slavery in the British West Indies. Williams’ thesis is direct: “When British capitalism depended on the West Indies, they ignored or defended it. When British capitalism found the West Indian monopoly a nuisance, they destroyed West Indian slavery as a first step in the destruction of the West Indian monopoly” (Williams, 1944).

The thesis most clearly in contrast to the “economistic” opinions of Williams and others underscores the significance of moral progress in the progression that ended slavery in the Western hemisphere. Crane Brinton, in *A History of Western Morals*, succinctly describes the heart of this debate;

“The prize exhibit of those who can still believe in moral progress is the Western achievement of abolishing chattel slavery ... The Marxists, and not only the Marxists, never tire of insisting that slavery has always prevailed where it was economically profitable and has only been abolished after it has been demonstrated to at least most slave-owners ... that slavery is unprofitable ... The honest materialist would have to admit that the completeness of abolition can be explained only by the fact that the

overwhelming majority of Westerners came in a few generations to feel that slavery is wrong.” (Williams, 1944).

There have been many atrocities in history, horrific in nature, which have caused irreparable harm to many ethnicities and cultures. The Holocaust, as an example, was an act of evil on a massive scale. An economic perspective saw that the marginal benefits and marginal costs associated with that atrocity saw that the victims were offered compensation and that offer of compensation continues to this day. There are many moral perspectives that have been taught and discussed throughout history, each with strong and weak arguments. Moral actions therefore are considered according to the reasoning behind them and not their consequences or outcomes. These actions are not based on one’s own needs, desires or feelings. This moral perspective is one that seems to be subjective in nature. At the end of slavery and during debates on how to abolish it, slave owners sought compensation for losing the slaves that they owned. If there were to be consistency within international framework, a division created that oversaw “matching” claims of reparations for past injustices that division would need to assess the importance and decide the form. Such a body would need to be set up under an international charter, with greater authority if under the patronages of the UN, as in War Crimes. One claim has estimated the figure for reparations for slavery at \$777 trillion. If we remember that slavery lasted for three centuries, this is not excessive (Shaw, 2004).

Many historians see the U.S. Civil War as the decisive turning point in the history of the America. Yet it was even more meaningful. The Civil War generated volatility that altered the global trade in cotton and its production bringing about a global transformation of capitalism. The global cotton empire was regulated by various dominant states and their colonies and worked by non-slave labor. The cotton trade was one of the world's largest industries at

midcentury, sourcing the work force conceivably of 20 million laborers. Prior to 1861 before slaves on plantations in the American South became the main workforce for cotton production, most of the world supply of raw cotton. Sharecroppers, tenant farmers, and peasants, often beholden to local merchants, produced most of the global cotton, a major division of which was cultivated outside of the American South, in places like India, Egypt, West Africa, Turkmenistan, and Brazil. Raw cotton had previously been manufactured and produced by textile workers in Lancashire, in the North of England.

The American Civil War was central in these transformations. Close to four million slaves were freed in the subjugated land of world cotton production, leading to worries among merchants and manufacturers that the disturbance could damage the “deep relationship between slavery and cotton production and destroy one of the essential conditions of the mass production” of cotton textiles (Beckert, 2004). By destroying worldwide confidence in the organization of one of the world’s foremost trades, the war inspired a new collection of bureaucrats and capitalists in cotton-consuming countries to procure supplies of the “white gold” from sharecroppers, tenants, and peasants, decisively shifting the balance between free and coerced labor. The war between 1861 and 1865 forced manufacturers to find new merchants for their crucial raw material, as it eliminated several million bales of cotton from global markets. New labor practices were put in place, the envelopment of wealth and capitalists within colonial nation states, and the swift expansion of capitalist social relations were the foundations of a new political economy that dominated global concerns through to World War I (Isaacman & Roberts, 1995). The rapidity and reaction with which merchants, manufacturers, and agricultural producers answered the crisis exposed their flexibility and their capacity for reordering new, indirect, but sweeping forms of state power in place of direct possession of human beings to

secure an ample amount of labor. Perhaps the most important chapters in the history of global capital and labor were written on the battlefields of rural America. Slavery was the dominant cause of the Civil War. The war was fought over state's rights and the limits of federal power in a union of states, in order to illustrate state sovereignty versus federal authority. The potential threat to state autonomy became pragmatic over the explicit dispute over slavery. The argument as to whether slavery should subsist was not the focal point; the focal point was who had the final say on the existence of slavery. The eleven southern states that seceded from the Union objected to federal legislation that restricted the advancement of slavery, due to the North's assessments on slavery. The South contended to defend and preserve the institution of slavery to protect their immoral economic system and way of life. The goal of President Lincoln was to conserve the Union, and he did not issue the Emancipation Proclamation until January 1, 1863, more than one and a half years after the war started. The issuance of emancipation was made to encourage his objective; slavery was not his first priority. If the North succeeded in their demands it posed a serious threat to the economic value of slaves if the North. The South wanted to defend slavery and their cotton economy. As it is today, the U.S. economy and financial standing are paramount. The U.S. justice system of today with its incarceration procedures profoundly stimulates the economy. CoreCivic (formerly known as Corrections Corp. of America) and Geo Group the two biggest owners of private prison's stocks have more than doubled since Donald Trump won the 2016 election. The business of prison privatization and its involvement in the economy will be discussed later in this paper.

The American Civil War has long been a debated issue in the historiography of the United States. As a result, there seems to be many more accounts of previously suggested explanations adding to various reasons, such as slavery, sectionalism, and political ineptitude, a slave-power

conspiracy, economic conflicts and abolitionist activism (Stamp, 1965). These explanations, and more have been carefully considered, prepared, and then cross-examined, yet still remain inconclusive. The following cause is certain: slaves were profitable investments to southern owners; that is to say, their rate of monetary return was very high as opposed to other types of investment. It is possible to explain slavery overall by its monetary return without reference to other objectives that may have encouraged slave ownership. Slavery was a practical business. If not for emancipation and the Civil War, it would have been economically profitable for the foreseeable future. One study assessed without the introduction of emancipation an average slave in 1890 would have produced his owner a net marginal product 52 percent greater than in 1860 and the market price for his ownership would have risen accordingly (Fogel & Engerman, 1995). Some say that the conflict between the North and the South was because the land in the North was not fertile enough or conducive enough to profit from slavery, as it was in the South, not because it was morally wrong. Perhaps Lincoln's decision on ending slavery was a way to balance the U.S. economically by reducing the possibility that the South would become too financially powerful.

The primary role of slavery was to facilitate the division of labor services, and the efforts of labor in America, rationally guided, have always been somewhat productive. In addition, the typical productivity of American labor has improved over time where the laborer in the case of a slave, procured higher rewards for his owner. Slavery was also a very lucrative investment and was projected to continue to be of huge vested interest when recognized in its ownership. This is analogous to today where factories, real estate and common stock are connected with wealth and the proceeds expected to be produced from it; antebellum southerners had amassed a considerable number of assets in slaves (Goldin, 1973). Slavery was an uncompromising

decision. With the exception of the beginning of the nineteenth century, that concern had been balanced by a “local option,” although the federal government ratified a series of compromises separating the emergent western regions into slave and free regions. Nevertheless, those borders commonly paralleled the dividing line, which would have resulted from independent regionalized alternatives, and they did not create a significant problem in local affairs. Until the 1840’s, slavery was an issue to be decided by the individual states. When President Lincoln later said that the nation could no longer continue as “half slave and half free,” he was conveying a mood that had only recently become popular. The nation had already been “half slave half free” for quite a while leading up to 1860; in fact, the majority of the world up to the nineteenth century lived under “half slave half free” conditions. Before the election of 1860, the situation governing slavery had been successfully transferred. The decisions formerly given to the states the federal government now appropriated and the institution of slavery, which before experienced the comparative tranquility of local consensus was now thrown into turmoil and interregional divisiveness. Northern elements, who believed that slavery was wrong and must eventually be eliminated, advocated legislation such as prohibition of slavery from the western territories. Southerners countered by insisting there be a “slave code,” a guarantee that the federal government would safeguard chattel slaves wherever they may be relocated, within the country. This was going to be a very difficult proposition to accommodate. Slave codes were U.S. laws that governed slave status, pronounced by the colonies or states that allowed slavery, where slaves were considered property and not people:

- Slaves had few legal rights in court.
- A slave’s testimony was barred in cases relating to whites.
- Slaves could not hold or make any contract or own any property.

- Slaves could not assault a white person, even if one assaulted them.
- Slaves were not allowed to be absent from their owner's premises without permission.
- Slaves were not allowed to gather in groups unless a white person was present.
- Slaves were not allowed to be educated.
- Slaves were not allowed to marry.
- Any slave deemed to be in violation of any of these codes was subject to severe punishment that included whipping, branding, imprisonment, and death.

The Deep South understood that the luxury of owning slaves had become too costly in late 1860 when the Republican party, clearly hostile to slavery, gained control of the federal government. If this property right were to become reliant on national (and now hostile) support, the value of a slave would respectively be reduced. The South decided to abandon this national institutional framework. The Missouri Compromise of 1820 designated the latitude, 36 degrees 30 minutes, as being a dividing line. It declared free all territories west of Missouri and north of latitude 36°30'; slavery was allowed below the line, but not above. The Dred Scott decision, officially known as *Dred Scott v. John F.A. Sandford*, was a legal case in which Scott a free slave, attempted to sue for his right to freedom. The U.S. Supreme Court on March 6, 1857, ruled 7 - 2 against Scott who at the time, was located in a Free State and territory where slavery was illegal, and so he was not thereby entitled to his freedom. The ruling also supposed that African Americans were not and could never be citizens of the United States. Constitutional scholars believe that *Scott v. Sandford* is broadly considered the worst decision ever adjudicated by the Supreme Court. The decision created the sectional controversy, which moved the country closer to civil war (Wright & Wright, 1983). The South attempted to secede from the North in an

effort to alter the political climate, and they considered that they had too much stake in the institution of slavery to see it dissolve (Gunderson, 1974).

Slavery was so deeply ingrained in the self-professed values of the American nation. Written into the Declaration of Independence were the words “created equal”; all are entitled to “life, liberty, and the pursuit of happiness.” Thomas Jefferson, the owner of those words also owned approximately 150 slaves. Jefferson’s part in preparing the Declaration exemplifies the hypocrisy that still exists in the United States. Claiming to be a nation committed to liberty and equality, the United States had slavery dictate its politics and its culture, leaving no doubt that these written words were not for all. All but five U.S presidents between 1788 and 1860 were slave owners (Richards, 2003). Many justices on the Supreme Court between the same periods also owned slaves, as did many who led Congress, while top military men, Andrew Jackson, Zachary Taylor, and Winfield Scott also took part in the practice. Antebellum America was a slaveholder’s domain. Political angst was two-fold; slaves and southerners, blacks, and whites were affected. Self-expressive free speech was non-existent in the South for those who opposed slavery or racism. Defenders of slavery embraced the challenges presented by Abolitionists.

In the first half of the nineteenth century, both black and white abolitionists conducted an assault against slavery in which their endeavors proved to be an enormous success. The abolitionists focused their attention on slavery, bringing it to the fore, which made it difficult to ignore. They amplified the split that had endangered the union of the nation this all took place close to the time of the Constitutional Convention. Early objectors to the slave trade were Quakers even though some Quakers were slaveholders, some objected to the African slave trade and the continuous bondage of those kidnapped. They opposed the system of dividing enslaved family members by sale to different masters. This continued into the nineteenth century, where

together many abolitionists formed many antislavery societies. These groups petitioned Congress, held abolition meetings and conferences, boycotted products made with slave labor, printed stacks of literature, and gave countless speeches. Some abolitionists violently protested as a means for ending slavery. Even though black and white abolitionists worked as a team, by the 1840s there was a divergence in values and methods. The white abolitionists continued to emphasize slavery alone, while the black American abolitionists incorporated anti-slavery activities and rhetoric with mandates for racial equality and justice. Those who opposed slavery used economics, history, religion, legality, social good and even humanitarianism, in order to promote their arguments.

Those who wanted slavery to continue also voiced concern regarding the economy, saying that if slavery were to be abolished then the economy would be in turmoil, especially in the South where slave labor constituted the majority of their economy. They appealed that the cotton and tobacco industries would collapse (McMichael et al., 1985). They were also concerned of what the outcome would be if slaves were freed. The argument was that there would be sweeping unemployment with widespread disorder, leading to rebellions, carnage, and lawlessness. The French Revolution was specified as an example of what might transpire and they argued that slavery should remain, so that the slave masters they could maintain their lifestyle, which in turn created stability for the slaveholding peers and for all free people who enjoyed the remuneration of the slave society.

In 1865, American slavery was ceremoniously abolished. In 1863 President Lincoln, had issued the Emancipation Proclamation declaring, “All persons held as slaves within any State, or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free.” Nonetheless, the Emancipation Proclamation did

not end slavery in the nation. In addition, the Confederate States of America did not observe the laws and policies generated in Washington. In 1863, the Civil War had yet to reach its conclusion. Lincoln recognized that the Emancipation Proclamation would have to be followed by a constitutional amendment in order to guarantee the abolishment of slavery. This amendment had been preceded by a federal restriction on the importation of slaves in 1808, by the Emancipation Proclamation of 1863, and by legislative bans against slavery in many of the states prior to 1865. However, the 13th Amendment was the first unconditional constitutional action to end the institution of slavery and the first of the amendments to protect the equal status of black people (the others are the 14th, 15th, and 24th Amendments). The 38th Congress, proposed the 13th Amendment to the Constitution of the United States to the legislatures of the several states on January 31, 1865. The Secretary of State declared, in a proclamation on December 18, 1865, to have been ratified by the legislatures of 27 of the 36 states. [1] Legislation introduced in the United States Senate and passed on April 8, 1864. The following year the same bill entered into the United States Congress and it passed on January 31, 1865. The same bill later, that same year was ratified on December 6, 1865. That bill was the 13th Amendment and it was legislation written in order to abolish slavery in the United States.

The 13th amendment was passed at the end of the Civil War before the Southern states had been restored to the Union and should have easily passed the Congress. Although the Senate passed it in April 1864, the House did not. At that point, President Abraham Lincoln took an active role to ensure the bill's passage through Congress. Lincoln insisted the supplementary passage of the 13th Amendment to the Republican Party platform at the upcoming Presidential elections. His efforts met with success when the House passed the bill in January 1865 with a vote of 119 - 56. President Lincoln approved the Joint Resolution of Congress, submitting the

proposed amendment to the state legislatures. The required number of states (the vote was 27 out of 36) ratified it by December 6, 1865. The 13th Amendment to the United States Constitution stipulates that “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, nor any place subject to their jurisdiction” (Maltz, 1990). With the adoption of the 13th Amendment, the United States found a final constitutional solution to the issue of slavery. The 13th Amendment, along with the 14th and 15th, is one of the trio of Civil War amendments that greatly expanded the civil rights of Americans (Maltz, 1990).

However, the wording, a clause of the 13th Amendment, “as a punishment for crimes” has permitted a form of slavery to continue well into the 21st century. This amendment gave Congress the authority to implement this article by legislation. The 13th amendment became law as a legal document in order to abolish slavery yet; African Americans remained unprotected to discrimination with little to no rights. This had, and continues to have, a considerable social and political affect. After the abolishment of slavery segregation remained until the Civil Rights Movement in the 1960s, paving the way for African Americans to attain equal rights. As previously stated, the 13th Amendment abolished slavery, with the exception of convicts. The U.S prison system with its disproportionate mass incarceration, allows slavery to continue under a different guise. A few 20th century abolitionist movements have attached themselves explicitly while using the same practices that the 19th century abolitionists and antislavery advocates used. “Abolitionism as defined here is the conglomerate of many local movements that express abolitionist aims indirectly through challenging the fundamental methods of the prison-industrial complex - mandatory minimum sentences, harsh penalties for nonviolent drug offenses, and the continuous construction of prisons that goes on regardless of crime rates” (Davis, 1996).

Black Lives Matter was created in 2012 after 17-year-old African American teenager Trayvon Martin was gunned down by white vigilante George Zimmerman, who was later acquitted. Black Lives Matter appeals for action in response to the infectious anti-Black racism that infuses society in the U.S. Embedded in the experiences of Black people in this country who have continued to resist the dehumanization of their culture and ethnicity. Black Lives Matter (BLM) goes beyond the “extrajudicial” killings of Black people by police and vigilantes. The BLM movement was born out of necessity. The BLM needed to express that black lives are just as important as white lives, not that black lives are better or more precious. Using the present time in terms of how the refinements of the Jim Crow have been incorporated into social order, with the connections between chattel slavery and recent historical periods in regards to the administrative violence of mass incarceration and the astonishing violence of police murder on blacks, it is also emblematic of the violence on anti-black cultural organization. BLM looks to challenge the evident racial ambush of the colorblind era, the racialized conflict over the injustice of the criminal justice system. BLM aims to give credence due to the historical association of blackness with criminality and whiteness with innocence, where blacks are obvious criminals and whites are the earnest victims (Chatelain & Asoka, 2015).

Slaves were punished according to slave codes. Prior to the Civil War, the criminal justice system only pertained to whites. Even though the abolition of slavery created a number of essential changes in state criminal justice systems, the permanence of how white and black offenders were treated and controlled remained. When slavery was abolished, criminal prosecutions and punishment were modified. Yet considering the damage and pain caused by “separate but equal” on white and black felons, slavery endured and continued to haunt almost every feature of social and economic organization in the post-Civil War South.

In the U.S., the southern prison system in the early 20th century consisted of three separate systems: state prison buildings modeled on those in the North, the county chain gang, and the state prison farm. During the 19th century, the state prison system was comprised of a number of prison buildings, of which many had been built before the Civil War to accommodate white offenders, and a varied number of huts or lean-to accommodations within stockades built on plantations, adjacent to coal mines and pine forests where turpentine was extracted. Rolling cages were used; these were pushed along the railroad tracks that had been laid by black prisoners. As well as settlements or camps that were operated by private companies who also leased state convicts, post-Civil War punishment in the South included a county system of hiring out vagrants and petty offenders to labor on local farmers (Arnett & Tannenbaum, 1924). Many historians point to the economic collapse of the southern state governments during Reconstruction as the main reason why the convict lease system was such a success (Greene, 2007). Although states on both sides of the Mason-Dixon Line had tested leasing out prison buildings and the labor of prisoners to private contractors, most embraced a variation on the contract system whereby prisoners worked for outside employers and worked under the supervision of outside supervisors whilst still under the disciplinary control of a warden and guards. The leasing of state prisoners to private companies and surrendering any accountability for supervising and disciplining was quickly institutionalized in the South after the Civil War, and became a widely-used practice. Many prisons built prior to the war were devastated because of the conflict, but the economy was in too bad of a shape to build new ones, and so leasing was adopted. This arrangement had quite a significant economic attraction, as state governments were paid hundreds of thousands of dollars by the companies that leased convicts (Carter, 1964).

Below are two different accounts of arrests made, mandating the clause in the 13th Amendment, and the way in which African American lives can be impacted, and changed forever under the U.S criminal justice system and its policies. The accounts are just two of many common occurrences people of color face when they encounter U.S law enforcement and criminal justice system:

...Imagine you are Emma Faye Stewart, a thirty-year-old, single African-American mother of two who was arrested as part of a drug sweep in Hearne, Texas. All but one of those people arrested were African-American. You are innocent. After a week in jail, you have no one to care for your two small children and are eager to get home. Your court-appointed attorney urges you to plead guilty to a drug distribution charge, saying the prosecutor has offered probation. You refuse, steadfastly proclaiming your innocence. Finally, after almost a month in jail, you decide to plead guilty so you can return home to your children. Unwilling to risk a trial and years of imprisonment, you are sentenced to ten years' probation and ordered to pay \$1,000 in fines, as well as court and probation costs. You are also now branded a drug felon. You are no longer eligible for food stamps; you may be discriminated against in employment; you cannot vote for at least twelve years; and you are about to be evicted from public housing. Once homeless, your children will be taken away from you and put in foster care. A judge eventually dismisses all cases against the defendants who did not plead guilty. At trial, the judge finds that the entire sweep was based on the testimony of a single informant who lied to the prosecution. You, however, are still a drug felon, homeless, and desperate to regain custody of your children.

...Now place yourself in the shoes of Clifford Runoalds, another African-American victim of the Hearne drug bust. You returned home to Bryan, Texas, to attend the funeral of your eighteen month old daughter. Before the funeral services begin, the police show up and handcuff you. You beg the officers to let you take one last look at your daughter before she is buried. The police refuse. You are told by prosecutors that you are needed to testify against one of the defendants in a recent drug bust. You deny witnessing any drug transaction; you don't know what they are talking about. Because of your refusal to cooperate, you are indicted on felony charges. After a month of being held in jail, the charges against you are dropped. You are technically free, but as a result of your arrest and period of incarceration, you lose your job, your apartment, your furniture, and your car. Not to mention the chance to say good-bye to your baby girl. This is the War on Drugs. (Alexander, 2010).

Michelle Alexander makes three claims in *The New Jim Crow: Mass Incarceration in an Age of Colorblindness*; (1) that our society is recapitulating the atrocities of the original Jim Crow laws, which enforced racial segregation on the false premise of “separate but equal,” (2) that we have a systemic problem of rising mass incarceration in this country, and (3) that our alleged “colorblind” age prevents many people from seeing or admitting that that there are racist implications behind our high rates of mass incarceration. Paulo Freire, the Brazilian educator and activist, is author of *Pedagogy of the Oppressed*, in which he originated the term conscientização in Portuguese, translated from the original Portuguese as conscientization to mean “consciousness raising” or “critical consciousness.” The term concerns “learning to perceive social, political, and economic contradictions, and to take action against the oppressive elements of reality,” according to Freire. In view of the disciplinary nature of silence, Freire argues that

“human existence cannot be silent, nor can it be nourished by false words, but only by true words, with which men [sic] transform the world” (Freire, 1970). Freire’s effort is to reconstruct the “culture of silence,” and especially to unpack and disclose the “the multiple forms of public silencing” that have contributed to sustaining oppressive cultural institutions and practices. Freire recognizes silence as both a consequence of and a form of resistance to oppression. He goes beyond explaining the structuring of silence, and dedication to reclaiming the silenced voices. The fundamental belief is that silenced people have the right to speak out and to be heard. Conscientization strives to raise mindfulness of social systems that propagate imbalances in order to assign longstanding forms discrimination.

Similarly, Alexander suggests that the U.S criminal justice system is colorblind. Although the public are led to believe that within our superior societal laws, justice is distributed equally with no discrimination to age, sex, class or race, the disproportionate number of people of color behind bars in the U.S would have us believe otherwise. No other country in the world imprisons so many of its racial or ethnic minorities. The War on Drugs and now the War on Terror increases the prison population exponentially. While “Legal intervention deaths” of civilians resulting in the death of someone killed by a law-enforcement or other peace officer while that officer is on duty (or not), and occupational homicides of law-enforcement officers have gathered growing scrutiny in the U.S, due to recurrent continuous high-profile episodes. These incidents are not only destructive to the victim’s families as well as having a direct effect on communities and neighborhoods; these reoccurring incidents corrode the relationship forged between law-enforcement agencies and the diverse citizens they serve to protect. Although these killings make up a small percentage of the number of total U.S. homicides, they characterize a

major public health burden and can provoke and promote violence leading to unrest and possibly more fatalities (Buehler, 2017).

The United States imprisons a larger percentage of its black population than South Africa did at the height of its apartheid era (Tierney, 2013). In 1972, there were less than 350,000 people imprisoned nationwide; today there are more than two million. The main reason for this dramatic increase can be attributed to the War on Drugs: “The percentage of drug arrests that result in prison sentences (rather than dismissal, community service, or probation) has quadrupled, resulting in a prison-building boom the likes of which the world has never seen” (Alexander, 2010). Maintaining the revolving door of incarceration and release, guarantees greater numbers of young men will experience prison life, and see it as a constant to adulthood. However, the systematic nature of the U.S criminal justice system is decidedly unbalanced. African Americans, more than any demographic suffer greatly due to the soaring prison expansion. African Americans comprise of more than 40 percent of the current prison population yet only make up 12 percent of the U.S. population. At any given time, roughly 12 percent of all young black men between the ages of twenty-five and twenty-nine are behind bars, compared to less than 2 percent of white men in the same age group. Roughly, one third of those remanded are under criminal justice supervision. During a lifetime, virtually one in three young black men and well over half of young black high school dropouts can expect to be locked up. This continuous trend means that young black men have a greater chance of going to prison than they do going to college, or serving their country in the armed services, or of any kind of employment. Prison is no longer seen as a rare possibility or at most, an extreme possibility among the nation’s most disparaged groups; it is regarded as a huge probability. In addition, for

those marginalized groups it is now seen as normal and a projected symbol in the transition to adulthood.

These statistics seem to support the title of Alexander's book that the justice system is indeed colorblind. How the systematic imprisonment of young people of color and the mass incarceration rate aids the U.S economy will follow later. This paper recognizes the ever-increasing confinement rate of individuals of color. Most prominently, Latino men and Black men, where incarceration is a direct result of governmental legislations in the guise of wars on drugs and "ghettos" deemed to be out of control, while proposing that the association helps to maintain the socioeconomic differences that are inherent in capitalism and have been in place since the abolishment of chattel slavery. These actions have continued to deny equal educational and employment opportunities to people of color while destabilizing cultural identities.

Acknowledging that all human rights stem from the intrinsic dignity of the human being, international human rights law demands that the fundamental objective of all penal systems must tolerate those imprisoned, nurture those imprisoned, and facilitate rehabilitation. Yet, since 1980, the US prison population has more than quadrupled, an increase driven in principle by severer penalties for non-violent offenses. Simultaneously, as prison construction costs increase, many states have had to cut funding for rehabilitation, education and other programs. The United States is responsible for close to 22 percent of the world's prison population, while it only has five percent of the world's population. Then incarceration total at the end of 2016 was over two million in U.S. prisons, including local and county jails. It is important to reiterate to underline the serious damaging effect of this process. One explanation for the disproportionate number of blacks incarcerated in the American penal system is the continuation of laws that have long since been eradicated but are still active through new means of legislation. These pieces of legislation

like the Jim Crow laws of the past parallel and embody the same outcome, management to deprive and humiliate.

Even though slavery was born out of an economic requirement, it produced enslavement that launched a racially based doctrine that imparts analogous aspects with racially devised detention. Historically, plantations were penal colonies – prison’s that exploited many forms of labor with conditions that had adverse effects on those persecuted – exploitation of labor in many areas such as, agricultural, domestic, and industrial labor all physically and psychologically damaging -- the dehumanization of beings (James, 2005). Prisons of the modern day are the emblem of the plantation. The antebellum plantation precept of dehumanization was archetypal of slave-masters that revolved around sexual terror and domination, beatings, regimentation of bodies, exploited labor, denial of religious and cultural practices, substandard food, health care, and housing forced migration, isolation in “lockdown” for punishment and control, denial of birth family and kin. That precept is routinely exercised and reinscribed in contemporary penal sites (James, 2006). Physical, emotional, sexual, and economic exploitation and violence are practiced regularly on bodies with as much vigor and disregard in sites out of sight from regular public surveillance. “The old plantation was a prison. The new prison is a plantation” (Wacquant, 2001). Both reconfigure the rural racial landscape, where whites receive and process bodies that are forcibly transported, mostly from “black” neighborhoods and cultures and frequently relocated to culturally unaccustomed areas. “In unfamiliar environments, isolated captives observe and contribute in subjugation and the demeaning of their civil or human rights reducing them to the rights of slaves” (Wacquant, 2001).

The debate regarding the effects of the current growth in prison construction and inmate population in the United States has been one of fervor. Some would say that prisons make the

public safer and the expansion should continue into the near future and beyond. This argument suggests that prisons are a great crime reducing tool, making everyone safer by their means of prevention to prospective criminality and by lessening the chances of an individual to commit or likely to commit crimes (Zimring & Hawkins, 1988). Some point to the crime rates today, saying that they are noticeably lower than in the past, as evidence. Perhaps reductions in crime rates have diminished for all serious felony crimes, with noticeable reductions in the most serious violent offenses. Additionally, the biggest reductions in victimization rates have occurred among low-income households and minorities (Minton & Zeng, 2015). The recent surge in prison population is largely behind these crime statistics, one can argue, and the policy shifts motivating these upsurges in incarceration rates have created an unmistakable and quite authenticated dispersal of benefit. Those non-political voices that are in opposition to the increase of prison expansion do so mainly due to the cost factor. Those non-political groups in opposition say that the costs far outweigh the likelihood crime is reduced. Research suggests that crime prevention practices have failed to reduce crime by any significant amount yet the incarceration rate grows at an unmatched number. With growing evidence surrounding the exorbitant costs of imprisonment, the unnecessary disproportionate imprisonment of people of color leads to even fewer opportunities in an already depressed labor market, for ex-offenders. And while the incarceration of people of color already succeeds in destroying families and weakening otherwise stable communities, it also lends to, among high-offending demographic groups and high prison-sending communities, the legal disenfranchisement of ex-inmates in a number of states, and the acceleration of the spread of infectious diseases such as AIDS among inmates and their non-incarcerated partners (Western, 2006). Consequently, there are more

(generally dark-skinned) people carrying out mandatory prison terms, who are in effect subjected to unpaid prison labor, harder labor in America today than it was in 1830 (Burrows, 2016).

Earlier the subject of racism and slavery was discussed, how slavery is an economic condition not based on race. The enslavement and subsequent maltreatment of blacks changed that. The U.S criminal justice system has always operated in synchronization with other institutions and social policy, to maintain the racial caste system keeping black people subservient. Racial bias is not provisional to or even predominantly in the minds of those who manage the system (Maclin, 1998). Racism is entrenched in the exact structure of the system and concomitant in its every feature, beginning with how crimes are defined, how suspects are identified, how charging decisions are made, how trials are conducted, and how punishments are imposed. A complete harmonious mechanism successfully despoils a group of people by state-imposed mass incarceration, capital punishment, and police terror. These practices are not only restrictive they serve to disenfranchise a shocking amount of black people, while devastating communities. The obvious and explicit violence imposed in the Jim Crow era unequivocally to reestablish blacks as slaves, has been reinvented with today's criminal codes and processes which function screened by the colorblind due process, allowing the criminal justice system to carry out their racist practices covertly, leaving most Americans blind to the realities. Americans claiming ignorance are also unaware of the disproportionate involvement of blacks, which only helps to reinforce the stereotype that they are inherently susceptible to crime. This leaves the general population to believe that this extraordinary amount of brutality is ordinary and essential for its protection. Recent studies show that whites who are freed from prison have a better chance of being employed than blacks who have the same exact resumes but without a criminal conviction (Roberts, 2007). Just 100 years ago, blacks were lynched every four days. These open

displays of violence—sometimes pre-advertised —were performed in order to terrorize blacks and keep them subordinate. Wealthy black boroughs like Rosewood, Florida, or lynch mobs who resented their wealth burned the “Black Wall Street” in Tulsa. Nowadays, blacks are killed by the police close to the same rate as lynching’s occurred 100 years prior (Wilkerson, 2014). Racism is conducted through structures, as well as individual attitudes. Today’s social structures encourage whites’ continuous “investment” in their whiteness. The mass incarceration system of today is more of a social structure operating on racial indifference and fear, one that turns whites against blacks. Du Bois noted exactly how permitting working-class whites to police blacks was one component of the wage of whiteness (Arnold, 1991).

Two institutions were in existence during the colonial period, and the combination of these two institutes formed the basis of the modern prison. These two institutions were jails and the workhouses. The jails were mostly used for detaining those accused of a crime awaiting trial and for the remanding of the aforementioned debtors and religious and political offenders. They were seldom used for imprisonment. During court a “gaol delivery” was made, and almost all of those being held were delivered to the court; meanwhile the jail was restocked with others awaiting to see the judge. Only those who were arrested because of political and religious offenses, debtors, and the rare criminal who received a penalty of imprisonment, stayed in jail longer the time in-between court session (Wines, 1910).

Workhouses emerged around the middle of the sixteenth century, reaching their highest development in Holland. Workhouses were used in many countries in Europe, in Australia, the West Indies and in the United States. More than two hundred years after the inception of workhouses, they eventually became housing for less hardened criminals. In Europe, workhouses had many different usages, they mainly served the mentally ill and became known for being

psychiatric institutions. The early usage for the workhouses in the United States was to reduce vagrancy and beggars, not for real criminals. The West Jersey and Pennsylvania Quakers advancement of the modern penitentiary produced the binary accomplishment of replacing imprisonment for corporal punishment in the management of criminals and of combining the prison and the workhouse. The West Jersey and Pennsylvania Quakers created imprisonment as the archetypal form of punishment for criminals, and the philosophy for this approach called imprisonment “should not be in idleness but at hard labor the priority of their accomplishment in this regard there can be no doubt.” A century later the rule “that imprisonment at hard labor should be in cellular separation” was added, and so the modern prison system was born (Barnes, 1918).

Records do not give an accurate start date for when imprisonment became the punishment for when someone committed a crime. All that is known with any amount of truth is that at the beginning of the 18th century imprisonment was uncommon, except for incidences related to political and religious offenders and debtors. The 18th century is when corporal punishment transitioned to imprisonment; the process began to take shape in the 1700s moving more quickly after 1775 (Wines, 1910). Imprisonment is now the program of punishment for most crimes committed in the prison systems of today, although this is quite a recent form of punishment. Punishment theory has attempted to resolve questions, such as what is a just penalty for crime? How severely should society punish criminals? Moreover, what are the nature and causes of criminal behavior? More recently, the focus has been fixed on the moral and practical implications of prison privatization and the use of privately owned and operated companies that produce, manage, and allocate prison services. Theories of punishment have a philosophical duality, utilitarian and retributive. The intent of the utilitarian theory of punishment is to punish

offenders as discouragement, or as a “deterrent.” With retributive theory of punishment, offenders are punished consequentially, because they deserve to be punished. The deterrence theory of punishment can be traced back to the early works of classical philosophers Thomas Hobbes (1588–1678), Cesare Beccaria (1738–1794), and Jeremy Bentham (1748–1832). These theorists remonstrated against the legal policies that had governed European thinking for over a thousand years, and against the spiritualistic justifications of crime on which they were formulated. In addition, these social contract theorists supplied the substance for modern deterrence theory in criminology (Hobbes, 1968).

The U.S. concept of punishment synthesizes both utilitarian and retributive theories. The most commonly accepted rationale for punishment in the United States is retribution. When a person is convicted, and sentenced, the sentence given is always, for the most part, a form of retribution. Prior to prison privatization the prison crime rates were low, and there is no concrete reason as to why crime rates fell in the U.S for many decades. One reason could be that the increased bureaucratizing, industrializing, and centralizing of countries changed socialization patterns which in consequence directed people to conformity (Lane, 1992). Recent debate by economists and moral theorists recognize that the privatization of prisons has both consequentialist and deontological components. Ethical theorists, who mostly come from an economist background, see incarceration as a public good. The services of law and order, imprisonment being one key component, produce positive externalities to non-payers. The logic is similar for incarceration. The inevitability of punishment from committing a crime, merely means making sure that some sort of retribution takes place. Classical theorists believe that if those who have committed crimes and know that their negative acts will be disciplined, they will stop from any further criminality in the future. Moreover, the punishment they receive needs to

be instant in order to discourage crime. The quicker the punishment is administered to the time of the offense, the greater the prospect of offenders understanding that crime does not pay. Deterrence theorists understand that with harsh, guaranteed, and immediate punishment a cogent individual will weigh the pros and cons before participating in crime and will be discouraged from breaking the law if the loss is greater than the gain. Classical philosophers believe that a guarantee is more effective in counteracting crimes than the harshness of punishment. Classical philosophers reject torture as a means of obtaining confessions, and the death penalty as an effective means of admonishing murderers and criminals of other serious crimes (Gibbs, 1968). Torture would be a deterrent for other, would-be criminals in the hope that out of fear, they would refrain from criminal activity (Ehrlich, 1975). When a third party is involved and benefits from punishment services, and where they are not subject to any reward it is deemed a “non-excludable” good. Non-excludable goods are an “under-provided” commodity by voluntary markets. “Nobody pays and nobody gets, even though the good [in this case, additional units of incarceration services] is worth more than it would cost to produce” (Friedman, 1996). Capital punishment is beyond the just powers of the state. Typically, state subsidies can and should resolve the problems associated with sub-optimal output. However, new research in the theory of public goods show that it is not absolute that government administration will be more efficient than the allegedly inefficient market (Holcombe, 1997).

One true objective of our society is to achieve the optimal mix of output that best fulfills society’s needs. The optimal mix of output is the most desirable combination of output attainable with existing resources, technology, and social values. Inspection into the morality of incarceration concludes that like consequentialist analysis; that is to say, that prison services should not be harmonious to private markets, but that a different outcome is reached using an

alternate methodology. Criminal justice institutions are said to possess exceptional conceptual qualities; they are comprised of pivotal matters of justice that involve restricting the freedom and removing an individual's independence (Sparks, 1994).

The introduction of privatized prisons can be traced back to early American history; the expansion of the U.S. prison privatization is a somewhat recent development. In the eighteenth century, local governments, in the Midwest of the U.S., would compensate private jailers who held criminals who awaited trial. In order to guarantee that a criminal would remain behind bars and to provide jail services in the future, the jail keeper would receive compensation. The jailers charged the state inflated rates to hold prisoners. This private enterprise of contracting was a result of criminal justice policies, that at the time focused on fines and public humiliation; these included being placed in stockades and branding. This private-public relationship was transformed with the creation of the first publicly run prison in 1790 and, with the notable exception of the aforementioned convict leasing for forced labor, the next century saw private business involvement in corrections limited to providing contracted services, such as food preparation, medical care, and transportation.

The history of convict leasing as a part of the prison system is better understood for the construct being a part of a complex social system of racial debilitation previously guaranteed by the constitution of slavery. Namely, that the convict lease system was a component of a larger web of law and custom that efficiently protected the South's racial order. Because of these authoritative measures, the inhumaneness of convict leasing corresponds to a more comprehensive blueprint of terrorization and cruelty. Those who leased convicts also controlled how they were treated. Convict leasing can then be judged to be of a more deep-rooted part of that system rather than an anomaly. As well as having social usefulness, convict leasing had

various and very evident economic benefits. The practice diverted the care and expense of thousands of prisoners away from that of the state and delivered a substantial pool of exceptionally cheap labor. This order of natural resource was allowed to be exploited, aiding in the attraction of capital interest from the North, feeding the obsession that consumed business leaders in the post-bellum South. In 1880, Enoch Cobb Wines, a prison reformist, reported that excluding the states where convict leasing was proficient, about one-half of the costs of penal administration came from prison income. That is to say, in other states most of the taxpayers were responsible for the cost of incarceration (Wines, 1879). The states that took part in convict leasing saw proceeds constituted 372 percent of costs on average (Mancini, 1978). Convict leasing aided the state by saving money and created a healthy economy, as it became a viable profit-making venture. The savings for each state government were only for expenses. African Americans were criminalized for committing “Black Code-type” crimes and were subjected to harsher sentences than those given to whites (Du Bois, 1935). These were evident in the U.S. Southern states between 1865 and 1866, after the Civil War Black Code laws were established. The notable difference between the slave code and the black code seems to be timing. Black codes were put in place post emancipation. These laws restricted the freedom of African Americans, forcing them to work in a labor economy that offered only low wages or plunged them into debt. A few examples of Black Code-type offenses were:

- Race was by blood; the presence of any amount of black blood made one black.
- Employment was required of all freedmen; violators faced vagrancy charges.
- Freedmen could not assemble without the presence of a white person.

- Freedmen were assumed agricultural workers and their duties and hours were tightly regulated.
- Freedmen were not taught to read or write.
- Public facilities were segregated.
- Violators of these laws were subject to being whipped or branded.

These items do not tell the complete account of the exploitation of the prisoners. Mine owners, railroad builders, lumber merchants, and other capitalists in the impoverished South accrued huge profits collectively. Convict leasing was not only advantageous whereby Southern states with dwindling treasuries were able to escape costly expenses. This practice afforded some of the South's leading businessmen and politician's their primary source of personal capital.

Systematically convict leasing served to support those in control, both economically and socially. For nearly half a century, they combined to stave off repeated attempts of abolition (Carelton, 1969). Nongovernmental organizations were also greatly involved in maintaining juvenile detention facilities, albeit they were not for profit (Harding, 2001).

Most of the criminal justice institutions in the U.S. and almost the entire developed countries are owned and operated by governments or under their authority. Fifty years ago, prison guards did not have a labor union. Nowadays in every state, the prison guard's union is a leading financial donor to electoral campaigns and an active lobbyist for certain penal policies (Zimring & Hawkins, 1988). Private-sector analysts frequently talk of stakeholders in private businesses and managers, employees, customers, including on occasion the general public. Around 25 years ago, the business of prisons had stakeholders who were primarily public officials and employees, prisoners, and there was a lack of interest from the general public. Today those stakeholders are

inclined to be all of the above with the addition of voters, labor unions, private for-profit corporations, communities housing prisons, and the politicians, lobbyists, and political organizations that represent all these interests (Zimring & Hawkins, 1988).

In 2010, private prisons housed 128,195 of the 1.6 million state and federal prisoners in the United States, and this accounted for eight percent of the total population. Between, 1999-2010, the number of inmates in private prisons swelled 80 percent, compared to an 18 percent increase in the overall prison population. Whereas both federal and state governments more and more relied on privatization, the federal prison system's devotion to privatization became more intense. The number of federal prisoners held in private prisons rose from 3,828 to 33,830, an increase of 784 percent in comparison to the number of state prisoners incarcerated privately, which grew by 40 percent, from 67,380 to 94,365. Today, 30 states continue a certain level of privatization, with seven states housing more than a quarter of their prison populations privately (Guerino, Harrison & Sabol, 2011). Reasons for this dramatic upsurge in prison population can be attributed to changes in policies, which left adverse social effects towards certain groups, the main policy changes having to do with the war on drugs.

Drugs have been a long-standing issue in the U.S. The Nixon administration began to recognize drugs as a national problem during and after the Vietnam War. Ronald Reagan saw drugs being problematic when Crack Cocaine began to be distributed and sold in the streets, Reagan began a zero-tolerance policy, as taking back the streets, and his war on drugs rhetoric is arguably, what won him the presidency. The outcome of this policy saw increased sentences for individuals caught in the possession of crack cocaine. First time offenders were given severe sentences, and then came the three strikes and you are out policy, meaning with any third offense, no matter the crime, you were given a mandatory life sentence. The escalation in the

criminal justice system in recent decades has corresponded with a multitude of economic conditions and changes in social policy that have had overwhelming consequences on income distribution, employment and family structure. Since the 1970s, many metropolitan neighborhoods have seen the deterioration of manufacturing, the increase in low-wage service industries and a decline in a substantial part of the middle-class tax base. Real incomes have declined for most Americans during this time, with the gap between rich and poor stemming from the 1980s. For many black male high school dropouts in their twenties, annual incomes dropped by 50 percent (Sawicki, 1995). Social service assistance, such as mental health services and the like have systematically declined and the social issues that they address have worsened.

The effect of these changes on the African American community has created an intersection of race and class effects. Since African Americans are disproportionately represented in low-income urban communities, the effects of these social problems are exaggerated. The continuation of housing segregation aggravates the problematic life circumstances within these communities, causing exceptionally high rates of unemployment, low performance education, and excessive crime rates (Body-Gendrot, Massey, & Denton, 1994). Public policies adopted during the 1970s and 1980s expedited an increase in prison privatization. During the Reagan administration, the War on Drugs introduced punitive sentencing policies, including mandatory minimum sentences, and this gave way to a rapid expansion in the nation's prison population. The result led to a heavy burden on the public sector; guided by private corporations, the 1970s saw a resurrection in halfway house operations. A decade later in coordination with the Reagan administration, by way of contracting with the Immigration and Naturalization Service (INS), they detained undocumented immigrants. These forms of privatization on the lower end of the correctional spectrum were followed by the reappearance of for-profit prison privatizations in

1983. Corrections Corporation of America (CCA) laid claim to have the ability to build and operate state and federal prisons with the same quality of service provided in publicly operated prisons, but more cost effective. One year later, CCA was awarded a contract to build a facility in Hamilton County, Tennessee, the very first example of the public sector contracting management of a prison to a private company. Soon after in 1985, CCA aimed to control and manage the entire Tennessee prison system. That bid was unsuccessful. It was rejected by the state legislature after facing strong opposition after CCA's operating costs were noted, as well as inmate escapes. Although CCA was being scrutinized, the company was able to secure more contracts in Texas, Tennessee, and Kentucky by the end of 1987. More corporations got into the business of prison privatization, including Wackenhut Corrections Corporation, (now known as the GEO Group, Inc) (Minton & Zeng 2015). During the last few decades, many researchers have studied the degree to which racial disparity within the criminal justice system can be explained by higher crime rates among blacks or other pertinent circumstances. Historically, there can be little reservation about the noticeable part race plays in the administering of criminal justice, understanding the history of lynching in the South, the development of chain gangs, and the well-documented relationship race has played in promotion of the death penalty.

Recent research on these issues is mixed, based on newly found evidence. While a few studies document detailed cases where race was a determining factor in unwarranted outcomes, much research has determined that, with one significant exception, race plays a minimal part in disciplining and imprisonment. One review, concludes that "for nearly a decade there has been a near consensus among scholars and policy analysts that most of the black punishment disproportions result not from racial bias or discrimination within the system but from patterns of black offending and of blacks' criminal records" (Tonry, 1995). Another study determines that

76 percent of the racial disparity in prison populations is explained by higher rates of offending among blacks for serious offenses (Blumstein, 1993). Yet it has been well documented that “Drug law enforcement is the conspicuous exception. Blacks are arrested and confined in numbers grossly out of line with their use or sale of drugs” (Tonry, 1995). For drug offenses, half of the racial disproportions in prison unexplainable by higher arrest rates. While the evidence is mixed and there may be only one exception where race plays a factor, it is a very significant exception.

With five percent of the world’s population and 25 percent of the world’s, prison population, the United States houses the most people incarcerated in prisons in the world. No other society in history has imprisoned more of its own citizens. The U.S. has incarcerated half a million more prisoners than China, which has five times the population. Approximately 1 in 100 adults in America were incarcerated in 2014. Out of an adult population of 245 million that year, there were 2.4 million people in prison, jail or some form of detention center, most of whom have been imprisoned for non-violent, victimless crimes, the bulk of them drug-related, an estimated 86 percent (Burrows, 2016). The racially motivated War on Drugs has led to devastated urban communities and incredible distrust between citizens of color and law enforcement (Porter, 2012). Reagan’s war on drugs adopted new laws in order to better serve and protect, and it brought with it the issue of racial profiling. Racial profiling became and still is at the heart of law enforcement procedures when fighting certain aspects of crime. Studies show that the practice of racial profiling is very much linked to the Drug Enforcement Agency (DEA). The DEA utilized profiling of drug couriers during the mid-1980s in an attempt to eradicate interstate drug trafficking (Farrell & McDevitt, 2010). This procedure incorporated drug trafficking signs, such as point-to-point driving patterns, clues as to where contraband might be hidden in vehicles,

routes and stops between known drug suppliers and distribution locations, airline tickets paid for with cash, and particular habits of behavior, plus other characteristics like race, age, and gender (Pap, 2007). Even seemingly, race and or ethnicity neutral indicators stated in the profile (such as driving from south to north in a rental car) could in fact inordinately identify members of a particular racial/ethnic group (Engel & Johnson, 2006). The racial/ethnic profiling practice was given credence by the official and media discourse, which perpetuated the notion that most organized crime gangs tend to be ethnically homogenous (Pap, 2007). The profile was included in the DEA's training for local and state law enforcement, and approximately 27,000 law enforcement officers received the training nationwide (Harris, 2003).

The war on drugs is an infection manufactured by the U.S. for many decades, under the appearance of there being a drug war, heavily encouraged by private prison influence, and until the recent presidential election results, it seemed to have lost its impetus. Research on the War on Drugs has proven it an unmitigated failure, by proving many shortcomings, such as a failure to eradicate drug use or treat drug addiction, an epidemic of overcrowding in federal prisons, and continued racially motivated investigatory practices. While spending continues, over a trillion dollars has been spent on the reduction of drug use, (Branson, 2012) studies show (on recent data collected) that “about forty percent of high school seniors admit to having taken some illegal drug in the last year -- that is an increase of thirty percent from two decades ago” (Porter, 2012). In addition, the Global Commission on Drug Policy estimates that, “between 1998 and 2008, global use of opiates increased by 34.5 percent, cocaine by 27 percent, and cannabis by 8.5 percent” (Lamparello, 2016). In 2011, incarcerated inmates housed in federal prisons for drug related offenses alone, was over 50 percent. Compare that to four percent for robbery; three percent for homicide, assault, and kidnapping; and five percent for sex offenses (Lamparello,

2016). Sixty-one percent of individuals targeted by Special Weapons and Tactics (“SWAT”) teams for drug-related crimes are people of color (Lamparello, 2016). These statistics alone are an indication that the War on Drugs has failed completely and that it is a main underlying reason as to why there is a “dire” need for private prisons. It is not surprising, therefore, that corporations such as Correction Corporation of America (CCA) would resist any changes to federal drug policy; if the War on Drugs ends, the need for profit-driven private prisons is significantly decreased.

It is a belief in America that the results of these trends extend far beyond the prison walls; there are widespread assumptions regarding the criminal tendencies where blacks are concerned that causes far more damage to others than those alleged to have committed a crime. Blacks in the U.S always been treated as being suspicious and a group to be feared. Yet unlike progressive trends with opinions on other ethnic groups, connotations between race and crime remain unyielding. Resulting studies have consistently found blacks to be more predisposed to cause violence than any other American racial or ethnic group, most commonly categorizing them as having an aggressive nature with violent tendencies. These classifications for blacks to be seen as criminals’ stems from a deep-rooted collaboration of white American consciousness, regardless of level of perception about prejudice or individual views. It would be impossible to base these details of where these racial stereotypes came from on any one specificity. What has been to key to the manifestation of the growing disproportionate incarceration rate of young black men is the U.S criminal justice system, and U.S media coverage which exhibits a more crooked portrayal of this happening. Experimental studies show that exposure to news coverage with violent content with a black offender not only strengthens revengeful attitudes where crime is concerned but adds to any bigoted and negative racial attitudes, particularly to blacks in

general. Constant coverage depicting images of blacks in custody or imprisoned reinforces the stereotype that assailants or those with criminal leanings will be black (Pager, 2008).

In the state of Texas, prisoners are required to perform unpaid labor. According to the Texas Department of Criminal Justice, prisoners begin with a 3:30 a.m. wake-up call, and breakfast is then served at 4:30 a.m. All physically able-bodied prisoners are to report to for work assignments by 6 a.m. “Offenders are not paid for their work, but they can earn privileges as a result of good work habits.” Most prisoners in the prison system work in what are called prison support jobs. These jobs include cooking, cleaning, laundry, and maintenance. In Texas about 2,500 prisoners that work in the Texas prisons agribusiness system. In this factory-farm system, there are 10,000 beef cattle, 20,000 pigs and a quarter million egg-laying hens. These prisoners also produce 74 million pounds of livestock feed per year, 300,000 cases of canned vegetables, and cotton (it is difficult to get an actual figure where cotton production is concerned). Over 14 million pounds of beef and 10 million pounds of pork per year are processed by prisoners working the prison meat packaging plant. The prisoner’s unpaid labor reduces prison overheads, as they produce their own food however the prison system has benefitted from the revenue made from sales of surplus agricultural production (Burrows, 2016). The inmates who refuse to perform unpaid labor are placed in solitary confinement. Other states with similar unpaid labor prison farm systems, where the inmates are forced not only to work in agriculture but perform logging, quarrying and mining also, include Alabama, Alaska, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Louisiana, Mississippi and Ohio. Unpaid prison labor distinctly for the profit of the U.S. government also see inmates farmed out to private enterprises, through what is known as convict leasing, which is mentioned above. Inmates are sent to work on private

agricultural lands or related industries such as fishing and lumbering. The companies that participate in this form of unpaid labor do so at a huge discount because the labor is free.

These days, CCA and GEO Group jointly manage over half of the contracts in the U.S. They both generated combined revenues that exceeded \$2.9 billion in 2010. CCA, which has the distinction of being the largest private prison company, manages more than 75,000 inmates and detainees in 66 facilities. While the GEO Group operates slightly fewer facilities, smaller companies, including Management & Training Corporation, LCS Correctional Services, and Emerald Corrections manage multiple prison contracts throughout the United States.

A lot can be gleaned from E.O Wright's *Class Counts: Comparative Studies in Cclass Analysis*, where he surmises that "in the case of labor power, a person can cease to have economic value in capitalism if it cannot be deployed productively" (Minton & Zeng 2015). This is the essential condition of people in the 'underclass' "... above all [they lack] the necessary means to acquire the skills needed to make their labor power saleable. As a result, they are not consistently exploited ... the underclass consists of human beings who are largely expendable from the point of view of the logic of capitalism" (Wright, 1997). Like Native Americans who became landless underclass in the nineteenth century, repression rather than incorporation is the central mode of social control directed toward them. Capitalism does not need the labor power of unemployed inner city. The material interests of the wealthy and privileged segments of American society would be better served if these people simply disappeared. However, unlike in the nineteenth century, the moral and political forces are such that direct genocide is no longer a viable strategy. The alternative, then, is to build prisons and cordon off the zones of cities in which the underclass lives (Smith & Hattery, 2008).

Over the last four decades, the upsurge in the prison population in the U. S. paralleled the stagnation in the global economy (Browne, 2007). In the early 1970s, the United States and the G7 nations implemented neoliberal policies, which moved production from the North to the global South, and this forced complete divisions of workers in the United States out of the economy. The economic role of the working class in the United States moved from manufacturing to filling jobs in a rising service industry, African American workers encountered overwhelming rates of unemployment (Browne, 2007). By the mid-1970s, during the first wave of “mass incarceration,” the incarceration rate in the United States began to rise, and by the 1980s, it had doubled. This trend continued into the 1990s. In fact, as unemployment numbers rise, the number of working people actually also increases; the reason for this is that they are working in prisons. All inmates are employed. Just in California, there are more than 70 factories in 33 prisons. Prison labor covers a wide variety of jobs, from textile work and construction, to manufacturing and service work. “Prisoners make shoes, clothing, and detergent; they do dental lab work, recycling, metal production, and wood production; they operate dairies, farms, and slaughterhouses. United States Prisons mirror Free Enterprise Zones in Africa, Asia, and Latin America; the prison is a reflection of the Third World within the United States” (Browne, 2007). Prisoners have no protection where employment is concerned. Minimum wage laws or any overtime laws do not protect them, they are explicitly prohibited from any right to action, and they are not allowed to organize or collectively bargain. The conditions for the overwhelmingly incarcerated Black and Latino men and women inside the United States prison system are so comparable to that of workers in the sweatshops of the global South, that in 1995, Oregon politicians tried persuading Nike to move their production from Indonesia into Oregon prisons. “We propose that (Nike) take a look at their transportation costs and their labor costs,” Oregon

State Representative Kevin Mannix explained in an interview with researcher Reese Erlich, “We could offer [competitive] prison inmate labor” in Oregon (Browne, 2007).

Considering today’s political and socioeconomic climate, what role should states adopt when it comes to providing incarceration for its citizens, and paradoxically to what extent should the market be involved? The following three partnerships have long been associated with the history of U.S prisons: ownership of the facility in which the prisoners are kept; private use of prison labor and taking of profits from their labor; and private management of the facility, including the day-by-day supervision of prisoners (Walker, 1980). Simply put, should prisons be privatized? And if so at what cost to the public at large? In addition, what of the development in the theory of public goods, and its relationship on the topic of incarceration? Moreover, what of the progress, if any, is made concerning the issues of corporations benefitting from unpaid labor within the privatized prison system? These questions are soon to be answered now that we have a change in administration. The previous Obama administration began to look at alternatives to new prison construction and prison privatization. This decision came on the back of a scathing report 2011 by the Department of Justice’s (DOJ) Officer of the Inspector General, whose findings found that overall, privatized prison facilities led to increased security problems and did not save the government money. The industry had seemed to lose its footing following the DOJ’s announcement. In August 2016, the US Justice Department under the Obama administration made plans to phase out use of privately owned prisons, citing safety concerns. Contracts with 13 private prisons were to be reviewed and then expire over the next five years. Then Deputy Attorney General Sally Yates said, “They do not save substantially on costs and ... they do not maintain the same level of safety and security.” Stocks of private prison companies trading on Wall Street saw their shares drop sharply after the announcement. Corrections Corporation of

America stock lost almost 50 percent of its value. A report released by the Inspector General found that private prisons had higher rates of violent incidents and violations of rules compared with government-run institutions. In 2010 there were 94,365 prisoners being held in private facilities overseen by states, according to the Sentencing Project group. During the Democratic presidential primary race, Senator Bernie Sanders made a campaign promise to end the “private, for-profit prison racket.” Senator Sanders sponsored a bill during his campaign attempting to end the use of private prisons in September 2015, saying, “...we cannot fix our criminal justice system if corporations are allowed to profit from mass incarceration.” In a statement after the decision, Senator Sanders called the move “an important step in the right direction.” Senator Sanders noted that it is “an international embarrassment that we put more people behind bars than any other country on Earth... due in large part to private prisons” (Burkhardt, 2016), The U.S. having had many decades of the same criminal justice policies under different administrations. President Obama had to use executive orders to make sweeping changes towards criminal justice reforms, due to government gridlock. Because of President Obama’s executive order use, the incoming president could overturn the changes made.

Thursday November 10, the first Thursday following the 2016, U.S Presidential election, under the Trump administration, Attorney General Jeff Sessions directed the Department of Justice to reverse the Obama administration’s prior authorization and continue to use private prisons, a decision that drew heavy criticism from civil rights activists for human rights abuses and for a lack of public oversight. Why did the Trump administration reverse the previous decision? Some say, “to just follow the money.” Throughout the career of Jeff Sessions, he has benefited from large sums of political spending by private prison companies, the private prison industry also contributed massively by making investments to Donald Trump’s presidential

campaign. The GEO Group [2] alone financed the Trump campaign by contributing \$100,000, through a SuperPAC, and added another \$250,000 towards his inauguration. Once Sessions made the announcement, private prison stock prices skyrocketed. The stocks have continued to increase even more since Sessions reversed the Obama administration's previous order. At the same time, Sessions is also fueling Trump's promised immigration enforcement policy, which will add many more undocumented people, once arrested, into immigration detention centers, while increasing the private prison industry's bottom line and swelling their profit margins. America's first three "peculiar institutions," slavery, Jim Crow, and the ghetto, have this in common, that they were all tools for the collective extraction of labor and social exclusion of an outcast group considered extraneous by virtue of the unforgettable triple degradation it encompasses (Wacquant, 2001). The private prison industry's lobbyist's agenda is in complete contrast to that of the majority of Americans who are in support of criminal justice reform. Companies such as the Corrections Corporation of America lobby for longer, harsher sentences that once again benefit all who invest in them increasing their profits. Private prisons are infamous for cutting corners, human rights abuses, and lack of public accountability (Common Cause., n. d.). That has all been reversed with the new Trump administration's plans to build more prisons, continue, and expand privatization of prisons.

As mentioned, stock prices for the country's two largest private prison contractors climbed sharply since GOP nominee Donald Trump won the U.S. presidential election. The country's biggest private prison contractor, CoreCivic (formally known as Corrections Corporation of America) saw its stock rise more than 58 percent as soon as morning market trading opened. GEO Group the second largest private prison contractor saw its stock rise by more than 28 percent, during the following hours of trading, and both stocks remain strong. This marked a

sharp reversal for an industry that had seen its stocks drastically reduce in price since the Obama administration's announcement that it would phase out the use of private contractors for the Bureau of Prisons facilities. The head of the Department of Homeland Security recommended that the Immigration and Customs Enforcement (ICE) also review its policies on the use of private prison contractors - ICE is responsible for about two thirds of immigrant detention beds. Since Trump won the election, running on a hard-line platform that included cracking down on undocumented immigrants, the expansion of the controversial practice of stop and frisk, investors have reignited their faith and support of the private prison industry. They believe now that instead of a contraction and elimination, the industry will expand and grow. CoreCivic's CEO Damon Hininger, before the results of the election were announced, had said that the company's future looked promising. Earlier months earnings reports had noted an increase in arrivals of undocumented immigrants leading to more productivity involving ICE. One of CoreCivic's new contracts is to run an immigrant detention center in Cibola County, New Mexico, formerly a U.S. federal prison. Prominent legislation such as the Comprehensive Crime Control Act and the Sentencing Reform Act, passed by Congress in 1984, eliminated federal parole and introduced mandatory minimum sentencing laws for a variety of drug crimes (Coyle, Campbell & Neufeld, 2003). By removing judge's discretionary sentencing decisions for offenses, it is the decision of private prisons to decide the amount of time their potential "customers" will face. CCA claims in their annual reviews "their growth is dependent on a number of uncontrollable variables, including sentencing routines in diverse jurisdictions." The first privatization of prisons did not occur until 1983 and a systematic study of recidivism rates has never been conducted. By inspecting the language associated with the contracts and reports made by private corporations, the motivation behind profit maximization appears clearer.

According to the language of their 2008 annual report, “any changes with respect to drugs and controlled substances or illegal immigration could affect the number of persons arrested, convicted, and sentenced.” If the growth of prisoners creates growth of revenue, then it is reasonable to assume that a company’s objective is to maximize its profit margin as economically as possible which means more arrests and rearrests (Selman & Leighton, 2010). Evidence exists that the finances required for rehabilitation and to prevent recidivism has been reduced systematically by prison firms. Yet studies that examine the effects of decreased investment in rehabilitation, particularly in private facilities, is limited and their results are often contradictory (Avio, 152).

It has long been argued that contracted-out incarceration of inmates has moral issues. Twenty-six contracted-out prisons are said to “profit off the misery and suffering of people.” Prison activist Paul Wright declares, “at least in public prisons, when prisoners are raped due to inadequate staffing, no one can say prison officials did so to line their own pockets and personally profit from the misery of others” (Wright & Herivel, 2013). Activists critical of non-governmental prisons have attempted to pinpoint characteristics of contracted-out and private prisons that they see as immoral: The existence of profits. Judith Greene states, “The huge profits to be made by incarcerating an ever-growing segment of our population serve the system well. Profits oil the machinery, keep it humming, and speed its growth” (Greene, 2007). Moreover, Nils Christie adds, “Prison means money. Big money, big in building, big in providing equipment. And big in running” (Christie, 2016). With bad incentives, tied to close related profits, there is a growing possibility that prison managers will seek their own interests at the expense of social welfare: “Corporations with a stake in the expansion of private prisons invested \$3.3 million in candidates for state office and state political parties in forty-four states over the

2002-04 election cycle” (Greene, 2007). In theory, these lobbying efforts are seen as a prevention for reducing crime. Yet, corporations and the private companies indulging in the prison industry come across as anti-democratic, and they seem to be apathetic to the public will. They are for profit big businesses that do little if anything at all to benefit of America and its citizens.

Advocates of prison privatization declare that the private sector benefits by the saving of resources through greater efficacy. These claims are supported by some reports showing that private prisons produce cost savings, mainly by hiring no-union staff and paying them a low wage with poor benefits. They also stated that it would be advantageous for government in the short term by directing sales of correctional facilities to private companies, as this would save money when constructing new facilities through public-private initiatives, rather than solely through government funding. However, studies have shown these benefits to be mostly erroneous. The U.S. General Accounting Office (GAO) in 1996 looked at four state-funded studies plus one commissioned one by the federal government. The approaches and results differed across the studies: Two showed no change in efficiency between private and public prisons, a third showed that private facilities saved the state a total of seven percent, while the fourth found the cost of private facilities falling somewhere between that of two similar public prisons. Another study also found significant cost savings associated with private prisons, but the GAO criticized the report for using illusory facilities when making comparisons. The authors noted that they could not definitively conclude that privatization would not save money. Yet they did establish that, “... these studies do not offer substantial evidence that savings have occurred” (David Rockefeller Fund and Wallace Global Fund, 2012).

In 2009, a meta-analysis produced comparable conclusions. Researchers at the University of Utah looked at eight cost comparison studies and found a substantial number of different conclusions. Half of the eight studies found private prisons to be more cost-effective. The other four were equally divided between public facilities being more cost-effective and both types of prisons statistically even. This information led the researchers to conclude that, "... prison privatization provides neither a clear advantage nor disadvantage compared to publicly managed prisons" and that "... cost savings from privatization are not guaranteed." This leaves the question of whether private or public facilities are more cost-effective unanswered. What the report did determine was that the usefulness of moving toward prison privatization was very "questionable" (Lundahl, 2007). The GAO's assessment of the methodologies used in evaluations is not exclusive. Former Bureau of Prisons Director of Research Gerry Gaes also made a parallel on reviewing two reports that found conflicting amounts of savings when evaluating the same three public prisons with a private facility. In a report for the National Institute of Justice, he found that the study for privatization, heavily favored, did not change the data on the prisons to scale and failed to account for the correct overhead costs for the private prison. Gaes noted these cost comparisons deceived and made researching more complicated (Gaes, 2008). More problems were found and brought to light, when a study found that state-run prisons are left to take on an unequal number of expensive and high-risk inmates. The study found that those inmates with minimum or medium levels of security classification made up 90 percent of the private sector's population, compared with only 69 percent in the public sector (Blakely & Bumphus, 2004).

Many of these results have been replicated in individual states. Ohio state officials insist that private facilities often meet or exceed the legal requirement of containing costs and that they are

at least five percent below a state-run equivalent. However, a subsequent report by the nonpartisan Policy Matters Ohio condemned the state's measurements for relating privately run prisons to hypothetical public facilities, embellishing overhead and staff costs for public prisons, and lacking accounting for a higher amount of expensive and high security inmates in public prisons. Holding these factors to more realistic standards greatly reduced if not completely diminished the purported advantages of private prisons (Blakely & Bumphus, 2004). The state of Arizona was also subjected to cost-saving constraints for private prisons. In a 2010 study conducted by the state's Department of Corrections, it was found that the state of Arizona did not save any money by contracting out minimum security beds, and that the state actually spent more on private medium security beds than that of a publicly operated institution.

The 13th Amendment overwhelmingly restructured the political model along with emancipation by transferring of power over to the state. The 13th Amendment allowed the state to regulate affiliations between private individuals; the state also outlined the rules governing freedom and loss of freedom. With newly assigned power, state jurisdiction had a twofold effect on legal rights determination for African Americans, and at the same instance, structures of racism were retained. Convict labor became progressively more racialized. It was agreed that blacks were more suited for hard physical labor on Southern prison farms and for corporate railroad and construction company projects (Lichtenstein, 1993). Contrary to prevalent portrayals of chain gang labor, black women were forced to work on railroad construction, laying lines as well as other hard labor projects, not just black men. This showed how the slave order was reflected for the upcoming punishment system. This system of punishment was imitative of the slave system structure; this mainly Southern post-emancipation prison system suggested support for antebellum practices and the desire to return to the slave system (Jackson, 1999). Prison

systems in the North were originally designed around industrial, not agricultural labor, but racially based divisions were also refined after emancipation.

Ex-slaves and abolitionists made it impossible to restore and legalize chattel slavery; however, emancipation came with a price. The wording of the 13th Amendment maintained “racialized labor” in the form of convict labor. Convict labor developed the post-Civil War infrastructure throughout the U.S. The struggle became how to determine how “free” unfree labor would be continued. Labor unions that were cynical about prison labor, aggressively lobbied against the leasing of convicts to private corporations. During the Depression, the unions made a point that any expansion of prison labor would further endanger an already overfull work force and interfere with “free markets” in ways that exposed the stability of capitalism. The prison system resolved this obstacle by creating a “state-use” system where prison labor was used exclusively for state projects. This resolution removed the competition between convict labor and union labor, while still permitting convicts to offset their cost to the state (McGinn, 1990). The Prison Industries Reorganization Administration (PIRA), a New Deal project under President Roosevelt, performed a comprehensive study of prison labor in all 50 states and concluded by outlining this new state-use system. Referring to overpopulation and insufficient facilities, the PIRA was authorized to expand the prison system and the construction of new prisons in almost every state (Fraser & Gerstle, 1989). There had not been any further statistics showing that “crime,” especially violent crime, had increased at the time. The majority of those imprisoned was for being unemployed, leading to the belief that the state had an uncontrollable unemployment crisis, and prior to the depression there was no need for more prisons. The PIRA represented one of the many contradictions entrenched in the “New Deal state” showing its incapacity or reluctance to solve the excess unemployment issue. The PIRA along with a

racialized labor system established the slave system. It cleared the path for the prison-industrial complex that continues to prosper since post-World War II.

Considering the association between the history of slavery and the mass imprisonment of people of color in the U.S., it might be of benefit to look into how previous prison abolition movements appear in relation to this history. These groups were usually headed by Quakers or motivated by Quaker abolitionists. The Committee to Abolish Prison Slavery (CAPS), operated in the late 1970s - 1980s, and they believed elimination of mass imprisonment would finalize the signing of the 13th Amendment emancipation declaration. CAPS collaboratively produced and co-authored *Prison Slavery*; they believe that emancipation is incomplete and the 13th Amendment allowed for penal servitude as punishment for certain crimes, a clause that is featured in many state constitutions. *Prison Slavery* cites the significant 1871 court ruling from *Ruffin v. Commonwealth*. This landmark Virginia case, noticeably argued using the language of slavery, set a precedent for state control of inmate bodies and labor:

For the time, during his term of service in the penitentiary, he is in a state of penal servitude to the State. He has, as a consequence of his crime, not only forfeited his liberty, but all his personal rights except those which the law in its humanity accords to him. He is for the time being a slave of the State. He is civiliter mortuus; and his estate, if he has any, is administered like that of a dead man. (Esposito & Wood, 1982).

CAPS welcomed the abolition of slavery, but saw penal servitude as an embodiment of slavery. They accused the Quakers for failing to eliminate broader inequalities that were reflected in the prison system. When *Prison Slavery* was published in 1982, many states still had clauses in their constitutions that judged slavery and indentured servitude legal punishments or had no disclaimer about the legality or illegality of prison enslavement (although some states

removed reference to slavery). CAPS proposed a “new abolitionism” to the 13th Amendment provision and strived to eliminate all clauses from all constitutions. They used education campaigns that informed the public about prison conditions. They also proposed boycotting consumer products that were made by prison labor, they championed for alternatives to imprisonment, and they worked towards an acknowledgement of the class-based exploitation intrinsic to mass imprisonment. CAPS established coalitions with inmates, ex-offenders and activists on the outside. They gathered information regarding inhumane treatment of prisoners and the brutalities that occurred behind prison walls from inmates’ testimonies. Inmates, who wish to testify, find themselves in a position where they are unable to defend themselves or are refused the right to give testimony themselves due to the inadequate resources available to them, or are in fact impeded by criminal justice bureaucracy along with guards who threaten prisoners with violence for expressing their views while working for change.

Prison labor supports greatly the production of goods and services for almost every big corporation in America. Here are several of those corporation who participate and profit from this industrious enterprise; Whole Foods – coffee, chocolate and bananas might be “fair trade,” but the corporation has been offsetting the “high wages” paid to third-world producers with not-so-fair-wages here in America. The Whole Foods Corporation, famous for its animal welfare rating system, is not so famous for the welfare of the humans working for them in Colorado prisons. They advertised “sustainable, American family farms”; however, some of its produce is said to be from were raised by prisoners in Colorado, who get as little as 74 cents a day. McDonald’s – uniforms are made by prisoners who earn less than the workers of the well-known franchise earn. Their plastic cutlery and containers also are produced by under paid prison labor. Wal-Mart – sells third-party prison labor made goods in their entire store, although Wal-Mart

claim to have a “no forced labor produced in prison” policy. Victoria’s Secret – In the late 1990s, in South Carolina two female prisoners were placed in solitary confinement when they divulged they were made to sew undergarments and casual-wear replacing “Made in Honduras” garment tags with “Made in USA” tags; AT&T – In 1993, thousands of union member telephone operators were laid off in order to maximize profits. Since then AT&T has used prison labor to manage their call centers. AT&T claim to have a policy that advocates against the use of prison labor. British Petroleum (B.P.) used prison labor to help clean up the 4.2 million barrels of oil that spilled into the Gulf coast; they almost exclusively used African-American inmates to clean up the toxic spill. The partial list of companies implicated in exploiting prison labor includes: Bank of America, Bayer, Cargill, Caterpillar, Chevron, Chrysler, Costco, John Deere, Eli Lilly and Company, Exxon Mobil, GlaxoSmithKline, Johnson and Johnson, K-Mart, Koch Industries, McDonald’s, Merck, Microsoft, Motorola, Nintendo, Pfizer, Procter & Gamble, Pepsi, ConAgra Foods, Shell, Starbucks, UPS, Verizon, Wal-Mart, Wendy’s (Burrows, 2016.)

Typical critique of private prisons is that in order to gain moderate savings, private prisons cut back on staff costs and training. Research proves that privatized prisons offer less salary to officers; time of training is limited; and there is fewer staff. This has resulted in frequent employment turnover, along with increased inmate assaults. The pledge of significant savings falls significantly short. The corporations that build and manage private prisons have a vested financial interest to continue the progression of mass incarceration. Corrections Corporation of America and the GEO Group, the two largest corporations involved in the prison business, invest a great deal in lobbying for punishing criminal justice policies and make huge monetary contributions to help finance political campaigns that promise to aid the reliance on prisons. Issues such as these have caused moral philosopher David Boonin’s determination that it is the

punishment paradigm itself that is morally flawed (Boonin, 2008). As Buchanan writes, “good economics is better than no economics . . . [but] applied within a bad or misguided conception of legal process need not promote the structural, procedural changes that may be urgently required” (Liebhafsky, 1976). It may not be the existence of profits and incentives, which sully the moral legitimacy of private incarceration practices, but rather, that profits exaggerate the negative moral qualities of the presumed institutional environment already set in place by legislative fiat. Now, the carceral system had already operated as a secondary institution for social order preservation and labor control in America during an earlier conversion of regimes and racial control, that of slavery and Jim Crow in the South. On the day after emancipation was proclaimed, U.S prisons in the south turned black dramatically as “thousands of ex-slaves were being arrested, tried, and convicted for acts that in the past had been dealt with by the master alone” (Oshinsky, 1996). Arrests were made for being jobless and for non-compliance of the condescending rules of racial etiquette. Then came “convict leasing” initiated by formerly confederate states in reaction to the moral panic of “Negro crime” that offered the twofold benefit of generating phenomenal resources for the state treasuries, resources that could supply ample amounts of labor to farm, build, lay railroad tracks, clean, and mine under brutal conditions. “This is not a figure of speech: the annual mortality rate for convicts reached 16 percent in Mississippi in the 1880s, where not a single leased convict ever lived long enough to serve a sentence of ten years or more. Hundreds of black children, many as young as six years old, were leased by the state to the benefit of planters, businessmen and financiers, to toil in conditions that even some patrician southerners found shameful and a stain upon our manhood” (Oshinsky, 1996). Prison labor in the guise of convict leasing and later the chain gang,

participated in making the New South economically prosperous as it “reconciled modernization with the continuation of racial domination” (Lichtenstein, 1993).

The difference in today’s racial conciliation of the carceral system is that unlike slavery, Jim Crow and the ghetto of the mid-century, it does not fulfill a positive economic exercise of recruitment and disciplining of the workforce. “It serves only to warehouse the precarious and de-proletarianized fractions of the black working class. Be it that they cannot find employment owing to a combination of skills deficit, employer discrimination and competition from immigrants, or that they refuse to submit to the indignity of substandard work in the peripheral sectors of the service economy - what ghetto residents commonly label ‘slave jobs’” (Wacquant, 1990). There is an undertaking mounting with economic and conceptual pressure, coupled with political interest, to loosen limitations on penal labor, in order to “(re) introduce” a magnitude of unskilled work into private enterprises within American prisons.

The echoes of slavery still resonate throughout the prison system. African-American prisoners have used language and descriptions comparing prison conditions and treatment while imprisoned to slavery. As the punishment industry turns into the foremost employer and producer for the U.S. whereby “state,” private prison and “security” corporations jostle for control and profits of this movement in “human unfreedom,” the comparisons between slavery and prison are startling (Gilmore, 2000). With the U.S. incarceration rate surging past the many millions, other jurisdictions of the criminal justice system have others in local jails awaiting trial, and Immigration Naturalization Service (INS) prisons awaiting deportation. Recent studies on the disproportion pertaining to mass incarceration describe the persistent disparities in sentencing where race is a determining factor - the inmate make up continues to be primarily African American and Latino. Longer sentences are imposed on those arrested and convicted for

nonviolent drug offenses. Aggressive campaigns intended to criminalize young people, leave a growing number of children “orphaned” by the criminal justice system, and the long “carceral” arms of the state and private corporations are able to extend, resonating with the history of slavery (Gilmore, 2000). The Wackenhut Corporation contracted to build a federal prison on the site of a former slave plantation in North Carolina, returns us back to the viability of anti-incarceration movements. In the age of Proposition 21, the Super-Max, the swift rebirth of the death penalty, globalization, and the coming together of the two political parties in the U.S. surrounding punishment as a cure to unemployment and race problems, can prison abolitionism be heard? Proposition 21, the law passed in California on March 7, 2000, diminishes confidentiality for juvenile defendants and delinquents, by preventing the sealing or destroying of records committed by any minor above and including the age of 14 who has committed a serious or violent crime. The powerful, documentary “13th” contests ideas about the connection of race, justice and mass incarceration in the U.S. The documentary centers on the 13th Amendment, similar to how Michelle Alexander’s *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* aims to do. The documentary draws on the ratification in 1865, whereby the clause in the amendment states in full that; “... Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.” The abolition of slavery, gave rise to chain gang labor that replaced it, and saw the ‘legal’ rise of segregation and the mythology of black criminality, to the War on Crime, the War on Drugs and the War on Terror, to the rise in mass incarceration and the big business of prisons.

Notes.

1 The dates of ratification were: Illinois, February 1, 1865; Rhode Island, February 2, 1865; Michigan, February 2, 1865; Maryland, February 3, 1865; New York, February 3, 1865; Pennsylvania, February 3, 1865; West Virginia, February 3, 1865; Missouri, February 6, 1865; Maine, February 7, 1865; Kansas, February 7, 1865; Massachusetts, February 7, 1865; Virginia, February 9, 1865; Ohio, February 10, 1865; Indiana, February 13, 1865; Nevada, February 16, 1865; Louisiana, February 17, 1865; Minnesota, February 23, 1865; Wisconsin, February 24, 1865; Vermont, March 9, 1865; Tennessee, April 7, 1865; Arkansas, April 14, 1865; Connecticut, May 4, 1865; New Hampshire, July 1, 1865; South Carolina, November 13, 1865; Alabama, December 2, 1865; North Carolina, December 4, 1865; Georgia, December 6, 1865.

Ratification was completed on December 6, 1865. The amendment was next ratified by Oregon, December 8, 1865; California, December 19, 1865; Florida, December 28, 1865 (Florida again ratified on June 9, 1868, upon its adoption of a new constitution); Iowa, January 15, 1866; New Jersey, January 23, 1866 (after having rejected the amendment on March 16, 1865); Texas, February 18, 1870; Delaware, February 12, 1901 (after having rejected the amendment on February 8, 1865); Kentucky, March 18, 1976 (after having rejected it on February 24, 1865). Mississippi rejected the amendment, December 4, 1865.

2 The GEO Group, Inc. is a Florida-based company specializing in corrections, detention and mental health treatment. It maintains facilities in North America, Australia, South Africa and the United Kingdom.

Appendix I

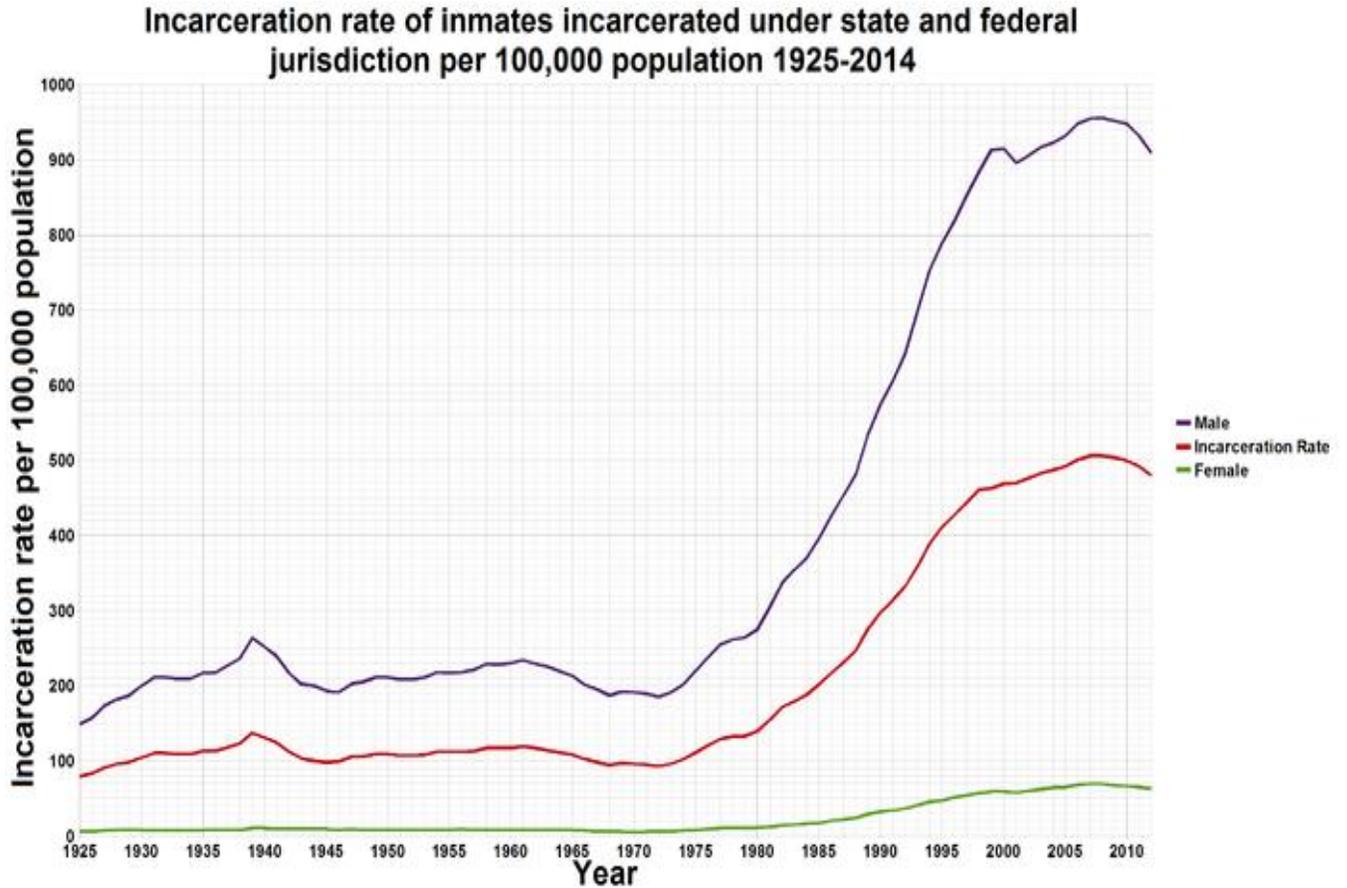


Figure 1. Graph showing the incarceration rate of inmates in the United States between 1925-2014. The numbers show rates of those incarcerated under state and federal jurisdiction per 100,000 population. Adapted from “Jail inmates at midyear 2014,” by T. D. Minton and Z. Zeng, 2015, *Bureau of Justice Statistics*, p. 7. Copyright 2014. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

References.

- Alexander, M. (2010). *The New Jim Crow: Mass incarceration in the age of colourblindness*. 97-98.
- Arnett, A. M., & Tannenbaum, F. (1924). *Darker phases of the south*. 314-318.
- Arnold, R. (1991). *Educating for a change*. Doris Marshall Institute, 818 College Street, # 3, Toronto, Ontario M6G 1C8. 15-25.
- Avio, K. (1998). *The economics of prisons*. *European Journal of Law and Economics* 6.2: 143-175.
- Barnes, H. E. (1918). *A history of the penal, reformatory, and correctional institutions of the state of New Jersey: Analytical and documentary*. MacCrellish & Quigley. 375-395.
- Beckert, S. (2004). *Emancipation and empire: Reconstructing the worldwide web of cotton production in the age of the American Civil War*. *The American Historical Review* 109.5: 1405-1438.
- Blakely, C. R., & Bumphus, V.W. (2004). *Private and public sector prisons-A comparison of select characteristics*. *Fed. Probation* 68: 27.
- Blumstein, A. (1993). *Racial disproportionality of US prison populations revisited*. *U. Colo. l. Rev.* 64: 743.
- Body-Gendrot, S., Massey, D. S., & Denton, N. A. (1994). *American Apartheid. Segregation and*

- the making of the underclass*. *Revue française d'études américaines* 59.1: 102-103.
- Boonin, D. (2008). *The problem of punishment*. Cambridge University Press. 371-393.
- Branson, R. (2012). *War on drugs a trillion-dollar failure*. CNN Opinion (December 7)
[Online]. Retrieved from <http://www.cnn.com/2012/12/06/opinion/branson-end-war-on-drugs>.
drugs.
- Browne, J. (2007). *Rooted in slavery: Prison labor exploitation*. *Race, Poverty & the Environment* 14.1: 42-44.
- Buehler, J. W. (2017). *Racial/ethnic disparities in the use of lethal force by US Police, 2010–2014*. *Journal Information*, 107(2).
- Burkhardt, B. C. (2016). *The federal Bureau of Prisons' move to phase-out private prisons is a largely symbolic one*. USApp–American Politics and Policy Blog.
- Burrows, S. (2016). *How prison labor is the new American slavery and most of us unknowingly support it*. *Return to now*, 13 June 2016, returntonow.net/2016/06/13/prison-labor-is-the-new-american-slavery/.
- Carleton, M. T. (1969). *The movement to end the convict lease system in Louisiana*. *Louisiana Studies* 8: 211-23.
- Carter, D. T. (1964). *Prisons, politics and business: the convict lease system in the Post-Civil War South*. University of Wisconsin--Madison. 339-392.

- Chatelain, M., & Asoka, K. (2015). *Women and Black lives matter*. *Dissent*, 62(3), 54-61.
- Christie, N. (2016). *Crime control as industry: Towards gulags, western style*. Routledge. 17-49.
- Common Cause. n.d. <http://www.commoncause.org>
- Coyle, A., Campbell, A. & Neufeld, R. eds. (2003). *Capitalist punishment: Prison privatization and human rights*. p. 65.
- David Rockefeller Fund and Wallace Global Fund. (2012). *Sentencing Project*. *The Sentencing Project is a national non-profit organization engaged in research and advocacy on criminal justice issues. The work of The Sentencing Project is supported by many individual donors and contributions from the following*.
- Davis, A. J. (1996). *Race, cops, and traffic stops*. *U. Miami L. Rev.*, 51, 425.
- Davis, D. B. (1966). *The problem of Slavery in western culture*. Ithaca, N.Y.: Cornell University Press, p. 426.
- Dubois, W. E. B. (1969). *The Suppression of the African Slave-Trade to the United States of America*. Baton Rouge: Louisiana State University Press. p. 152.
- Du Bois, W.E. B. (1935). *Black reconstruction: An essay toward a history of the part which black folk played in the attempt to reconstruct democracy in America, 1860-1880*. Harcourt, Brace and Company. 608-612.
- Ehrlich, I. (1975). *The deterrent effect of capital punishment: A question of life and death*. The

- American Economic Review 65.3. 397-417.
- Engel, R. S., & Johnson. R. (2006). *Toward a better understanding of racial and ethnic disparities in search and seizure rates*. Journal of Criminal Justice 34.6: 605-617.
- Engerman, S. L. (1999). *Terms of labor: Slavery, serfdom and free labor*. Stanford, California. 389-402.
- Esposito, B. & Wood. J. eds. (1982) *Prison Slavery. Washington, D.C.: Committee to Abolish Prison Slavery*. p. 114.
- Farrell, A, & McDevitt. J. (2010) *Identifying and measuring racial profiling by the police*. Sociology Compass 4.1. 77-88.
- Fogel, R. W., & Engerman, S.L. (1995). *Time on the cross: The economics of American Negro slavery*. Vol. 1. WW Norton & Company. 23-58.
- Freire, P. (1970). *Pedagogy of the oppressed*. New York: Continuum. p. 76.
- Fraser, S, & Gerstle, G. (1989). *The rise and fall of the New Deal order, 1930-1980*. Princeton University Press. 85-122.
- Friedman, D. (1996). *Hidden order: The Economics of everyday life*. New York: HarperCollins. p. 278.
- Gaes, G. (2008). *Cost, performance studies look at prison Privatization*. National Institute of

Justice, Journal 259.

Gellately, R & Kiernan, B. (2003). *The specter of genocide: Mass murder in historical perspective*. Cambridge university press. pp 241–263.

Gibbs, J. P. (1968). *Crime, punishment, and deterrence*. The Southwestern Social Science Quarterly: 515-530.

Gilmore, K. (2000). *Slavery and prison—understanding the connections*. Social Justice, 27(3 (81)). p. 195-205

Goldin, C. D. (1973). *The economics of emancipation*. The Journal of Economic History 33.01: 66-85.

Greene, J. (2007). *Banking on the prison boom. Prisons profiteers: Who makes money from mass incarceration*. 3-26.

Guerino, P., Harrison, P. M., & Sabol, W.J. *Prisoners in 2010*. (2011). Bureau of Justice Statistics, Washington, DC (2011). 904-913.

Gunderson, G. (1974). *The Origin of the American Civil War*. The Journal of Economic History 34.04: 915-950.

Hammer, N. (2005). *International framework agreements: Global industrial relations between rights and bargaining*. *Transfer: European review of labour and research*, 11(4), 511-530.

Harding, R. (2001). *Private prisons*. *Crime and Justice* 28. 265-346.

Harris, D. A. (2003). *Profiles in injustice: Why racial profiling cannot work*. The New Press. 49-

90.

Hobbes, T. (1968). *Early classical Philosophers of Deterrence Theory*. *Criminology* 41: 99-130.

Holcombe, R. (1997). *A Theory of the Theory of public goods*. *Review of Austrian Economics* 10, no. 1. pp. 1-10.

Insoll, T. (1998). *The Archaeology of Islam*. Oxford: Blackwell. 592-600.

Isaacman, A. F., & Roberts, R. (1995). *Cotton, colonialism, and social history in Sub-Saharan Africa*. Heinemann. p. 7.

Jackson, B, ed. (1999). *Wake up dead man: Hard labor and southern blues*. University of Georgia Press. 703-718.

James, J. (2005). *New Abolitionists, The: (Neo) slave Narratives And contemporary prison writings*. SUNY Press. 96-107.

James, J. (2006). *The Mesh: Democracy and captivity. Free at last?: Black America in the Twenty-First Century*. p. 17.

Kelly, K. G. (1996). *Slave trade in Africa*. *Encyclopedia of Precolonial Africa*, Altamira, Walnut Creek, CA. 532-535.

Karras, R. M. (1998). *Slavery and society in medieval Scandinavia*. Yale University Press. 159-177.

Labour, A. G. A. A. F. (2005). *Global report under the follow-up to the ILO declaration on*

fundamental principles and rights at work. ILO, 10, 14-15.

Lamparello, A. (2016). *Private prisons and the new marketplace for crime.* p. 407.

Lane, R. (1992). *Urban police and crime in nineteenth-century America.* Crime and justice 15. 1-50.

Lichtenstein, A. (1993). *Good roads and chain gangs in the progressive south: The Negro convict is a Slave.* The Journal of Southern History 59.1: 85-110.

Liebhafsky, H. H. (1976). *Price Theory as jurisprudence: Law and economics, Chicago style.* Journal of Economic Issues 10.1: 23-43. p. 195.

Lundahl, B., et al. (2007). *Prison privatization: A meta-analysis of cost effectiveness and quality of confinement indicators.* Utah Criminal Justice Center. p. 383-394.

Mancini, M. J. (1978). *Race, economics, and the abandonment of convict leasing.* The Journal of Negro History 63.4: 339-352.

Maclin, T. (1998). *Race and the fourth amendment.* V and. L. Rev., 51, 331.

Mandle, J. R. (1972). *The plantation economy: an essay in definition.* Science & Society. 49-62.

Maltz, E. M. (1990). *Civil rights, the Constitution, and Congress, 1863-1869.* University Press of Kansas. p. 555.

McGinn, E. M. (1990). *Inmate labor at the Colorado State Penitentiary, 1871-1940.* Diss.

University of Colorado. 160-184.

McMichael, P. ed., Evans, P., Rueschemeyer, D & Stephens, E. H. (1985). *Britain's hegemony in the nineteenth-century world-economy. States versus markets in the world-system*. Beverly Hills: Sage. 117. 50.

Minton, T. D., & Zeng, Z. (2015). *Jail inmates at midyear 2014*. Washington, DC: US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 3.

Oshinsky, D. M. (1996). *Worse Than Slavery: Parchman Farm and the ordeal of Jim Crow justice*. p. 32.

Pager, D. (2008). *Marked: Race, crime, and finding work in an era of mass incarceration*. University of Chicago Press. 1-6.

Pap, A. L. (2007). *Police ethnic profiling in Hungary—lessons from an international research*. Regio-Minorities, Politics, Society-English Edition 10.1: 117-140.

Porter, E. (2012). *Numbers tell of failure in drug war*. New York Times 4. July 12.

Richards, J. F. (2003). *The unending frontier: an environmental history of the early modern world* (Vol. 1). University of California Press. 107-146.

Roberts, D. E. (2007). *Constructing a criminal justice system free of racial bias: An abolitionist framework*. Colum. Hum. Rts. L. Rev., 39, 261.

Rose, D. B. (1991). *Hidden Histories: Black Stories from Victoria River Downs, Humbert River*

- and Wave Hill Stations*. Aboriginal Studies Press. p 46.
- Sawicki, D. S., & Flynn, F. (1995). *A Review of the literature and an assessment of conceptual and methodological issues*. Kids Count Data Book, The Annie E. Casey Foundation. p. 6.
- Selman, D., & Leighton, P. (2010). *Punishment for sale: Private prisons, big business, and the incarceration binge*. Rowman & Littlefield, 2010. p. 92.
- Shaw, T. M. (2004). *The political economy of new slavery*. C. Van den Anker (Ed.). Basingstoke: Palgrave Macmillan. p 18.
- Sherman, L. W. (1990). *Police crackdowns: Initial and residual deterrence*. *Crime and Justice*, 12, 1-48.
- Smith, A. (1937). *The wealth of nations*. New York: Norton, p. 63.
- Smith, E., & Hattery, A. J. (2008). *Incarceration: A tool for racial segregation and labor exploitation*. *Race, Gender & Class*: 79-97.
- Smith, R. (1987). *Human destructiveness and politics: The twentieth century as an age of genocide*. *Genocide and the modern age: Etiology and case studies of mass death 2*: 21. pp 21-39.
- Snowden, F. M. (1970). *Blacks in antiquity: Ethiopians in the Greco-Roman experience* (Vol. 6). Harvard University Press. 1-31.
- Sparks, R. (1994). *Can prisons be legitimate-penal politics, privatization, and the timeliness of*

- an old idea*. Brit. J. Criminology 34: 14.
- Stamp, K. M. (1965). *The Causes of the Civil War.*, rev. ed. p. 44. 475-517.
- The American Farmer*, IX. October 12, 1827, 235.
- Tierney, J. (2013). *Prison population can shrink when police crowd streets*. New York Times. January, 25.
- Tonry, M. (1995). *Malign neglect: Race, crime, and punishment in America*. Oxford University Press. p. 49.
- Wacquant, L. (1990). *Les prisons de la misère*. Paris, Éd. Raisons d'agir. p. 82-3.
- Wacquant, L. (2001). *Deadly symbiosis: When ghetto and prison meet and mesh*. Punishment & Society 3.1 (2001): 95-133.
- Wacquant, L. (2010). *Class, race & hyperincarceration in revanchist America*. Daedalus, 139(3), 74-90.
- Walker, S. (1980). *Popular justice: a history of American criminal justice*. Mich. L. Rev. 79: 921.
- Western, B. (2006). *Punishment and inequality in America*. Russell Sage Foundation. 221-242.
- Wilkerson, I. (2014). *Mike Brown's shooting and Jim Crow lynchings have too much in common*. *It's time for America to own up*. The Guardian, August, 25.
- Williams, E. (1944). *Capitalism and Slavery*. New York: Capricorn Books. University of North

Carolina Press. 194-199.

Wines, E. C. (1870). *The state of prisons and of child-saving institutions in the civilized world*. J.

Wilson & son. 52-71.

Wines, F. H. (1910). *Punishment and reformation; a study of the penitentiary system*. Thomas Y.

Crowell Company. 10S-34S.

Wright, E. (1997). *Class counts: Comparative studies in Cclass analysis*. New York: Cambridge

University Press. 95-122.

Wright, P., & Herivel, T. (2013). *Prison nation: The warehousing of America's poor*. Routledge.

p. 73.

Wright, Q, & Wright, L. L. (1983). *A study of war*. University of Chicago Press. 137-159.

Zimring, F. E., & Hawkins, G. (1988). *The new mathematics of imprisonment*. *Crime &*

Delinquency 34.4: 425-436.