Structural Racism in the Prison Industrial Complex

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Abstract

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My thesis concerns the institutionalization of racism in the Prison Industrial Complex (PIC), also known as the Criminal Justice System. The Criminal Justice System encompasses all correction and law enforcement agencies including courts, police, prisons, etc. I focus on three questions: (1) why are there proportionally more Blacks incarcerated in the U.S. than any other racial formation in the United States, (2) how does the high incarceration rates of Blacks affect Black youth, and (3) what purpose does incarcerating Blacks serve? These three questions are central to understanding how racism has been institutionalized in the United States and how it directly impacts and shapes the reality of the Black community.

I use critical race theory to frame a rhetorical analysis of existing scholarship concerning race, racism, the Cycle of Mass Incarceration, and the Prison Industrial Complex. Through this

analysis, the framework of institutions in society is laid bare; i.e., there are implicit and explicit racist actions targeted at specific communities to further hegemonic agendas in the United States. I dispute the claim that the United States is a post-racial society. To the contrary, I argue that racism has percolated into every institution and every American. That said, my project focuses specifically on the Prison Industrial Complex and how this institution affects Blacks.

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Table of Contents

The Evolution of Racial Discourse

Chapter Summary

This chapter discusses the evolution of the concept of race from its inception during the Enlightenment era to its current conception. The chapter falls into three parts. The first investigates the early history of the concept of race, or a predecessor to it, in the Greek notion of the barbarian, exhibited in dramatic works of the period. I emphasize how the concept was used more to define the users of the concept than to characterize those to whom it was applied. The second part discusses the evolution of the notion of race through the Enlightenment period up to the 20th century. This evolution was marked by a turn toward empirically observable, external properties of people; by the development of the notion of national character; and by the realization that social and political norms are inextricably interwoven with considerations of race. Finally, the development of the concept through Darwin's and Spencer's conceptions of competition in a biological setting laid the groundwork for the modern understanding of race. The final section of this chapter argues that an essential feature of race and racism—that it has always been primarily a tool for social control, or for the justification of exploitative practices— survives quite intact in contemporary understandings and implications of race and racism.

The Evolution of Racial Discourse

A proper evaluation of the phenomenon of racism in contemporary society requires at least a rudimentary understanding of the history of discourse concerning race and racism. This chapter argues that while the mistreatment of certain classes of people is ancient, as is the related phenomenon of slavery, the contemporary notion of race is relatively new. It is arguable that race did not emerge historically until the 18th century. A theme that will inform this chapter is one that has by now become relatively familiar: racist claims and explanations have tended to follow the exploitation of certain classes of people, rather than being the cause of the exploitation. The idea is that the exploitation came first, and racism and racist explanations emerged only when the legitimacy of the exploitation was called into question (Staub, 1989).

This chapter falls into three parts. Part 1 introduces the historical study of race through a brief examination of the first chapters of Ivan Hannaford's important book, *Race: The History of an Idea in the West*. This is followed by a discussion of the historical and conceptual significance of the emergence of the notion of the barbarian in ancient Greek thought and writing. Part 2 discusses the trajectory of racial discourse and its predecessors throughout the period of the Enlightenment. It is in this period that the modern conception of race begins to take on a recognizable form. Finally, Part 3 of the chapter discusses certain issues pertaining to contemporary discourse and issues concerning race and racism. A number of institutions in the United States that arguably perpetuate and "legitimize" racist treatments are briefly discussed. I emphasize applying the lessons learned from the earlier, more historically-oriented sections of the chapter to these contemporary institutions.

Concept of Race

A valuable preparation for a discussion of the evolution of racial discourse may be found through the examination of an assumption that turns out to be misleading at best, and simply mistaken at worst. The assumption is that the notion of race has a timeless and self-evident definition and significance. On this assumption, the reality of race is a timeless matter that has always been understood in the way that the concept of race is understood today. To be sure, people at various times have had more and less clear conceptions of this concept. Hannaford (1996) articulates the point: "We assume that the racial and ethnic diversity we see all around us has always existed as a historical, social, and biological fact that needs no further interrogation" (p. 3). The assumption that the conception of race is timeless is disputed by Hannaford.

Several features of Hannaford's discussion are designed to test and ultimately undermine this assumption. One such feature is to examine past historical periods without assuming that the understanding of race in those periods was the same as our understanding. A second feature is Hannaford's demonstration that from a linguistic point of view it is quite clear that the relevant usage of the term "race," together with its correlates in other languages, is of recent origin. Hannaford (1996) notes that the terms that we would call racial now were often used during earlier periods, but had different meanings (p. 5.)

Another feature of Hannaford's treatment is his attempted explanation for "why popular and intellectual discourse came to be enthralled to this attractive and powerful modern idea and why so much has been written in recent times on its sociology and psychology" (Hannaford, 1996, p. 6). As indicated earlier, part of the explanation for this is that the inequitable treatment of certain classes of people over the last couple of hundred years, across different geographical regions, occasionally came under critical scrutiny. Much discourse about race was in answer to

this scrutiny. This fact helps to explain why it is that the contemporary notion of race was such a late arrival, relatively speaking. It is only fairly recently that the relevant inequitable practices and treatments came to be questioned. Perhaps the point is obvious but it will be stated nevertheless: to say that talk of race, and racism, emerged only after long-existing institutions such as slavery were called into question is certainly not to say that those institutions were not racist all along. The point is that racist discourse (as opposed to other forms of racist behavior) appeared only as a retrospective justification for exploitative practices that had been long in evidence.

Another methodological tool that Hannaford (1996) employs is to show that "the idea of race is inimical to Western *civilization* in the strict political sense of that word as it was understood before the Reformation" (p. 6). He shows that the contemporary understanding of race was a product of a certain explanatory project within the Enlightenment. The notion was used in an attempt to explain certain human arrangements, specifically those that involved a caste and tribe. Hannaford (1996) points out that this explanatory project was in a sense doomed from the beginning, as it made use of assumptions that were opposed to the very idea of politics as it had been understood.

Finally, Hannaford mentions the discoveries in modern genetics made by Francis Crick and J.D. Watson, among others. In uncovering the natures and codes of the genetic material that in some sense underlie "race" the work of these scientists was sometimes taken to have shown that race is an illusion. In other words, race is a construct used to create fictional categories among people. Now there is a salutary dimension to this perspective, but also a dimension that is dangerous and potentially harmful. As Hannaford (1996) himself observes, the discoveries in genetics did call into question many of the definitions and presuppositions of discussions of race

in the previous couple of centuries. Many teachers and professors of biology or genetics made use of this work in a striking way. They would ask two students with dark skin, and one with white skin, to stand up. It would then be pointed out that there is a very high probability that there is more genetic diversity between the two dark-skinned students than between either of them and the white-skinned student. This is a dramatic illustration of the ways in which results in genetic science undermine certain popular beliefs about race. However, this line of thought could easily be taken too far. If race had been shown not to exist, then one might infer that racism too must be an illusion. The massive disenfranchisement of people with darker skin is a datum to be explained. Whether or not we choose to use the term "race" in providing such an explanation is relatively unimportant (Collins, 2004; Sternberg, Grigorenko, and Kidd, 2005; Fullwiley, 2007; Brewer, 2006; and Patrinos, 2004).

Edith Hall, in her book *Inventing the Barbarian: Greek Self-Definition through Tragedy*, investigates the origins of a precursor to contemporary racially derogatory terms—"barbarian." Hall is concerned to explain the usage of this term (or its correlate in other languages). Her discussion is rich and complex. However, for the purposes of this chapter, three of Hall's points are of primary significance.

The first point is implicit in her subtitle. It is that most Greeks who used the term "barbarian" had little or no knowledge of the people to whom the term was applied. It functioned, therefore, not so much to characterize these people as to aid in the way that the relevant Greeks defined themselves. Hall (1989) describes the way in which her book contributes to this sort of argument:

> It argues that Greek writing about barbarians is usually an exercise in self-definition, for the barbarian is often portrayed as the opposite of the ideal Greek. It suggests that the

polarization of Hellene and barbarian was invented in specific historical circumstances during the early years of the fifth century BC, partly as a result of the combined Greek military efforts against the Persians (pp. 1-2).

Apart from its elaboration of the point concerning Greek self-definition, made above, there are two noteworthy points made or indicated by this passage. One is that Hall views the notion of the barbarian as an invention, rather than a concept that had existed all along and was simply discovered by the Greeks. This recalls one of the points that Hannaford (1996) insists upon: the concept of race was first appropriated in specific historical circumstances, to fulfill self-defining functions in those specific circumstances. The term "barbarian" was invented partly as a result of a military engagement of the Greeks against the Persians. The horrors of warfare have always, or at least very often, given rise to a need to depict one's enemy as somehow, or in some respect, less than fully human. This point connects directly with the claim defended above, that racist explanations and nomenclature have most often been produced after the fact, as it were: to justify what appears to be a set of inhuman, or inhumane, practices (such as war and slavery). It is easy to see how, then, racial terminology and concepts became an indispensable tool in the practice of colonialism after the Enlightenment period.

The second point from Hall's discussion that I wish to emphasize here is that terms such as "barbarian", which she examines in the context of Greek comedies and tragedies, themselves arose in a colonial context already extant in ancient Greece. In the fifth century the Athenians were "organizing" new colonies, "a process which underlined the feeling that they had the right to sovereignty over barbarian peoples on distant shores" (Hall, 1989, p. 101). Precisely this same phenomenon occurred when European "settlers" discovered, displaced, and massacred Native

Americans in North America some 2,000 years later. Their preferred term was "savage" rather than "barbarian", but the point remains. Each term served, whether in ancient Greece or colonial North America, the dual purpose of making the user of the term feel superior to those he or she was exploiting and massacring, as well as justifying the atrocities committed.

Third, and most directly relevant to the present project, Hall's book brings out the sense in which what mattered in Greek discussions of what we would consider today race was less the raw physical characteristics of a person, such as skin pigmentation, but a variety of factors including "political allegiance, economic interdependence, cultural similarity, and geographical proximity" (Hall, 1989, p. 12). What is most fundamental is the sense in which use of the term "barbarian" laid the foundation for the perennial dichotomization between oneself, or one's own people, and "the other". The other is most centrally one who fails to conform to relevant norms, and these norms were often only incidentally a matter of skin color. Some of the greatest atrocities in history, including the Jewish Holocaust at the hands of the National Socialist Party in Germany, and the Armenian genocide at the hands of the Republic of Turkey, were committed by people who shared the skin color of their victims. The latter were nevertheless, and arguably necessarily, viewed as "other". Hall's valuable discussion illuminates one of the first recorded instances of using terms to signify this "otherness" for the purpose of exploitation and justification of atrocities (Butt, 2013; Horvath, 1972; Short, 2005; Ladd, 2000; Sartre, 2001; Banerjee and Linstead, 2001).

Race Through the Enlightenment

It was during the Enlightenment that the contemporary understanding of race began to take shape. The Enlightenment is generally taken to have begun in the late 17th or 18th centuries, and was closely associated with the rise of science and science-oriented philosophy. Hannaford

(1996) argues at length that "there is very little evidence of a conscious idea of race until after the Reformation" (p. 187). This part of the chapter sketches the three main phases of the conscious idea of race, as identified by Hannaford, as they took place subsequent to the period of the Protestant Reformation.

The first stage, which runs historically from 1684-1815, involves three complex changes in ideology and conceptualization. One of the changes is methodological, and is closely associated with the scientific revolution (Hannaford, 1996, p. 187). The methodological change took the form of displacing theological, and to a lesser extent, metaphysical conceptions of the world with conceptions informed by the quickly growing and advancing science of the time, especially physics. To put the point crudely, the dominant conception of the world changed from one in which it was viewed as a kind of organism animated by a god to one in which it was viewed as a machine governed by eternal and immutable laws. Hannaford (1996) mentions three philosophers who took part in this change: Rene Descartes, Thomas Hobbes, and John Locke. The three have many differences between them. Descartes was a paradigmatic rationalist, while Locke was a paradigmatic empiricist, for example. What they all shared, however, was the view that the world is most fundamentally described by science. Even though two of the three thinkers—Descartes and Locke—quite clearly believed in the existence of a god they did not make their theological beliefs the center of their enquiries. The methodology of science replaced the theologically-centered methodology of pre-Enlightenment thinkers.

Another change involved in the first stage of conceptualization of race and racial discourse was the connecting of the body and mind through identification of what Hannaford (1996) calls "national character" (p. 189). The development of this sort of character was necessary, for example, to justify the unequal status of White Europeans, on one hand, and

Blacks and Jews, on the other. Hannaford (1996) notes that,

> The revolutionaries and the romantics, unable to justify title to rule in ancient, inherited, noble constitutions, seized upon Montesquieu's 'racial' alternative, looking to the formularies of the Franks and Gauls for a natural justification for change of governance and for weaknesses in the claims of the Jew, the Moor, and the Negro (p. 190).

One may wonder what the first change, the shift in methodology characteristic of the Scientific Revolution, has to do with the second described in the passage from Hannaford. The answer is that with the Enlightenment there was a turning away from the significance, if not the existence, of "occult qualities" that might have previously been thought to justify White rule, as well as from equally unobservable noble lineage. The focus was redirected onto what is empirically observable. This was a crucial shift, since the contemporary conception of race and racial discourse itself focuses upon observable differences between races or ethnic groups.

The final shift Hannaford (1996) describes was the "re-discovery" of the writings of Aristotle, as well as a new focus on his work in the areas of physiognomy and art. He also credits Immanuel Kant with re-introducing the significance of characteristic features of face and facial expression (p. 190). Hannaford may be correct that these re-discoveries or reorientations of focus were important, but it should be noted that neither Aristotle nor Kant is particularly well-known for these aspects of their work. Because of this it is somewhat difficult to understand how these relatively obscure aspects of the two philosophers' views could have been as historically influential as Hannaford seems to be claiming that they were. Perhaps this part of his discussion is better viewed as a rational reconstruction of relevant ideas and perspectives, rather than history proper. In any case, summarizing his point, Hannaford (1996) writes that,

"politics and states no longer existed *sui generis* but now had to be seen in the wider context of the religious, mystical, poetic, technological, and artistic achievements of a naturally selfdetermining *Volk* divisible into races—the ordinary common people of a history that had become 'cultural' and rational" (pp. 190-1).

We may use this passage to attempt to describe and connect the three shifts that took place in the first phase of the development of our contemporary conception of race. The three elements that need to be connected are: a shifting methodology oriented toward empirical investigation; the development of a notion of national character that focuses partly upon that which is empirically observable; and the realization that politics and states do not somehow stand outside the order of things, but are inextricably intertwined with them. The elements combine in the view that the empirically observable characteristics of a people have relevance to the question how they may be treated, both by states and nations and by individuals. This is a clear precursor to a conception of race that would be used to justify colonial exploitation and other abhorrent practices.

Summarizing the first phase in the development of the modern conception of race, Hannaford (1996) points out that Hobbes had provided a sort of philosophical foundation for the notion of a people legitimately engaging in a conquest that harmed other people in various ways. A range of other thinkers provided the elements of a hierarchical classificatory system of human societies. From these developments, the idea that "character, and the psychic and physical expression of it, could be distinguished" observationally occurred, and some characters and expressions were associated with a kind of nobility that was thought to provide the right of one people to dominate and exploit another (Hannaford, 1996, pp. 232-3). We may call this

development, viewed as a whole, the construction of a "colonialist conception" of race (Hannaford, 1996).

The second stage in the development of the modern notion of race spans the period from 1815-1870. During this period, a conception of race emerged that long endured: "race as territory; race as environment and time, race as poetry, race as revolution, and race as class" (Hannaford, 1996, p. 236). The foundations for such an understanding of race had been set forth in the first stage of development. The second stage is largely concerned with providing a legitimation of this understanding, together with the practices that it seemed to permit or even encourage.

What was necessary to provide such a legitimation was the view of the history of ordinary people that was technically apt and scientifically grounded. While Hannaford discusses a bewildering number and variety of thinkers and writers in his attempt to describe the way in which this legitimation was effected, the basic elements of the story are relatively simple. A viable conception of race, if it was to do the work that would be asked of it by future generations, must be scientifically respectable. Hannaford (1996) identifies three major competitors among those who sought initially to provide an underpinning for the notion of race and its inevitable consequences: (a) the Locke/Linnaeus/Blumenbach school, according to which race is a real entity, but caution was recommended concerning its actual boundaries; (b) the Kantian school, according to which race was a matter of "soul, character, and temperament inherited in the blood" (p. 274); and (c) the Hegelian school, according to which race was a kind of epiphenomenon, though not less real for it, of the spirit of history as it moves toward a state of perfect rationality. The weaknesses of each of these views are apparent. All rest upon conjecture

and metaphor, and none attains the sort of scientific respectability that seems to be demanded by an adequate conception of race.

Hannaford (1996) identifies eight ways in which each of these schools attempted to provide an adequate scientific scaffolding for the general ideas present. While there is no space here to discuss each of these in detail, certain recurring themes are discernible in the discussion. The culmination of the contributions of each of the schools together with its more scientificallyminded supporters and developers lies in the work of Charles Darwin and Herbert Spencer. Darwin had been the first to understand that the evolution of animal species is centrally a matter of random genetic mutation either favoring members of the species' ability to survive long enough to produce, or having the reverse effect (or no effect at all). Spencer transformed Darwin's biological account into something representing a social scientific enterprise. The famous slogan "survival of the fittest" was used not by Darwin but by Spencer.

As a brief aside, Darwin would have regarded Spencer's notion of the survival of the fittest as both scientifically off-of-the-mark and normatively mistaken. When we speak of an animal (particularly if we are thinking about human animals) being "fit" we typically mean one that exercises, eats in a healthy manner, and so forth. Yet in the process of evolution through natural selection the intentions and actions of individual organisms are completely irrelevant. An animal species' ability to survive long enough to mate is nothing more than luck. From a normative standpoint, furthermore, there is little or no scope for talk about morality as subhuman animals compete for food and other resources, killing each other in the process. They are biologically required to act in this manner. However, for these ideas to be applied to human societies, as Spencer apparently wanted to do, involves a great deal of distortion. Human beings are not required to murder other human beings. They are able to make choices. Even if it were

true, therefore, that only the strongest societies survive over time, that would leave key moral questions completely unanswered. I return to this point in Part 3 of the chapter.

The sort of social Darwinism promoted by Spencer turned out to be at least as relevant as Darwin's own work in defining the notion of race as it was understood in social and political discussions and thought. Spencer provided an apparently scientific grounding for the idea that, just as animals and animal species compete in the wild for territory and food, so societies compete on the human level of social and political conflict. Furthermore, as those animals in the wild that are best adapted to their surroundings are the ones that tend to survive and reproduce, so on the human socio-political level it was hypothesized that the fitter societies inevitably overwhelm and defeat those that are weaker. Hannaford (1996) describes the consequences of the idea of social Darwinism in this context as follows: "This doctrine would finally express itself in the language of biological necessity, managerial efficiency, and effectiveness in a science of eugenics" (p. 276).

The third and final stage of development of the contemporary notion of race encompasses the period from 1870 to 1900. Obviously, Hannaford is not claiming that after this point all discussion of race came to a halt, or even that the concept was not further modified in the 20th (and now 21st) centuries. The point is that by 1900 the essential components of the modern concept had been delineated, and would thereafter undergo only minor modifications.

Hannaford (1996) describes the third period by referencing the "rise of the race-state", as well as the invention of anti-Semitic thought. Describing Spencer's appropriation of Darwin-like ideas in what would eventually come to be called the "social sciences", Hannaford indicates a line of thought that figures prominently in Part 3 of this chapter. He notes that while Spencer and Spencerians were apt to think that race was the crucial factor in determining the fate a society

would likely meet, and which it therefore deserved, another strain of thought assigned to race a very different significance. Johann Blumenbach was one of the first natural historians of human existence. He classified all of humankind into five categories, or races. Unlike members of the Spencer school, however, Blumenbach did not believe that the races were unequally bestowed with natural talents or abilities. Hannaford (1996) describes the Blumenbachian view with the phrase "race is nothing" (p. 277). He then describes the debate between this view and the Spencerian, "race is everything", view in these terms:

> Pivotal to both sides of the dispute was the condition of the poor at home, migration, and the status of the Negro and the so-called backward races in the colonies as well as the enslaved peoples in American and the West Indies. If evolution and natural selection were the principles of natural existence and therefore applicable to social life, it must be true that the poor and the Negro were in their natural condition because of some deficiency in their physical and intellectual capacity (as cited in Hannaford, 1996, pp. 277-8).

As I show in the next part of the chapter, Spencer won this battle. The creed of the "survival of the fittest" has become, especially in the United States, the very basis for conservative politics, at least as viewed at a superficial level. It remains to say something about the way in which the concept of race was finally molded into shape in the third period.

Once one accepts, with Spencer, that the various races naturally find their own station, as it were, either from the beginning or through colonial conquest, there is little more to say concerning the concept of race. Spencer's problematic appeal to evolutionary theory to buttress his position appeared to provide the theory with solid scientific support; something that other views of race seemed to lack. The bulk of Hannaford's discussion of the third period is given

over to a depiction of the genesis of anti-Semitic thought and practices. As important as this

topic is, it is not my topic. Anti-Semitism is a very different kind of force than is, for example,

racism as directed toward African-Americans. It demands a separate treatment. To be clear, the

basis of the practices used in Anti-Semitism and racism against African-Americans are similar.

Both have institutional roots. Both have racist paradigms and pedagogies fueling them. But my

priority is to accentuate this problem as it relates to Blacks.

Hannaford (1996) identifies three elements, apart from the development of anti-Semitism,

that characterize the third period's progress in constituting the notion of race. One is the

contribution made by England in attempting to colonize the rest of the world. Another is the

influence of Friedrich Nietzsche, who aided in laying the foundation for the sociological study of

ethnic groups, ethnic conflict, and social organization. The third is the propensity to view that

state as itself a living organism, one that must compete with other states for the analogs of food

and the right to reproduce (Hannaford, 1996, pp. 323-24).

How Racism Prevailed

The goal of this final part of the chapter is to accomplish two things. First, the section

addresses what is in a sense the most difficult question there is concerning race and racism: Why

is it that, on the assumption that there are no intrinsic differences across the races when it comes

to mental and physical abilities, the darker-skinned people of the world have, to a large extent,

come to be dominated by the lighter-skinned people of the world? This is an excellent and

important question, and it is arguable that no satisfactory answer to it was possible until fairly

recently. Second, this third part of the chapter discusses the most significant race-related issues

that still confront the United States. It is very easy to overestimate the amount of progress that

has been made in this country in overcoming racism and racist institutions. A partial explanation

for why this is the case is provided at the end of the section.

In 1619, the very first Africans were brought by ship to the United States. They landed in

Jamestown, VA, and were brought here on a Dutch boat (Timeline, 2012, p. 1). Around 1861, the

Civil War began. The civil war was a, "military conflict (1861–65) between the United States of

America (the Union) and 11 secessionist Southern states, organized as the Confederate States of

America (the Confederacy) (Civil War, 2016, para. 1). The civil war's causes came from an

intense rivalry and series of disagreements between the Southern United States, and the Northern

United States. These conflicts had been happening for the better part of four decades (Civil War,

2016, para. 2). It is estimated that around 4 million blacks were used as slaves in the South (Civil

War, 2016, para. 2). For years, conflicts over taxes and tariffs, laws concerning liberties, and the

rights to own slaves, caused intense disagreements and resentment between both sides. The

southern states relied heavily on agriculture, while the north was focused on other industries,

such as banking. The northern states had a considerably larger population than that of the south.

The North had a population of 22 million people while the South had only 9 million people, with

4 million of these being black slaves (Civil War, 2016, p. 8). *Civil War, America* (2016)*, Funk

and Wagnalls New World Encyclopedia,* sums up the outlook for a possible war between these

two sides by stating:

> the North possessed clear material advantages—in money and credit, factories, food
>
> production, mineral resources, and transport—that proved decisive. The South's ability to
>
> fight was hampered by chronic shortages of food, clothing, medicine, and heavy artillery,
>
> as well as by war weariness and the unpredictability of its black labor force.

On January 1st, 1863, Abraham Lincoln released the Emancipation Proclamation, which deemed all slaves as free individuals (Timeline, 2012, p. 2). Following years of battles between the North and South, which comprised the Civil War in America, on December 18, 1865, the 13th amendment to the constitution was enacted, which abolished slavery in the United States (Timeline, 2012, p. 3).

The abolishment of slavery was a huge step for African Americans in the United States. After a long and hard fought battle, blacks were now free from the horrors of forced labor. This was only the beginning however, in what would be a series of important events that involved the desire of African Americans to receive equal treatment in the United States. A few years after the official abolishment of slavery, on July 9th, 1868, "The government adopts the 14th Amendment to the Constitution, affirming blacks' citizenship, due process of law and equal protection under the laws" (Timeline, 2012, p. 3). The period of uncertainty over laws involving African Americans, was known as *Reconstruction.* This started sometime after the end of the Civil War, and lasted into the last years of the 19th century. In the 1880's, several Southern States began enacting a series of laws that effectively separated blacks and whites in many areas of life (Jim Crow Laws, 2016, para. 1). A Supreme Court case, decided in 1896, held that," separate facilities for whites and blacks were constitutional" and "encouraged the passage of discriminatory laws that wiped out the gains made by blacks during Reconstruction" (Jim Crow Laws, 2016, para. 1). This ruling set the tone for what would be half a century or more of racial discrimination and segregation targeting African Americans.

Starting with the U.S. Supreme Court case Brown V. Board of Education, which reversed racial segregation in the school system, a series of events commenced that pushed for equal rights for African Americans. In 1955, Rosa Parks famously refused to give up her seat and

would not relocate to the back of the bus, where blacks were forced to sit if a white person required their seat. While just one single event, this is looked at as a famous turning point in the civil rights movement, as was Martin Luther King Jr's activism and the sentiments surrounding the general demand for equal treatment of blacks in the United States. In 1963, Martin Luther King Jr. delivered his famous *I have a dream* speech, which, "served as a defining moment for the civil rights movement, and he soon emerged as its most prominent figure" (Black History Milestones, 2017). In 1964, following John F. Kennedy's assassination, Congress passed the Civil-Rights act, which:

gave the federal government more power to protect citizens against discrimination on the basis of race, religion, sex or national origin. It mandated the desegregation of most public accommodations, including lunch counters, bus depots, parks and swimming pools, and established the Equal Employment Opportunity Commission (EEOC) to ensure equal treatment of minorities in the workplace (Black History Milestones, 2017). After many, many years, African Americans were finally afforded basic civil rights, equal treatments, and were much closer to overall equality. Following the civil rights movement era previously described, there have been many great achievements by Black Americans, and the race as a whole has made significant strides in various social aspects. In the decades since, race relations have slowly improved, and day by day, the horrors of slavery and segregation become further in the proverbial "rear view mirror" of the country's memory. That being said, claims of continuing racism and unequal treatment, have been made by many. There are a number of social institutions that exhibit a great deal of bias against African Americans. In addition, these actions are oftentimes carried out by single individuals, whose actions are influenced by their own beliefs, or who may be acting on behalf of institutional policies.

If one takes any world map or globe, and notes the countries that lie above and those that lie below the equator, one must be struck by the drastic differences in the socioeconomic situations of the countries. Broadly speaking, those countries above the equator tend to be relatively wealthy, and those below it relatively poor. There are exceptions to this rule, as well as difficult and complex cases. Mexico is above the equator, for example, but is a very poor country. Over half of Africa lies above the equator, and Australia lies below it. All Middle Eastern countries are above the equator, and many are very poor. None of this is relevant to the present point, however, which is twofold: (i) countries in the South tend to be poor, and countries in the North rich; and (ii) people below the equator tend to have dark skin, while people located above the equator tend to be wealthy and have paler skin. The question is: why this is? The racists, including the social Darwinists, have a ready explanation. Dark-skinned people are inferior to light-skinned people. This explains why the former have been almost uniformly dominated and exploited by the latter, throughout much of history, especially including recent history. Even apart from its unacceptable and unwarranted racism, however, this line of thought raises as many questions as it answers. How could it be that there are such drastic differences in abilities in capacities across the different human races? If all share a common phylogenetic ancestor, then what could possibly explain these differences? There is also the point, noted above, that at the genetic level any two Black people are likely to be more genetically diverse than any pairing of a white and a black person. We know that central aspects of intelligence are genetically inherited. How then could it be the case that Whites are in general superior to non-whites, when no possible explanation at the genetic level is available for the hypothesis?

For too long these and similar questions have been ignored by racists, or those propounding ultimately racist theories of human development and interaction, simply because no

alternative explanations seemed to be available. Granted that while differences in intelligence and other abilities are not to be found between the various races, we still do not have any explanation for why it is that darker-skinned people have fared much worse, especially in the last couple of centuries, than lighter-skinned people. To reject racism is right and proper, but the rejection leaves us little closer to providing the needed explanation.

We now have a truly non-racist explanation for the differing fates of the different races of the world. Jared Diamond, in his book *Guns, Germs, and Steel: The Fates of Human Societies*, explains how structural factors determined that Europeans and others north of the equator dominated their southern counterparts. Since these structural factors are, for relevant purposes, completely random, the explanation does not assume any superior qualities on the part of lighter skinned people. I would like to take a moment here and assert that I don't necessarily agree with Diamond. But I think using him to show how one group of individuals rationalize racist priorities and hegemonic agendas is beneficial for the context of racism.

Diamond's explanation is of course long and detailed, but a few of the central ideas will be mentioned here. As his subtitle indicates, the three elements that have historically made the most difference—in terms of one society's ability to dominate another—is the former's possession of guns, its propensity both to develop, and to develop an immunity to, disease; and its possession of steel-made weapons and other implements (Diamond, 1998). Broadly, European states developed all of these advantages before their potential competitors and victims did. As Diamond (1998) points out, this is a relatively shallow explanation, taken in itself. The question is why the different societies differed with respect to developing these elements.

The original differences that were crucial for the ability of certain societies, but not others, to develop the advantages mentioned above were almost entirely geographical. Some regions

were rich in natural resources. Some supported agriculture. The formation of a large society requires that its members be able to produce much more food than it can consume at any one time. Without this surplus, it is impossible for members of the society to be freed-up to do things other than hunt and gather—to farm, to function as diplomats and politicians, and to explore and make maps. Some geographical areas featured domesticable animals, and others did not. Finally, travel from the south to the north presented obstacles that travel from west to east, and east to west, did not. For reasons that are completely accidental, Europeans and a few other privileged peoples were afforded all of these advantages, while other countries—especially countries that featured, or came to feature, dark-skinned people—were not.

In slightly more detail, Diamond (1998) isolates four differences across geographical regions and their people that were crucial for the way that history happened to develop. The first is continental differences in the way that wild plants and animal species were, or were not, available to aid in the process of domestication. Without relatively easily cultivable plants, and animal species that were either available for domestication or for use as food, there were severe limits on the ability of early societies to propagate in such a way as to develop the numbers necessary for other crucial functions. The second difference was the rates of diffusion and migration of crops and livestock. The relatively severe weather differences present at different latitudes was crucial here for the ability of a society to modify crops and livestock in useful ways, and to move as necessary without abandoning projects. The third crucial factor was the factor affecting diffusion within, as opposed to across, continents. For example, the relevant form of migration was much easier for societies located in (what used to be called) Eurasia or parts of northern Africa. The Native Americans that initially populated North America, by contrast, had no opportunities for "interhemispheric diffusion".

Finally, the fourth factor concerns relative population sizes in the various ancient societies. A large area or population is a necessary condition for certain sorts of developments—among them the aforementioned diversity of roles for members of society, and the society's exposure and subsequent immunity to germs and disease. Some areas were more amenable to such large areas and populations than others (Diamond, 1998, pp. 405-10). The larger point is that in not one of these examples was a given society's possession (or another's lack) of the relevant sort of advantage anything other than a matter of chance. There is therefore absolutely no basis on which to claim that certain races were simply more capable, and that this explains why they were ultimately more successful, or better able to compete with other races for possession of resources and so forth.

For better or worse, humans rank objects in a hierarchy and interact differently with objects placed higher on the hierarchy. The same applies in facets of race. A race that is seen as higher in the hierarchy is treated differently than a lower race. This is evidenced throughout history. We see this when looking at Greeks vs Barbarians, Blonde haired blued eyed Germans vs the world, Blacks vs Whites. The key here is understanding that this categorization is entirely fictional and there is no real biological difference between races.

The final topic is the way that racism impacts society today, particularly in the United States. Despite the abolition of slavery, the repeal of Jim Crow laws, and society's more general current "color blindness", very little of fundamental consequence has changed over the course of this country's short history. A point made more than once in these pages has been that racism was never the primary motivating force behind exploitation. Rather, it arose as an afterthought, as a way to justify indefensible practices in the name of (most often) economic advantages.

Racism is a useful tool for social control, with its capacity to suggest that the exploited people actually benefited from the exploitation.

To reduce confusion on the point, I would like to emphasize that racism and its effects constitute at least the third most serious problem the contemporary world faces—behind only nuclear war and climate destruction. However, the fact remains that racism in the United States today is, as it has always been, foremost a tool for social control. In her brilliant book, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, Michelle Alexander describes how the very legal recognition of slavery as an institution was motivated by a desire to separate poor Blacks from poor Whites. If they were ever to join forces, they would pose a significant threat to the elites whose wealth depends upon their poverty. By making poor Blacks slaves, but allowing poor Whites to maintain their freedom, the elites instituted one of the most effective systems of social control the world has ever seen. The same idea was at work in the destabilization that followed the abolition of slavery; in the system of Jim Crow laws; and today in the system of mass incarceration for young Black men, and mass evictions from housing for Black women. In every single case the oppression, abuse, and disenfranchisement of African Americans has been a means to the end of social control (Alexander, 2012; Forman, 2011; Swindler, 2008; Glasser, 1999; Klarman, 2004).

Conservative politicians have been quite aware that there are more poor people than wealthy people in the United States. One of the founding fathers, James Madison, famously expressed the point that democracy must be kept under control—that one must protect the opulence of the minority against the tyranny of the majority—if elite interests are to be preserved despite the country's nominally democratic form of government. The only way that this could happen is if the poor vote could somehow be discounted. The elites found the perfect tool in their

ability to mobilize the inveterate racism of poor Whites. First it was the conviction of the poor Whites that while they were poor, they were at least free and not black. Then it was their ability to sit in the front of the bus, and anywhere they preferred at most restaurants.

The Black vote is neutralized through mass incarceration, denying the vote to convicted felons, and finally by taking measures at the voting sites themselves that minimize the ability of Blacks to vote. The bottom line is that today, as throughout history, racism is more a means of social control than it is an end in itself. There are still plenty of racists in the United States. The genius of the system is that individuals with racist proclivities are not necessary for the functioning of the system of social control. The system works automatically.

Mass Incarceration of African Americans

Chapter Summary

This chapter discusses reasons for the phenomenon of mass Black incarceration; the fact that Blacks account for roughly half of all American prisoners, despite making up only 13% of the total population of the country. Some disturbing facts concerning race and criminal justice are noted in section 2. Section 3 begins the discussion of how the war on drugs has become a war on African Americans, principally young Black men. This discussion is continued in section 4, where it is noted that the Supreme Court has done nearly all that it can to protect racial profiling, including refusing to overturn court verdicts on the grounds that racial profiling was used. Section 5 discusses a few actual cases in some detail to accentuate that mass incarceration affecting individuals at a micro level. Section 6 critically evaluates some arguments against the thesis that the Criminal Justice System unjustly targets and incarcerates Black people in enormous numbers. Section 7 looks at a few final aspects of the problem and concludes the discussion.

Introduction

Despite accounting for only about 13% of the total United States' population, African Americans constitute nearly half of the total number of people imprisoned today (Puglise, 2016). Blacks are incarcerated at a rate nearly six times that of Whites. In 2001, one in six Black men had been incarcerated at some point in their lives. If current trends continue, by the end of the decade that number will be increased to one in three. Yet there is no evidence that Blacks commit more crimes per capita than Whites (Wolfers, Leonhardt and Quealy, 2015).

Equally disturbing as the number of Blacks incarcerated, and the much higher likelihood that a Black person will be imprisoned for committing the same crime as a White person, are the sentencing disparities that occur across racial lines. One study has shown that five times as many Whites are using drugs as Blacks per capita, yet Blacks are sent to prison on drug charges at a rate that is ten times as high as the rate for Whites (NAACP, 2017). A frequently discussed example is the sentencing disparities between crack cocaine and powder cocaine users. Blacks are more likely to use crack, while Whites are more likely to use powder cocaine (NAACP, 2017). However, sentences for crack cocaine are on average ten times as harsh as sentences for users of powder cocaine because of mandatory minimum sentencing laws (NAACP, 2017). Finally, many more Blacks are killed due to gun violence than Whites; while this does not directly correlate to mass incarceration, it is important to note as it is an issue that affects the Black community—a later example of this will be shown in the Personal Perspective section. In fact, between 1980 and 2013, 262,000 Blacks were killed in America—this is almost five times as many Americans as were killed in the entire Vietnam War—58,209 Americans were killed during the Vietnam War (Goldberg, 2015; Enns, 2014).

Startling Facts about Race and Criminal Justice

Useful background for the issues discussed here is provided by a recent study that concluded with ten surprising facts about the relationship between race and the criminal justice system. Some of these have been mentioned already.

First, African American youth have much higher rates of (juvenile) incarceration than do White youth. In 2011, 96,000 students were arrested, and 240,000 were referred to law enforcement by school personnel. Of these students, Black and Hispanic youth made up more than 70% (Kerby 2012). Second, the number of women incarcerated has increased by an incredible 800% over the last three decades, with Black women being three times more likely than White women to be incarcerated (Kerby 2012). Third, as I show in more detail below, the war on drugs has been waged primarily in communities of color. Those arrested also receive harsher sentences than do non-minority offenders (Kerby 2012). Fourth, African Americans are 21% more likely than Whites to receive mandatory minimum sentences in association with drugrelated offenses (Kerby 2012). Fifth, approximately on quarter of African Americans males (5.5 million out of 21 million) have permanently lost the right to vote through being convicted of felonies (Kerby 2012). Finally, people of color face wage disparities in their attempts to find employment after being released from jail or prison:

Evidence shows that spending time in prison affects wage trajectories with a disproportionate impact on Black men and women. The results show no evidence of racial division in wages prior to incarceration; however, following release from prison, wages grow at a 21% slower rate for Black former inmates compared to White exconvicts. A number of states have bans on people with certain convictions working in

domestic health-service industries such as nursing, child care, and home health care—

areas in which many poor women and women of color are disproportionately

concentrated (Kerby 2012).

Therefore, not only must Black people released after serving a sentence for a felony crime, like

ex-convicts in general, face the nearly impossible task of finding an employer willing to hire

them, but when they do manage to get a job, their wages are lower simply because they are not

White (Guo, 2016; Western and Wildeman 2009).

The War on Drugs—Part I

Far more than any other phenomenon, the war on drugs is responsible for the nation's

tremendous increase in the number of people incarcerated in the United States. Two-thirds of the

increase in the Federal prison population is due to drug offenses. In 2012 there were

approximately 500,000 people incarcerated for drug-related charges, as opposed to just over

40,000 in 1980—an increase of 1,110% (Alexander, 2012, p. 60; Lopez, 2010). Before turning to

a discussion of how and why the war on drugs has produced these incredible numbers and

increases, it is important to note two myths that are often propagated in discussions of the topic.

First is the myth that the goal of the war on drugs is to capture drug "kingpins", the largest

suppliers and dealers. The vast majority of those arrested for drug-related crimes have been

found to possess only a small amount of drugs. Only one out of five drug related arrests in 2005

was for dealing (as opposed to mere possession) (Alexander, 2012, p. 60; Lopez, 2010). Second

is the myth that the war on drugs especially targets "hard drugs", or the most dangerous drugs—

such as cocaine, crack, and heroin. In the 1990s almost 80% of drug arrests were for

marijuanarelated offenses (Alexander, 2012, p. 60; Lopez, 2010).

Part of the problem with the war on drugs is that law enforcement is constrained by few if any meaningful rules or restrictions. The Supreme Court is responsible for much of this. The Court has consistently ruled, for example, that almost any pretext will do in order to justify a search of a person or vehicle thought to be in possession of drugs (Alexander, 2012). In the past law enforcement was constrained by the Fourth Amendment of the Constitution, which protects the people against warrantless searches of person or property. It demands that probable cause be present for a search to be in accordance with the law. There has been a gradual erosion of people's Fourth Amendment rights since 1968—at least where drugs or the suspicion of drugs are concerned. It began with the 1968 ruling in *Terry v Ohio*, in which the Court allowed police who observe "unusual conduct" by someone reasonably thought to be potentially dangerous, and a possible threat to law enforcement, to conduct a search of the person. In these circumstances, it was decided that reasonable suspicion was synonymous with probable cause, thus legitimating a search (Alexander, 2012, p. 63).

The situation intensified with a 1992 ruling in *Florida v Bostick* which further stripped people of their Fourth Amendment rights against unlawful searches. Twenty-eight-year-old Terrance Bostick was sleeping in the back seat of a Greyhound bus travelling from Miami to Atlanta. Two police officers were looking in the bus for evidence of drugs and drug paraphernalia. Bostick consented to their demand that he show his identification and bus ticket. The officers then asked to search his bag. Bostick complied, despite knowing that his bag contained a pound of cocaine. He was arrested for this, of course. But there are two key points that must be emphasized. First, the officers had no basis on which to assume that Bostick was engaged in illegal activity. Second, while Bostick did provide permission for the search, it is nearly certain that he did not realize that he was entitled to refuse the search (Alexander, 2012).

The Supreme Court however, had its own opinion. While there is legal precedent that people must be aware that they do not have to consent to a search of their person or property, the key question is whether people realize this. The Court has refused to require police officers to make explicit the right of the suspect to refuse a search. Their criterion is instead whether a reasonable person would realize, in a given situation, that he or she had the right to refuse a search. As Alexander (2012) notes, this ruling and others like it have given rise to some truly absurd results. Not long after the ruling in *Bostick*, the District of Columbia Court of Appeals applied the Court's standard to rule that a fourteen-year-old girl who had been interrogated by the police must have been in the same situation—a reasonable person in her situation would have realized that she had the right to refuse a search (Alexander, 2012, p. 65).

What all of this means is that police have the right to stop any person for any reason, and to ask permission to search the person or his or her property. Studies have shown that there is a growing feeling of distrust in the Black community towards police (Hagan, Shedd, & Payne, 2005). Partially because of this distrust, many in the Black community are unaware of when they can refuse the demand for a search. The end result is that people's Fourth Amendment rights have been circumvented. The police are able to search anyone, at any time, for any reason (or no reason at all). While this is not a result that is specific to African Americans, it affects them far more seriously than it does Whites. Blacks are more likely to be stopped and searched than are White people (as evidenced by the details of Floid v City of New York in which minorities-especially African Americans--were found to be stopped and searched more often than Whites), and the war on drugs is waged almost exclusively in poor urban neighborhoods heavily populated by people of color. Alexander (2012) notes that

One might imagine that the legal rules described thus far would provide more than

enough latitude for the police to engage in an all-out, no-holds-barred war on drugs. But

there's more. Even if motorists, after being detained and interrogated, have the nerve to

refuse consent to a search, the police can arrest them anyway. In *Atwater v City of Lago*

Vista, the Supreme Court held that the police may arrest motorists for minor traffic

violations and throw them in jail (even if the statutory penalty for the traffic violation is a

mere fine, not jail time) (p. 69).

This effectively means that any motorist can be arrested for almost any reason. Even a very good

and careful driver will eventually make a minor mistake if followed long enough by

lawenforcement. One reason that police have used in the past as justification for stopping a

vehicle is that they were driving "suspiciously carefully" (Alexander, 2012).

In relation to this, Minnesota is not a state that one normally associates with a particularly high

level of violence (Uniform Crime Reporting Statistics [UCRS], 2014). In 2014, the UCRS

reported that Minnesota accounted for less than one percent of the nation's violent crime (UCRS,

2014). However, a year 2000 study found that one in ten Black males between the ages of 20 and

40 was behind bars in the state (Coates, 2015). A decade later, one-third of Black male dropouts

in the same age group was incarcerated. Nearly all of the young Black males in question grew up

in environments of extreme poverty (Coates, 2015). Indeed, the poverty level for African

Americans is higher in Minnesota than in the United States as a whole. These results point to two

reasons that so many young Black people, and especially young Black men, end up in prison,

even in a state like Minnesota: lack of quality education and poverty (Fuchs, 2015).

The War on Drugs—Part II

There is compelling evidence that police unfairly target people of color in the war on drugs, especially young Black men (Alexander, 2012; Quigly, 2015). In 2014, there was a civil rights challenge to New York City's policy of stopping and frisking people without any reason. The Center for Constitutional Rights did a study of a time period over which the City's police officers stopped over 500,000 people (which is about average for a year) (Quigley, 2015). None of the "stop and frisks" had any reasoning behind them. They might have been considered totally random, except for one troubling detail: about 80% of those stopped were either Black or Latino, despite the fact that Blacks and Latinos comprise just 25% and 28% of New York City's population, respectively (Quigley, 2015). Similarly, in Chicago—whose total population is about 32% Black—Black people who are stopped by police accounted for 72% of the total people stopped (Quigley, 2015).

During the sort of vehicular stops mentioned above, it is also more common for Blacks to be searched than Whites. The Department of Justice reported that Black drivers at traffic stops were three times more likely to be searched as Whites (Quigley, 2015). This is relevant to the drug war because the point of these searches is, almost invariably, to find drugs. Another respect in which the war on drugs targets African Americans concerns drug arrests. "The ACLU [American Civil Liberties Union] found that in some states Black people were six times more likely to be arrested for marijuana than Whites" (Quigley, 2015)— despite the fact that Blacks and Whites use marijuana at the same rates.

An additional reason that Blacks are treated unfairly in the war on drugs is that most arrests in the war on drugs target poor neighborhoods and so-called "ghettos" (Quigley, 2015). It is not the case that residents of these areas are more likely to possess or use drugs. The police

would be just as likely to find drugs if they decided to raid a college campus or dormitory, as they are when they target poor and run-down neighborhoods. There is no possible explanation of this fact other than that the war on drugs targets Black people.

A Personal Perspective

It is easy to get lost in all the depressing statistics concerning the facts about African Americans and the system of mass incarceration. One can forget that real people are involved. This section, therefore, involves three more narrowly focused, personal stories. The first involves an African American child whose life was lost due to gun violence. The second looks at the details of a particular state in America that one does not normally think of as particularly violent. The third involves some of the more unfortunate aspects of the war on drugs, and its effect upon people of color. While not directly tied to mass incarceration, these stories are important to note as they show the micro level consequences that affect the Black community.

In 1994, a 9-year-old Black boy from an impoverished area of New Orleans wrote a letter to then President Bill Clinton. The letter read as follows:

> Dear Mr. Clinton. I want you to stop the killing in the city. People is dead and I think that
> somebody might kill me. So would you please stop the people from deading. I'm asking
> you nicely to stop it. I know you can do it. Do it. I now you could. Your friend, James.

James Darby had no particular reason to fear for his life. He had not been threatened, or, up to that point, the victim of any crime. He was simply aware of the great crime wave that was sweeping the area. He thought it reasonable to ask the most powerful man in the country to try to stop the violence (Goldberg, 2015).

Ten days later, Darby was playing in a park with some friends and family members. The park was named "A.L. Davis Park", after Abraham Lincoln Davis, the first Black person to sit on

the New Orleans city council. Darby's mother had laid out a picnic for the guests at the

gathering. During a touch football game, a fight erupted between two players. One older boy

punched a 16-year-old girl in the face. The girl's brother told the older boy to wait there, that he

would "get his". The girl's brother ran home to get a shotgun that he knew his father kept in the

basement. Subsequently the brother drove by the park and fired the gun out of the car window,

wildly. He missed his target, but did not miss everyone. 9-year-old James Darby lay dead on the

ground, his mother crying and screaming over his immobile body (Goldberg, 2015).

The final, third story involves a single African American mother of two, Erman Faye

Stewart, of Hearne, Texas. In late 2000, Stewart was arrested as part of a large, city-wide drug

sweep (Alexander 2012). All but one of the 27 people arrested in this particular phase of the

sweep were Black. The raid and subsequent arrests were made entirely on the basis of a single

informant who was later proved to be highly unreliable. Stewart spent a week in jail, unable to

care for—or even obtain reliable intelligence about the situations of—her two children. Stewart's

court appointed lawyer advised her to take a plea. The investment that the attorney put into the

case was later revealed, when he proved unable to remember who she was. The plea involved

admitting to a drug distribution charge with the promise of only probation—no further jail time

(Alexander 2012). Stewart, being innocent of the charge, refused the plea deal. So the

prosecution stepped up its game, threatening her with a sentence (if tried and convicted) of up to

99 years in prison. Stewart saw no choice but to plead guilty at that point, was sentenced to ten

years' probation, and ordered to pay $1,000 in fines. This fine would prove impossible to pay,

given her minimum wage salary. She was also branded as a drug felon, and as a result was no

longer eligible for food stamps. This also made decent employment virtually impossible to find,

she was stripped of her right to vote for the next 12 years, and she was evicted from public

housing. Upon becoming homeless, Stewart lost custody of her two children (Alexander 2012).

Eventually a judge dismissed all pending cases pertaining to the sweep, on the grounds that the

testimony which led to it was that of an unreliable individual. For Stewart, however, this meant

little. She was still a felon, still homeless, and still desperate to regain custody of her children

(Alexander 2012). All of this was due to the war on Drugs. Stewart nearly lost everything. Her

only real crime was being the wrong color.

One commentator notes that Stewart's case is far from unique. In the United states as a

whole, nearly 95% of felony convictions are secured without so much as a trial. "They are settled

via a plea bargain—a unique facet of American law, that allows the prosecutor to offer a reduced

sentence in exchange for defendants waiving their rights to a jury trial, and pleading guilty to the

charges presented" (Rushing, 2011).

Through this section we see that the issues affecting the Black community are

multifaceted. Racism has real victims; so too does violence. The intersection of racism and

violence perpetuated by systems with racist priorities is crucial in understanding the human

element or consequences of racism. While gun violence does not have a direct correlation to

racism, the systems in place that allow and force individuals in the Black community to

perpetuate violence against themselves and their own people do.

A Differing Opinion

Despite numerous studies which show that Black people are not more likely to commit

crimes (Guo, 2016; NAACP, 2017)—including violent crimes—the tendency remains among

many to believe that so many Black people are in prison because they belong there, because they

cannot help breaking the law. Articulate expressions of this discredited viewpoint are not easy to

find, for obvious reasons. But it is instructive to look briefly at a couple of examples. It is only

when one looks at how very weak the objections are to the view that America has a very serious

problem with race and incarceration that the gravity of the problem can be fully appreciated. The

Criminal Justice System does not require explicit confirmation and acceptance of biased

institutional practices in order to incarcerate African Americans on a truly massive scale. The

criminal justice system ensures that this happens automatically (for example, the Supreme

Court's refusal to limit stops and searches on Fourth Amendment grounds; together with the fact

that police seek drug offenders in poor neighborhoods as a matter of policy). This is what

Michelle Alexander (2012) means when she says that the fact that America has become

colorblind is not the solution to the problem of racism, or an indication that the problem has been

solved, but rather a part of the problem itself (pp. 100-101). Ironically, systematically targeting

Black people can now be done on what the courts consider "race-neutral" grounds. This makes

racism in the Criminal Justice System even more difficult to solve.

Along a similar vein, Colin Flaherty (2015) actually denies that there are any racist cops,

judges, or juries. This assertion is false and absurd on its face. He makes another striking claim:

"Crime and violence … is a Black thing. That's why more Black people are in prison" (Flaherty,

2015). Again, it is crucial to ask how crime and violence could possibly be "a Black thing". What

is it about African Americans that makes them more likely to be criminals, and to be violent?

There are no non-racist answers to these questions. It is true that there are statistical correlations

between crime (including violent crime) and poverty as well as education and crime. But that just

pushes back the question: what is it about Black people that makes them more likely to be poor

or uneducated? There is no answer to this question that is not either racist itself or that isn't an

indictment of something racist in U.S. society. Blaming Blacks for being poor is precisely

analogous to blaming women for being abused by their husbands. It is blaming the victim. In each case, the person is in a situation that he or she did not choose to be in.

The lessons from this brief foray into what we might call "mass Black incarceration denial" are quite clear. There is no way to explain why so many more Black people than White people are in prison, proportionate to their numbers, that is not either itself racist, or such an indictment of U.S. society as racist.

Consequences of Racism

One reason that such a higher percentage of Blacks than Whites is in prison has to do with recidivism. Now of course, some ex-convicts who are released—Black and White—commit further crimes, and are sent back to prison. However, that is not the point. The point is that the entire Criminal Justice System—from stop-and-search, to being assigned a legal-aid attorney (when one is allowed to speak to an attorney at all), to the plea deals that are struck, to the sentencing phase of the conviction, to the debts that a prisoner piles up throughout the entire process, to the difficulty in finding a place to work, or even to sleep, as an ex-convict, to the fact that those who have been released from prison can be sent back for no reason at all—all of this has the effect of ensuring that convicts in general, and Black convicts in particular, are sent back to prison in the largest numbers possible. This is often referred to as the revolving doors of prison.

Another reason for mass incarceration is the sentencing policies and guidelines that have been established. Mandatory sentencing laws remove a large portion of judicial discretion in sentencing. As Alexander (2012) notes:

> When judges have discretion, they may consider a defendant's background and impose a
> lighter penalty if the defendant's personal circumstances—extreme poverty or experience

of abuse, for example—warrant it. This flexibility—which is important in all criminal

cases—is especially important in drug cases, as studies have indicated that many drug

defendants are using or selling to support an addiction … [However], mandatory drug

sentencing strips judges of their traditional role of considering all relevant circumstances

in an effort to do justice to the individual case (pp. 89-90).

Several questions arise here. Why are mandatory sentences necessary? What is it about

drugrelated crimes, in particular, that makes such sentences appropriate? The answer, of course,

is that the sentencing guidelines are not a response to any problem in the Criminal Justice

System, or a reaction to the extreme gravity of drug-related offenses. In fact, sentencing

guidelines are indicative of dog-whistle politics. Dog-whistle politics is essentially the act of

using code words and abstract phrases that connote one thing, but have unseen effects to and on

the public (Brown,

2015). For example, instead of simply arresting African Americans for their skin color,

politicians and elected officials might create laws that disproportionately incarcerate Blacks like

the legislation from the War on Drugs.

How we treat the discriminatory sentencing that Black defendants and convicts face in the

United States' Criminal Justice System needs to be addressed. Consider, for example, the plight

of Edward Clary. In 1993, the seventeen-year-old Clary was stopped and searched at the St.

Louis airport because he "looked like" a drug courier. It happened to be the case that he was

returning from California, where one of his friends had asked him to take some drugs with him to

deliver to a friend. Clary had no criminal record. He had never had any dealings with drugs

before this occasion (Alexander 2012).

Clary was arrested, and convicted in Federal court—where, at the time, laws punished those who carried crack cocaine one hundred times more harshly than those found with powder cocaine. Being caught with five grams of crack—which is an amount inappropriate to anything other than personal use—carries the same sentence at being caught with five-hundred grams of cocaine. This amount of cocaine exceeds a pound, and would be indisputable evidence of the intent to distribute.

Clary was sentenced to ten years in prison. His lawyers argued that the one-hundred to one law was inherently racist, since 93% of crack cocaine offenders are Black, and only 5% White. Similarly, powder cocaine users are overwhelmingly likely to be White rather than Black. The alleged motive of the courts that had refused to challenge the law was the belief that crack was the more dangerous of the two drugs. Neither the Supreme Court nor Congress specified whether they thought it was actually one-hundred times more dangerous (Alexander 2012). No evidence has ever been found to support the view of increased danger. Nevertheless, that court and later courts have consistently found that racial discrimination will be considered present only where overt racist acts or statements are at issue. To take an extreme example, in order to underscore the absurdity of this ruling, imagine that a serial killer targeted only Black people, and killed thousands of them. The Supreme Court would hold that the killer's actions could be criticized as racist only if he admitted to being a racist. A simple denial that this is the case would be enough to exonerate the serial killer from charges of racist behavior. This is of course ridiculous, but it is precisely the standard that the Court requires in challenges based upon allegedly racist standards (Alexander 2012, p. 113).

Conclusion

This chapter has argued that Black people are disproportionately incarcerated in the United States, and offered a number of explanations for this unfortunate fact. A number of startling facts concerning race and incarceration were identified, the most striking of which is that African Americans account for about half of all prisoners nationwide, despite the fact that Blacks are only about 13% of the total American population (Puglise, 2016). Many aspects of the war on drugs were shown to contribute to this state of affairs. One could even argue that this is the ultimate purpose of the war on drugs. A couple of more personal stories were described to illustrate micro level aspects of the overall problem.

At the end of the day, it is important to consider that institutions in the United States like the Criminal Justice System operate through the use of racist priorities. These priorities have lasting macro and micro level effects on the Black community. On the macro level we see mass incarceration, disproportionate sentencing, and racism; while on the micro level we see gun violence, death, single parent households and increased arrest rates.

Effects of Mass Incarceration on Black Life

Chapter Summary

The chapter discusses effects of mass incarceration upon the lives of African American people. After looking at some of the numbers involved—which show, among other things, that over half of the country's prison population is black, despite blacks accounting for less than 15% of the country's total population—this chapter proceeds to sketch a background of political economy in which these numbers make sense. The general idea is that racist laws and policies are a means of social control; a method for preventing demands for widespread wealth redistribution. Then specific areas of the effects of mass incarceration are examined. The first is the effects on families. The second is the psychological cost that black prisoners and their families incur. The third is the economic costs, which are perhaps the most serious overall. Finally, some mention is made of the cycles that mass incarceration leads to. The most obvious of these is the fact that the system is designed to steer blacks back into prison as soon as possible upon their release. A less obvious cycle is that the more blacks are depicted as criminals, the more votes are cast to discontinue programs designed to help the economically less fortunate, and the more likely poor and middle-class white voters are to support ever more draconian law-enforcement and incarceration policies that unfairly target blacks.

Introduction

The United States incarcerates its residents at a rate that is six to eight times greater than any other industrialized nation. This is a fairly recent development, even taking into consideration the country's short history. In 1972 fewer than 350,000 people were held in jails and prisons. By 2013 this number had increased to an incredible 2,200,000 people (Goodwin and Grossman, 2016). The majority of these people are Black, even though blacks make up less than 15% of the total population of the United States. This phenomenon is part of what has become known as the United States' system of mass incarceration. A staggering one in three Black men will be in some way involved with the criminal justice system at some point in their life—in jail, on probation, paroled, or in a "halfway" house (Goodwin and Grossman, 2016; Kerby, 2012). The mass incarceration of Black people has far reaching consequences for Black families and communities. This chapter discusses how mass incarceration affects Black families, the psychological effects of the phenomenon, the economic effects and causes of mass incarceration, and the way that it is a cyclic affair—feeding upon itself to produce more and more African Americans in the U.S. who are disenfranchised. Section 1 offers an analysis of the framework which facilitates mass incarceration. Section 2 discusses the effects of mass incarceration on black families. Section 3 looks at the psychological effects of mass incarceration on Black families. Section 4 examines some of the economic consequences (as well as some of the economic causes) of mass incarceration. Section 5 looks at the cyclical effect that mass incarceration has on families. Finally, the conclusion draws all of the various threads together and situates them in the framework introduced at the beginning of this chapter.

Before beginning, I would like to provide a framework for thinking about the issues discussed in this chapter. There are certain aspects of the system of mass incarceration in the

United States that cannot be explained without making some assumptions that are highly controversial. It is common for people to assume that Blacks make up a larger percentage of the prison population, despite accounting for less than 15% of the total population, because Blacks commit more crimes than whites do. This is incorrect. Studies have shown that Blacks commit roughly the same number of crimes that whites do (Wolfers, Leonhardt and Quealy, 2015). Even if we confine our attention to drug use and drug sales, which constitute the vast majority of nonviolent criminal offenders, there is no significant difference in the likelihood that a Black person will be involved with drugs than the likelihood for a white person, including drug sales (Alexander, 2012, p. 7). There is no way to explain the data that does not attribute acts of racism to law-enforcement and the Criminal Justice System (American Sociological Association [ASA], 2007).

It has become common in recent decades to observe that racism, especially today, is not primarily a matter of aberrant individual people, but of systems and power structures (Alexander, 2012). The racist behavior of an individual person, for example, or the fact that more jobs are open to whites than Blacks, is seen not as the problem itself, but as a symptom of a larger problem. Taking the focus off individuals and putting it on racist systems and power structures is certainly a step in the right direction. However, if we carry out our reasoning far enough, we find that racism itself is, in one clear sense, a symptom of a larger problem, rather than the problem itself. Racism, including the racist practices that will be discussed throughout the chapter, is in part a means of social control, and one framework to facilitate this is to maintain and increase wealth inequality.

From the very founding of the United States it was recognized that some means had to be found to protect the interests of the propertied elites from the masses who, owing to America's

democratic political system, would naturally wonder why they are poor when others are quite

rich, and to act politically or socially to correct the fact. James Madison famously claimed in

1787 that politics ought to be so arranged in the United States "as to protect the minority of the

opulent against the majority" (Federal Convention, 1787).

The institution, or at least the formal legitimation, of slavery itself was formed in order to

prevent poor whites from teaming up with poor blacks to challenge wealth inequality. It was

essentially a means of placating poor whites; for while they may have been poor, they could take

comfort in the fact that they were at least free. After the abolition of slavery, through

Reconstruction, and up to the era of Jim Crow laws, the idea has always been the same—by

using the native racism of poor whites, the ruling elites could prevent the masses from voting

(and other forms of exercising social power) to reduce wealth inequality. Welsh Labour

politician Aneurin Bevan once remarked that "The whole art of conservative politics in the 20th

century is being deployed to enable wealth to persuade poverty to use its political freedom to

keep wealth in power" (quoted in Blum 1995, p. 34). Throughout its short history, the United

States has followed the formula that Bevan was lamenting: it has used race and racism precisely

to convince poor whites to vote against their own economic interests, on one hand, and to

prevent blacks from voting at all, on the other. The most effective way to accomplish the latter is

our system of mass incarceration (though there are other ways too, such as district

gerrymandering, and requiring forms of identification from voters that blacks are less likely to

have than are whites).

Cost to Families

The mass incarceration of Blacks in the US has damaging effects on Black families that

go beyond the obvious prolonged absence, and permanent disenfranchisement, of individual

Black family members. In order to understand these effects, however, a bit more background is necessary.

The mass imprisonment of Blacks that began in the late 1990s had two principal causes. First is the heavy emphasis placed on fighting crime that became a staple of Republican policy beginning with Richard Nixon in the 1960s. The reason that the crackdown on crime resulted in disproportionate incarceration for Blacks was that law-enforcement chose to focus its crimefighting attention on low-income neighborhoods and so-called "ghettos". The war on crime was from the beginning a war on crime committed by Blacks (Thompson, 2014). The second, related cause was the skyrocketing lengths of sentences handed down by juries, judges, and prosecutors for even the most minor of illegal offenses; often offenses that involved the possession of a small amount of illegal drugs. It is an indication of how powerful the war on crime (and slightly later, the war on drugs) had become that it was actually a Democratic President, Bill Clinton, who was responsible for many of the harshest changes in so-called mandatory minimums, and the infamous three-strikes laws. The political environment in the United States at the time was such that no Democrat had a chance to be elected unless he or she pledged to be at least as tough on crime as Republican candidates (Western and Wildeman 2009, p. 223). And of course the prison system had to be greatly expanded to accommodate the flood of new offenders. Former Nixon aid John Ehrlichman was quoted saying:

> We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did (John

Ehrlichman, 1971, as cited in Donahue, 2016)

The rise in emphasis upon combatting crime, and the harsher sentences that were being meted out explains (together with the fact that it was primarily crimes by Blacks that were being punished) the beginnings of the phenomenon of mass incarceration. Yet there is more to the story. The poor urban areas of large cities and the ghettos did not appear out of nowhere. Their emergence was a product of three factors: First is the flight of White Americans, as well as middle-class Blacks, from inner cities to the suburbs. This left a population in inner cities that no politician cared to devote time or money to helping. Second is the massive decline of manufacturing industries that led to a shortage of well-paying jobs for residents of inner cities.

Finally, Federal and local governments refused to do what was necessary to keep many inner city neighborhoods from becoming so marginalized that they were spaces of alienation and social disorganization. This last point brings up a significant issue that has not been mentioned thus far: at the same time that Republican politicians and lawmakers (with the help of Democrats in a bipartisan project) were cracking down on crimes committed by Black people, they were also busy dismantling the social safety networks that poor and indigent people had to rely on— prominently including welfare and subsidized housing. All of this combined to produce more crime, on one hand, and more black criminals and suspected criminals being incarcerated for lengthy periods of time, mostly for minor drug offenses, on the other (Crutchfield and Weeks, 2015).

It is important to notice what a blessing it was for conservative politicians that the crime rate began to rise significantly in the 1980s; although this statistic is also due to more things being criminalized. Yet it was not primarily crime that drove the changes that were uniformly

harmful to blacks trapped in increasingly barren inner city neighborhoods. Political and social

policy had an important role to play as well, as these authors note:

> Crime cannot explain … why disadvantaged young men were so much more likely to go
> to prison by the end of the 1990s than two decades earlier. Indeed, survey data show that
> poor male youth were much less involved in crime at the height of the prison boom, in
> 2000, than at its inception, in 1980. To explain the growing risk of imprisonment over
> time, the role of policy is decisive. Because the system of criminal sentencing had come
> to rely so heavily on incarceration, an arrest in the late 1990s was far more likely to lead
> to prison time than at the beginning of the prison boom in 1980 (Western and Wildeman
> 2009, p. 225).

We are now in a position to examine the ways in which the United States' system of mass

incarceration negatively affects Black families. The damage is done on several levels. While

law-enforcement is quite enthusiastic about arresting black females as well as black males, the

incarceration of members of the latter group arguably constitutes the more serious problem

overall. The lifetime likelihood of incarceration for Black men is 1 in 3. Similarly for Black

women, the statistic is 1 in 18. This is contrasted to White men and women whose lifetime

likelihood of incarceration is 1 in 9 and 1 in 111 respectively (Bonczar, 2003). Hence it is the

focus here. First, young Black men who are arrested and incarcerated often leave behind families

that have difficulty coping in their absence. Single parent households can be difficult to maintain

especially when the household is economically disadvantaged as well. This is one of several

respects in which mass incarceration is cyclical. Young black fathers are arrested and

imprisoned. Their children are often forced to grow up without a father, and in distressed

financial circumstances. Add to this the lack of affordable housing and good jobs, and you get a

child, or children, who are likely themselves to be arrested and incarcerated. And so the cycle continues (Lee et. al., 2016).

Second, even for those Black men fortunate enough to obtain release while they are still living and reasonably young, their troubles are far from over. They are politically disenfranchised because in most states people with felony convictions cannot vote. They will often have incurred substantial financial debts, either prior to trial, after release, or both. These are not debts that are easily paid, especially given the dearth of jobs available. Black felons are also socially stigmatized. They are forever associated with crimes that are often very minor, and very often committed when they were young men. All of these facts conspire to make it difficult for a Black felon who seeks to repair and provide for his broken family.

Third, it is an additional strain on the individual and the family that the corrections system allows those who have been released from prison to be sent back for the most minor infractions, or even for no reason at all. Parole officers have almost complete discretion in such matters. Both the released Black man, and his family—assuming that it has not disintegrated in his absence, which it very well may have—must live in constant fear of his being sent back to prison. Notice that this holds true even for parolees who assiduously avoid criminal activity. For those many who have little or no choice but to enter, or re-enter, a life of crime, the danger is of course greatly magnified.

Fourth, entitlement programs that have already been nearly completely stripped of their value by conservative politicians are even less useful for those unfortunate enough to have been convicted of a felony offense. In many cases, for example, felons are barred from making use of public assistance programs, such as (partially) publicly funded housing, as well as welfare assistance. In summary: "The stigma of a prison record also creates legal barriers to skilled and

licensed occupations, rights to welfare benefits, and voting rights … Ex-prisoners are also less likely to get married or cohabitate with the mothers of their children" (Western and Wilderman 2009, p. 230).

For all of these reasons, both ex-prisoners and their families suffer enormous hardships—prior to trial (on those rare occasions that a case goes to trial), during imprisonment, and after release. A society that is deadly serious about making people pay and suffer for their crimes is not even remotely serious about providing a decent chance for a good life, and a good family life, after a prisoner has paid his "debt to society".

Children of inmates and ex-inmates suffer in ways that ought to be discussed separately. Some of the problems have been mentioned already. But to them should be added the fact that children, lacking a male parent and role model, very often lose a crucial source of motivation and support. And of course these effects are magnified considerably when the children are raised, or grow up, in distressed economic circumstances. A study conducted at Cornell University found that one in four Black children born in 1990 found that their father was incarcerated before their 14th birthday. For White children the number is one in thirty. (And recall that Blacks do not commit more crimes per capita than do Whites.) More than half of Black children who drop out of school have fathers who are incarcerated (Reckdahl, 2014). One pair of authors sums up the situation as follows:

> As our nation turns to consider the overwhelming policy and political impacts of adult mass incarceration and its toll on families and communities, it's worth considering how the culture of fear, which is answered by jailing and punishment, trickles down to children in disparate, cruel, and inhuman ways (Goodwin and Grossman, 2016, para. 14).

Psychological Cost

Many of the psychological costs to prisoners and ex-prisoners, as well as to their family members, are fairly obvious. As our prisons become increasingly privatized, and increasingly barbaric, it becomes proportionately more difficult, or even impossible, to emerge from even a fairly short prison stay in anything like a state of psychological health (Western & Wildeman, 2009). Prisoners are routinely and repeatedly raped, especially in larger prisons. And like all rape, prison rape takes a heavy psychological toll on a person (Street, 2015). They are also beaten, both by other prisoners and prison guards. Many suffer prolonged periods of isolation, for an infraction or at the whim of a warden or prison guard. Few prisoners are able to manage regular contact with loved ones, friends, or family members (Western & Wildeman, 2009). These issues, and the psychological toll that they take, diminish most black ex-prisoners chances of obtaining a good job, reacquiring or continuing to have a rewarding family life, and finding a permanent place to live. Furthermore, parolees, especially when they are Black, must live in constant fear of being sent back to prison.

A more systematic look at the psychological consequences of prison for inmates and exinmates, and especially for blacks, reveals the following: A large part of the problem is the state of the prisons themselves, including the way that they are run. Prisons in the United States are among the most inhumane in the world; and for developed countries they are by far the least humane (Haney, 2002). While most prisons offer three meals a day, prisoners are kept in tiny cells, are allowed little to no privacy, are allowed one hour of fresh air, and every aspect of their daily life is regulated by the prison. As is the case with most social problems, a primary reason for this is economic. For example, between 1972 and 2002 the prison population in California increased eightfold. Yet there was little or no comparable increase in the amount of funds the

state possessed, or devoted, to running and maintaining its now swelling prisons. It is not a coincidence that California is one of the nation's leaders in lawsuits brought over constitutional violations in its prisons (Haney 2002, 78).

The phenomenon of institutionalization is also directly relevant to the psychological toll that prison takes on individuals and families, especially Black individuals and families. Institutionalization is difficult to define. However, the basic idea is that imprisoned individuals are forced to adapt to sustained imprisonment. While theorists disagree about some of the details concerning institutionalization, "most people agree that the more extreme, harsh, dangerous, or otherwise psychologically-taxing the nature of the confinement, the greater the number of people who will suffer and the deeper the damage they will incur" (Haney, 2002, p. 80).

The negative psychological effect of living in an environment—particularly when this goes on for years or decades—in which one must be hyper hypervigilant and alert, where interpersonal distrust is almost universal, and in which suspicion is the norm, cannot be overemphasized. The following is a list of common conditions or results of incarceration. Haney (2002) outlines while they are not specific to Black prisoners, they are particularly relevant for them since most prisoners are Black:

· Dependence upon the institution, and related contingencies.

· Emotionally over-controlling environment, alienation and psychological distancing.

· Isolation and social withdrawal.

· Internalization of exploitative norms common in prison.

· Diminished sense of self-worth and personal value.

· Post-traumatic stress disorders (p. 81-2).

The first condition, regarding dependence, is a particularly powerful one. It is difficult for many of us to imagine living a life in which one must constantly be on the lookout for violent or sexual assaults, even from those who are employed by the prison. Exploitative norms common in prison include most prominently the "everyone for himself" attitude in which trust is a luxury that few can afford, and in which everything even potentially beneficial comes only at a price. In many prisons one must join a gang or other group simply to stay alive.

It is easy to imagine that when a prisoner is released after a long stretch of time, he no longer needs to worry about these things. However, this is not true. Ex-convicts, especially Black ones, are in constant danger of being harassed by parole officers or law enforcement and sent back to prison, whether or not they do anything to deserve this (Alexander, 2012). On the other hand, it is true that the ex-inmate no longer has constantly to fear assaults. But prison has already changed him in ways that are difficult or impossible to undo. Living a normal life, with a family that includes a wife, other partner, or children, is extremely difficult. And failure here of course simply compounds the shame and sense of personal lack of value that are instilled in prisoners generally (Crutchfield and Weeks 2015).

Economic Cost

Some of the economic costs of mass incarceration were discussed above. They are of course inseparable from other costs of being imprisoned, particularly the effects on families and family life. However, some more details are discussed here.

One relatively little discussed economic aspect of the criminalization of Black men is the fact that, in many cases in which drugs are (allegedly) found in a residence, or a car, police departments and government agencies can simply take the home or vehicle. They can simply

become the legal owners of the property. And it is important to note that the owner of the

property in question need not have broken any law, much less be proved to have broken a law.

Alexander (2012) writes that,

> Property or cash [can] be seized based on mere suspicion of illegal drug activity, and the
>
> seizure [can] occur without notice or hearing, upon an *ex parte* showing of mere probable
>
> cause to believe that the property had somehow been "involved" in a crime. The probable
>
> cause showing could be based on nothing more than hearsay, innuendo, or even the paid,
>
> self-serving testimony of someone with interests clearly adverse to the property owner (p.
>
> 79).

In fairness, it should be noted that the property owner is allowed, in at least some of these cases,

to appeal the forfeiture of property. However, this requires time off of work, and money for a

lawyer—something that the poorest victims of the seizures can ill afford. Furthermore, especially

if the victim is Black, there is little to no chance that the appeal will succeed.

The poverty of many Black people targeted by police, arrested, and coerced to take a plea

deal is important at almost every level of the process. Police are more likely to stop and search

(in many cases illegally) Black people than White people, and this is more true in environments

that show evidence of decline, such as poor and underprivileged urban areas. A wealthy or even

middle-class White man who somehow manages to get arrested can be out within hours, being

able to hire an attorney. Legal aid attorneys, those that are assigned to suspects who cannot

afford representation of their own, are vastly underpaid and overworked; sometimes with

caseloads in the hundreds of defendants (Alexander, 2012). They could not provide much help to

their clients if they wanted to, and structurally there are few incentives for them to care. There is

much more pressure to "cut a deal" when one is sitting in custody than when one is comfortably

at home on bail. Finally, Black suspects are nearly always pressured to take such a deal, with

threats that if the case goes to trial they will face much harsher sentences (Alexander, 2012). This

is no idle threat. Finally, it is nearly impossible to appeal a verdict without paying for one's own

attorney. At every level of the process the deck is stacked against the poor, and against those

with dark skin. People who fall into both of these categories have little or no hope of being

treated fairly.

Most of these facts are underappreciated by the public. However, the following is virtually

completely unknown. Many of those who are arrested incur what are called "preconviction

service fees". These fees cover a wide spectrum:

Examples of preconviction service fees imposed throughout the United States today

include jail book-in fees levied at the time of arrest, jail per diems assessed to cover the

cost of pretrial detention, public defender application fees charged when someone applies

for court-appointed counsel, and the bail investigation fee imposed when the court

determines the likelihood of the accused appearing at trial (Alexander, 2012, p. 155).

That is not all. There are also "postconviction fees". These include fees for pre-sentence reports,

fees levied on people who are placed in a work-release or residential program, and fees for

public defender recoupment. Most or all of these fees increase with a failure to pay them on time.

Finally, there are few if any laws restricting the amount of interest that private debt collectors

may add onto fees that go unpaid. These are informally known as "poverty penalties"

(Alexander, 2012).

It is almost beyond comprehension that a person, rightfully convicted or not, who is poor

or indigent can leave prison after serving his or her time owing thousands of dollars to finance

the costs of prosecution, incarceration, and so forth. Unable to find a job to pay these fees and fines, he or she will sink deeper into debt. As much as any other single factor that is discussed here, this one shows clearly that the government has no interest whatever in rehabilitating those convicted of crimes. It simply wants them gone, and unable to vote. Whether that means that they are permanently incarcerated, or dead, is a matter of little consequence.

Two final economic matters will be mentioned before moving on. First, as indicated earlier, Federally-subsidized housing is routinely denied to those with a felony conviction. It can even be denied to those whose family members or spouses have such convictions. This is something of a paradox. Poor and indigent, largely Black, people are the ones who subsidized housing is supposed to help. Yet the scarcity of decent jobs available to such people, together with the fact that they are vulnerable to arrest and detention at any moment, for any reason (or none), means that virtually every person living in subsidized housing either is someone, or knows someone, who has been convicted of a crime. And all such people can be denied housing for this reason.

Second, it is a nearly impossible task to get a decent job with a felony conviction on one's record. Every job application has a box that one must check to be eligible for employment regarding whether one has been so convicted. It does not matter whether the box gets checked or not. The employer will find out the truth. The fact that felons are routinely denied jobs for being felons, together with the fact that felons are unable to vote in the United States, is another unique element of the American legal system. However, when we view these rules and regulations for what they really are -- attempts at social control and a means to permanently disenfranchise poor Blacks—they make perfect sense. Indeed, they could hardly do a more perfect job.

Cycle of Mass Incarceration

After the point just made it should come as no surprise that when a Black person somehow manages to get released from police custody, jail, or prison, every effort is made to return him or her back home (to incarceration)—where they belong. There are actually two sorts of cycles to be described here. The first is the familiar cycle that leads overwhelmingly to recidivism. The second is a less familiar cycle that will now be described.

Probably most people in the United States, irrespective of their color or ethnicity, believe that Blacks are more likely to commit crimes than are Whites. One reason for this is that the relevant facts are not widely publicized. Another is that even someone who is paying attention could easily get the wrong impression. The fact that Blacks are much more likely to be arrested and convicted of crimes, despite the fact that Whites commit fully as many crimes as Blacks do, leads to a certain skewed perspective on the issues and implicit bias. The average American who tunes in to the nightly news on television, and hears of crime rates, or details of particular crimes, is much more likely to be confronted with the face of a Black man than the face of a White man (Dixon & Linz, 2000). Indeed, law-enforcement personnel themselves, whom one would reasonably expect to be better informed about this sort of thing, are if anything less cognitively equipped than the average person. In this context, implicit bias means that society sees Blacks as offenders and criminals. The following is an example of this.

In September of 2016, Ricky Soles, a police officer with a North Carolina department, was fired for making racist posts on Facebook. One of the claims he made was that "You are 13% of the population but you commit 65% of the crime" (WECT, 2016). While it was obvious that Soles was directing his comments toward Blacks, he was shameless enough to deny it publicly. He wrote that "Many people believe the statement was made that [*sic*] this post is

racist. This post is in NO WAY racist … This post is directed to CRIMINALS" (WECT, 2016). What Soles did not mention, or try to explain, is how he could have been talking about only criminals when he stated that the targets of his post accounted for only 13% of the population. There are two problems. One is that the only demographic group that accounts for this percentage of the population is Blacks. The other is that he could hardly have meant to be addressing all criminals, when he explicitly directed his comments to a group responsible for only 65% of criminal activity.

The point is not that Soles was mistaken. The point is that this is how many Americans see the relationship between crime and race. It is no accident that they see it this way. My argument is that that is how it is designed for them to see it. But the present point is merely that we have here a cycle. Blacks are targeted disproportionately for committing crimes, and they are arrested and convicted at a much higher rate than Whites (to say nothing of the sentencing discrepancies). As a result, Americans see that more Blacks are arrested for committing crimes than are Whites. This in turn leads to decreased support for providing affordable housing, good jobs, and other forms of assistance for Black people. Lacking these things, many Black people have no choice but to turn, or return, to a life of crime. This leads to more Black people being arrested, and so forth. The cycle is self-perpetuating (NAACP, 2017). It is also accentuated by the perception or implicit bias that Blacks are criminals.

This cycle is related to, but distinct from, the more familiar cycle that involves recidivism. Most of the points relevant to this discussion have already been made. This is because all of the issues of the chapter are intertwined. Yet it is helpful to have a review. Consider the plight of a young Black man who is arrested, most likely (when the arrest is not in error, and is not the simple result of profiling) on a minor drug charge. There are five levels of steps taken by law

enforcement, the legal profession, the prison system, and the legislators who make policy, that virtually guarantee that this young man will at some point return to prison (Roberts, 2004).

 First, structural conditions lead to disproportionate numbers of Black people being poor—and, more relevantly, most people who live in areas obsessively targeted by law enforcement are poor. This means that when they are arrested, they will have no money for bail, and no money for an attorney. A legal aid attorney (a court appointed attorney) is virtually guaranteed to make a deal with the prosecutor to avoid a trial. Almost no such cases go to trial. There are simply too many of them. Furthermore, the deals are uniformly against the defendant's interests (Alexander, 2012).

Second, during this period, and during later periods of the Black man's processing through the system, including his release, he (and his family, if he has one) will incur an amount of debt that would be trivial to a wealthy White person, but that is often completely debilitating for a poor person. The system literally makes people pay for their own disenfranchisement. Third, the Black man is likely to endure horrors while incarcerated that most of us will only approximate in our worst nightmares. He will have little contact with his family or friends during his incarceration. Unlike white collar (and White) criminal offenders, who routinely cost the taxpayers millions or even billions of dollars, this non-violent drug offender (whose "crime" costs the public nothing) will in all likelihood be sent to a maximum security prison, where he will on a daily basis face the prospect of rape, brutal beatings, or both.

Fourth, when this young (or now old) Black man gets out of prison, he will find that his situation has been engineered in such a way that it is virtually impossible for him to avoid going back to prison (or ending up dead). He will owe money from his prosecution and incarceration.

He will have difficulty finding a place to live, and even more difficulty finding a good job. He will be subject to warrantless surveillance and searches on the part of his probation officer, or indeed any law-enforcement officer who has a spare five minutes. He will not be able to vote. Any contact with criminals—which will likely include a good portion of his network of contacts, since the system is engineered to produce Black criminals and convicts—will land him back in prison. If he wants to earn enough money to eat and sleep indoors, the odds are good that he will end up involved in a life of crime of some sort. And back to prison he will go (Street, 2015). Finally, and fifth, structural conditions virtually assure that the man has no home, and no family, to go home to. It is likely that any property he owned—or that anyone he has spent time with or is related to owned—has been confiscated and now belongs to the government. If he or his family lived in subsidized housing, then he will not be able to return home without subjecting his loved ones and family members to seizure of property, arrest, and so forth. Virtually every possible precaution has been taken to prevent this man from reclaiming his life, his family, or his dignity. The system simply is designed to put him back in prison, or kill him.

Conclusion

It is sometimes remarked, usually in psychiatric circles, that everything is about sex except sex. The point, of course, is that when one gets to the bottom of most apparently sex related problems one finds something that has little or nothing to do with sex, such as insecurity or domination issues. One could with as much justice claim that everything is about race except racism. It is of course true that many people, even today, are racists. However, as maintained earlier in the chapter, racism is more a symptom of a larger problem than the problem itself. It was perhaps inevitable that the elites who founded this country, with its democracy, needed to allow people a role in shaping laws and policy, without affording them too much of a role. If

they had too much of a role, they would realize that most of them are poor, while many others are rich, and act to redress this imbalance. The wealth inequality that has always been a part of the United States' economy has reached historic proportions today. Over half of the country's wealth is controlled by less than 1% of its population. In a democracy, even a nominal one, it takes quite a feat of social control to maintain this sort of imbalance. The founding fathers and all the conservative politicians who have succeeded them, realized that if they could only pit one portion of the country's poor people (poor Whites) against another portion (poor Blacks), then they could avoid the sort of revolt in which the poor masses would demand wealth redistribution. All of the country's many laws and policies against Blacks have been made with this goal in mind, rather than being motivated by racism as such. Slavery allowed the poor White person to feel superior to at least one class of people in America. Jim Crow laws did the same. When social conditions made overt expressions of racism a practical impossibility, another means was necessary to accomplish the same end. The war on crime, followed soon after by the war on drugs, was just the thing. Poor and middle-class Whites, already racist by training or socialization, were encouraged in their discriminatory tendencies by nightly news broadcasts. They feared crime, and the Black man, so they voted to keep the elites who promised to vanquish the threat in power. Blacks were conveniently removed from the voting population through various artifices, most prominently including mass incarceration. Thus, the wealthy elite are kept in power, in large part through the unwitting efforts of those they are exploiting. If it were not so tragic, it would be beautiful.

Race, Mass Incarceration, and Hegemony

Chapter Summary

This chapter discusses relations between race, mass incarceration, and hegemony. It points out that the United States incarcerates vastly more of its population than any remotely comparable country in terms of standard measures such as GDP. While African-Americans make up less than 20% of the United States' population, they account for around 64% of its prison population. All orthodox explanations of this last disparity are racist in nature. The chapter argues that when one searches for a non-racist explanation of the phenomenon, one comes upon something very much like Michelle Alexander's thesis: that today's mass incarceration of African-Americans closely resembles the old Jim Crow laws in the way that it systematically disenfranchises and marginalizes blacks. Using Alexander's work, and that of others, the chapter argues that mass incarceration is merely the latest in a long series of systems put into place by elites in order to maintain the imbalance of wealth and power explicitly and unashamedly sought by the founding fathers of America. The last portion of the chapter responds to a few objections to the scholars I use to validate my arguments. Underlying the argument is the view that racism—and racist outcomes—are primarily tools for maintaining elite power, rather than ends unto themselves. As previously indicated, the United States incarcerates a greater proportion of its population than any other developed country. If we restrict attention, in particular, to so-called OECD nations—nations that belong to the Organization for Economic Cooperation and Development—the US incarceration rate is more than six times the average. With over 700 per 100,000 of its residents behind bars, the US more than doubles the incarceration rates for countries such as Chile, Estonia, Israel, Poland, and Mexico. The US incarceration rate is more than 7 times the rate for Sweden. And it is 15 times the rate for Japan (Hamilton Project, 2014).

Introduction

When we turn to incarceration by race, the picture gets much worse. State prisons in the US lock-up African-Americans at a rate of more than 5 times the rate for whites. In some states the disparity is more than 10 to 1. At the Federal level, more than 6 times as many blacks as whites are incarcerated. To fully appreciate this figure, bear in mind that the population of the United States is less than 20% black. Therefore, while fewer than 1 in 3 residents of the US is black, there are more than 6 times as many blacks as whites in Federal prisons. A recent Bureau of Justice report cites three reasons for these disparities: (i) harsh sentences for drug-related crimes that disproportionately affect African-Americans; (ii) an implicit racial bias among judges; and (iii) structural (largely economic) disadvantages suffered by blacks comparatively (Simon, 2016).

Conventional explanations for these shocking numbers and discrepancies are inevitably racist, and there is a powerful reason for this. We live in a country in which we are indoctrinated, nearly from birth, to believe that if one works hard enough, and for long enough, one will succeed financially and otherwise. What can someone espousing this line of thought say when confronted with the statistics cited above? If the line is correct then it seems to follow that people in America who do not succeed—for example by ending up in state or Federal prisons—simply did not work hard enough, or long enough. Now add the fact that there are more than 6 times as many blacks as whites in prison in the US—more than 6 times as many people not only not succeeding, but allegedly being involved in crimes and convictions which will follow them around for the rest of their lives. While the matter is complex, there is no obvious non-racist explanation for these disparities that accepts the "official line" concerning America, hard work, and boundless opportunity.

This is reason enough—and there is plenty more reason—to reject the official line. Whether one has the opportunity, even the very possibility, of succeeding—in the US as most everywhere in the world—depends not only on hard work and perseverance, but upon utterly random contingencies such as being born a certain color; of parents with a certain income level; in a certain geographical region; and so forth (Hargreaves, 2013).

However, rejecting the official line, in this way or in others, is insufficient in itself to explain the phenomenon of mass black incarceration. This chapter explores a certain way of explaining this phenomenon. The kind of explanation described and defended here is not new; it has had some very strong proponents. One such proponent is Michelle Alexander, in her book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2012). As her title indicates, Alexander argues that the mass incarceration of blacks, and to a lesser extent some other minorities, is another in a long series of measures that wealthy and elite whites have taken to ensure that their privilege is maintained. Previous measures along the same lines have been slavery, the so-called "Redemption" that overthrew Reconstructionist ideals, and Jim Crow laws. Others have made similar arguments, though not all describe mass incarceration as *The New Jim Crow* (Isaac, 2015; Coates, 2015).

Drawing upon the work of Alexander and others, the first part of this chapter argues that mass incarceration is indeed the latest in a long line of measures taken by (mostly white) elites in order to safeguard their own wealth and privilege. The second part of the chapter defends the thesis against objections that have been lodged against it.

Before proceeding, it is important to have in the background an appreciation for the genius of contemporary systems of racial exploitation and disenfranchisement. For example, the genius of mass incarceration, like the brilliance of the declaration of a war on drugs that preceded

and contributed heavily to it, is that it involves an acquiescent form of racism. This virulent strand of racism is particularly dangerous and effective because it does not require, at least on the surface, blatantly racist acts, or even overtly racist language. This feature is indispensable today because it is no longer considered acceptable to say or do explicitly racist things. And it is largely immune to superficial criticism for the same reason. How can America be racist? No one is doing or saying overtly racist things anymore. (This is an exaggeration, of course; but the point is that the system would still function as it does even if there really were no more overt, obviously racist behavior.)

Racism in Early America

It is well to begin, as Alexander does, with a little history. One reason this is important is that it is a fundamental mistake to think that racist institutions such as slavery and mass incarceration are somehow perversions of the ideals of American democracy. Not only have these institutions been part of the United States since it was founded—not to speak of the genocide that permitted that founding—but the very architects of the Constitution sought quite explicitly to preserve their wealth and power at the expense of everyone else—especially but not exclusively African-Americans. James Madison famously wrote, in an official and public document, that America ought to be so constituted as to "protect the minority of the opulent against the majority" (as cited in Alexander, 2012, p. 25). It is also a fact that the Constitution explicitly provided for the legitimacy of slavery. Put simply: the original architects of the United States wanted to found a democracy, but they correctly worried about one thing—if everyone is equal in the envisioned new nation, then those without wealth (which mostly consisted of property in those days) will want to have it; or at the very least, they will want it equitably distributed among all. Most of the large domestic decisions that have been made by elites in the

last 240 years or so have been made precisely to prevent this re-distribution from occurring. This is evidenced in our nation's founding documents such as the Declaration of Independence which states "All men are created equal". This is ironic considering that one of the men who signed the Declaration of Independence, Thomas Jefferson, was a known slave owner. How can a man who believed in the words "All men are created equal" willingly own slaves?

Let us now move briskly through the nation's history of race relations, noting the dominant motives behind each change. It is commonplace in historical treatments of racism that racism comes as an afterthought to exploitation. It is only when someone questions whether a people ought to be treated as they are being treated that racist explanations and apologies are resorted to. Alexander shows how even slavery was not really, or directly, about race. It was about the exploitation of cheap labor, primarily in the South. Around 1675 in the territory that would later be the U.S. there were poor whites and poor blacks working, often side-by-side, in low-paid and brutally demanding and demeaning jobs. The institution of slavery was enacted only because— or at least, largely because—these poor whites and poor blacks began collectively to wonder whether they had to tolerate their treatment and working conditions. Incidents such as Bacon's Rebellion convinced elites that they needed to find a way to drive a wedge between poor whites and poor blacks (Alexander, 2012, p. 24). This is how slavery in 1675 was reified. By demoting blacks to an even lower status than they had previously endured, the poor whites were pacified—at least they were not slaves.

The "Great Emancipator", Abraham Lincoln, did help to put an end to slavery. But this comes with two caveats. First, he admitted that he did not much care one way or another about slavery—he was neither an abolitionist nor a slave owner himself. Second, the Civil War was at least as much about economics as it was about ending slavery. One economist notes that

"Disagreement over trade policy … was at least as important as, and possibly more important than, slavery in bringing about the Civil War" (Chang, 2008, p. 54). This illustrates an important theme that runs through this chapter (as it does, perhaps to a lesser extent, in Alexander's book): racist institutions are more about economics and hegemony than they are about skin color. It is often remarked that conditions for many slaves were worse after the Civil War than they had been before. One point that Alexander makes repeatedly is that with every bit of progress on civil rights there comes a racist backlash. This was certainly true of the Reconstruction period that followed the end of slavery.

The segregationist laws that preceded and incorporated Jim Crow were also largely driven by a desire among elites to pacify poor whites, who were once again wondering why they were poor. Jim Crow laws, and segregation more generally, served to pacify them. Poor whites could at least sit at the front of the bus, frequent any restaurants they chose, and so on. Alexander (2012) notes that there is not an agreed upon date at which Jim Crow laws disappeared and the Civil Rights Movement began (p. 35). But two points in her discussion stand out as particularly salient: first, we might have Jim Crow laws still today were it not for massive grassroots campaigns such as those carried out by the NAACP; and second, the Civil Rights Movement might well have accomplished more than it did were it not for a confounding coincidence (as well as Dr. King's tragic murder). For this movement began to morph into a more general "Poor People's Movement" that truly stood a chance to enact change for blacks and for other disadvantaged groups. The war against crime was begun, and the FBI and other interested parties were able to use what amounted to propaganda to link the rise in crime with those who were fighting for civil rights (Alexander, 2012, p. 41).

Contemporary Racism

The so-called 'war on crime' brings us to our main topic. Scholars have shown that there was no significant correlation between the Civil Rights Movement and the rise in crime. It was essentially an accident of demographics—a large increase in males (black and white) who were of crime-committing age (Issac, 2015). But it was a costly accident. It, together with the elites' ability to connect in the average person's mind blacks with crime, not only ended the Civil Rights Movement, but ushered in the phenomenon of mass incarceration. This was of course exacerbated by the crack epidemic, and the disparity in sentencing between blacks convicted of crack-related offenses and whites convicted of cocaine-related offenses—the so-called 10-1 rule; blacks get on average 10 times as many years as whites for offenses concerning a drug that is essentially the same.

There are three phases in Alexander's argument that mass incarceration is essentially the New Jim Crow. The first has been partially covered already. It is what she calls "the rebirth of caste". Many countries have caste systems (India's is particularly harsh). In such systems, members of different castes—who often, but not always, differ in skin color or shade—are in the literal sense second- or third-class citizens. They have different legal rights, cannot intermarry, and so forth. Slavery was such a system, and Jim Crow was to an extent as well. Additionally, Alexander (2012) argues that the similarities between race relations in the US and caste systems in other countries outweigh the differences, especially now in the age of mass incarceration. The final nail in the coffin of race relations in the US was again partly an accident of history. Democrats, beginning with Bill Clinton, found that they could not win elections without vowing to be at least as 'tough on crime' as Republicans were. Clinton was largely responsible for the horrific "three strikes and you're out" legislation. The law might be fine for violent crimes, but

when it is applied to minor drug offenses it is a scourge on American race relations as well as on petty criminal offenders of all colors. But Clinton did not stop there. He transformed the welfare program into something that is largely useless, and cut funding for affordable, public housing dramatically (Alexander, 2012, pp. 56-57). To his credit, Clinton has admitted that the three-strikes rule was a large mistake (Levitz, 2015).

Once again, it is crucial to notice that the elites were directing the attention of poor and middle-class whites away from real economic and social problems—and at least in the case of poor whites, away from their own economic interests—and toward a largely illusory phenomenon: the black criminal lurking around every corner. Clinton's and other Presidents' gutting of the United States' legal and economic protections for the poor could not have been accomplished without poor whites voting against their own interests. It is the same principle that had been used since before the Civil War—find a way to divide large groups of poor people, or they will get together and start to ask why they are poor in the wealthiest nation the modern world has ever known.

It was mentioned earlier that part of the beauty (to speak accurately but perversely) of the mass incarceration system is that it functions to disenfranchise blacks whether or not any overt racists are involved in the process. In summing up the first part of her argument, Alexander (2012) makes the same point:

> The system functioned relatively automatically, and the prevailing system of racial meanings, identities, and ideologies already seemed natural. Ninety percent of those admitted to prison for drug offenses in many states were black or Latino, yet the mass incarceration of communities of color was explained in race-neutral terms, an adaptation of the needs and demands of the current political climate. The New Jim Crow was born

(p. 58).

The second stage of Alexander's argument, as it is being reconstructed here, is her description of the actual plight of the millions of incarcerated black people, and the effects it has on their families. Central to this discussion are the ways, again largely implicit and automatic, in which the entire criminal justice system—from the first-year beat cop to the Supreme Court justice—works in a comprehensively racist way.

Already mentioned have been the three-strikes laws, but we can add to them the so-called "mandatory minimum" sentences that are used primarily for non-violent offenses. This point should be stressed: neither Alexander nor anyone else making similar arguments thinks that violent offenders—black or white—should not be imprisoned. The problem is with the nonviolent criminal offenses that are disproportionately policed, prosecuted, and sentenced where young black men are at issue. Alexander notes that between 1980 and 2000 the number of people incarcerated in the US rose from about 300,000 to more than 2 million.

It is important to pause over this, and to think. Did crime, or the average person's criminal propensity, increase by a factor of nearly 7 over those two decades? No. In fact, there is substantial evidence that crime was decreasing. Crime had peaked in about 1989, including the rise of violent crime that we noted earlier had the corrosive effect of associating in many people's minds an increase of African-American's rights with more crime. However, it began falling, and falling fast, in the early 1990s. No one could explain why. Every theory was tested: new policing strategies; increased reliance on prison; strong economy; tougher gun laws; and so forth. None of them could be shown to explain the drop in crime, though some certainly helped, such as the improved economy.

It turns out that it was Roe v. Wade (Levitt and Dubner, 2005, pp. 120-5). This epic Supreme Court Case was passed in 1973. Babies born in this year would end up in their prime crime-committing years (roughly 16-26) at just the time when crime began to drop. It meant that tens of thousands of babies, produced by people in dire economic circumstances (many of them African American), did not live to become criminals. Donohue and Levitt (2001) supplement this claim by when they assert that legalized abortion my account for up to 50% of the decrease in crime rates at the time. It sounds harsh, but it makes sense. Children who grow up poor, without one or both biological parents, around drug use and sales, and so forth, are statistically more likely to become criminals. There is also a statistical correlation between abortions sought and obtained on one hand, and socio-economic circumstances, on the other. People do not have abortions for the fun of it. In most, though not all, cases abortions are sought because the parents (or one of them) believe that their child would not have a very good life. In any case, the point of this brief digression was that the rate of incarceration was climbing fast at just the time crime rates were going down. This is a reliable indicator that something had gone seriously wrong.

Several elements contribute to the fact that blacks end up incarcerated, and incarcerated for longer periods, than whites who commit the same sorts of crimes. One is that blacks are less likely, overall, to be able to afford an attorney. Legal aid lawyers are so overloaded, and so poorly compensated, that they pressure most clients to take plea bargains. There is also a kind of cyclic effect; not only in the case of legal aid attorneys, but in the case of judges. Prevailing power structures see to it that more black defendants are presented before judges and legal aid attorneys than white defendants. If this goes on for long enough, and with enough disparity, it is inevitable that they are going to begin to assume that their clients are guilty, or at least more

likely to be guilty than white people, whom they see much less of. This leads to more plea

bargains, which leads to jail or prison time, which leads to more crime upon release, and so forth.

It is not only a system that functions largely automatically—it is also self-perpetuating.

Another element is relaxations in certain laws, such as those that govern the police's right

to search or detain people behaving "suspiciously". An example is the stop-and-frisk rule

established by Terry v. Ohio (Alexander, 2012, p. 63). Officers are empowered to effect such

measures so long as they feel that they are potentially in danger. Obviously this leaves a lot of

room for maneuvering, and of course police are more likely to suspect and to claim to fear their

safety where black people are concerned. This is a momentous matter. Studies have shown that

drug use—and therefore the transportation of drugs—is not significantly higher for blacks than

for whites (Wolfers, Leonhardt and Quealy, 2015). Yet given the choice between stopping-

andfrisking a black person, and a clearly affluent young white man or woman, the choice for the

police will be clear. Additional factors mentioned by Alexander are the enormous amount of

money now available for police, DEA, and others; and the incentivization that went with such

largesse (Alexander, 2012, p. 78.).

The final element in the argument concerns what happens for those blacks who manage to

live through prison, through violence at the hands of other inmates and prison guards. It is

enormously more difficult to get a job with a felony conviction. Even those who have spent

decades in prison can leave without any meaningful amount of money or other resources to aid

them in their reintegration into society. Then there is the issue of recidivism. Alexander (2012)

points out that in 1980, before the war on drugs really got going, only 1 percent of those admitted

to prisons were parole violators. By 2000 more than a third of those admitted are there because of alleged parole violations and nearly all of these cases involve more minor drug charges (Alexander, 2012, p. 95).

African-Americans lack access, to a large extent, to higher education and good jobs. They are often forced, through White flight together with municipal indifference, to predominantly black neighborhoods, to live in what some would describe as slums. Some are forced to sell drugs to make money; or to use drugs in order to escape, if only briefly, from the nearly unbearable reality the elites have constructed for them. While they do not use or sell drugs more often, on average, than whites, they are relentlessly targeted by police and Federal agencies (Simon, 2016). They are poorly represented legally, nearly always forced or pressured to take plea bargains, and end up serving much more time than do whites convicted of equivalent offenses. If they manage to make it out of prison, their prospects are grim. They will never be allowed to vote, in most cases (it should be pointed out that ways are found to keep even those many blacks who have not been convicted of felonies from voting), they will be denied most jobs, and they will be monitored and returned to jail or prison for the slightest infraction. They are forever marked as felons, and effectively belong to a lower caste.

Despite the strong argumentation and compelling evidence by Alexander and others like her who have written on the matter, it is inevitable that their conclusions will be rejected. For the alternative is to acknowledge that relatively little progress has been made in civil rights since the end of the Civil War—something most people would find preposterous. While many scholars report on the phenomenon of mass incarceration, it is difficult to find academic criticisms concerning mass incarceration discussed here, for the simple reason that most academics agree with the view. I personally agree with Alexander; however, opponents of this view are

conservative bloggers, and elite members of politics or the private sector. This chapter next discusses the strongest counterarguments to Alexander and others like her that could be found.

A number of writers argue that it is a myth that the majority of prisoners in US correctional facilities are there because of non-violent crimes as opposed to violent crimes (MacDonald, 2015; Latzer, 2016; Edelman, 2015; Hager and Keller, 2017). The racial component of this argument is that Blacks commit violent crimes whereas Whites commit nonviolent crimes. Obviously there is room to argue about what constitutes a violent crime.
However, even if we were to concede this, nearly all of Alexander's cases would stand. We would still have racial profiling, harsher sentences for blacks, poor legal representation, stigma for life, and the many other problems that indicate that mass incarceration is the New Jim Crow.

One author claims that "the reason there are more blacks and Latinos in state and federal prisons is because they commit more crimes than other races" (Rushford, 2015). Let us suppose for a moment that Rushford is correct. Would that show that mass incarceration is not a serious problem, that it is, as he says, a myth? The challenge for claims like this is that they face a dilemma. Either they offer racist explanations for why most (or more) crime is committed by minorities, or they have to admit what is obvious to everyone else—that people who are in unfortunate socio-economic circumstances, whatever their race, are far more likely to commit crimes that people who are not. Then the argument proceeds a step further. Why are minorities more likely to be in unfortunate socio-economic circumstances than whites? Again the dilemma arises. One can either give a racist explanation for this, or admit that in many cases they are in these circumstances through no fault of their own. At some point however, everyone is at fault for this problem and no one is truly innocent. The bottom line is that one can either offer racist explanations, or realize that minorities committing crimes more often than whites—and

remember, this is only being allowed for the sake of argument—is a symptom of the problem, not the problem itself. One can either offer racist explanations, or admit that we face a crisis of civil rights in this country. Whether mass incarceration is the most pressing issue in this crisis or not, claiming that non-whites commit more crime does not advance the issue.

Other arguments are economic in nature. The line is something like this: we know that the free-market rewards hard work, and that anyone who works hard will succeed. So any challenge to the racist view that blacks (for example) are to blame for being poor is automatically interpreted as an anti-capitalist view, and therefore branded socialist or (even worse) communist. This raises large issues that cannot be adequately treated here. But it is certainly not anticapitalist to suggest that free markets need to be tempered by regulations that protect against monopolies and other abuses of power. For one thing, the free-market is very often checked, where elite interests are concerned. Furthermore, the United States has virtually forced many developing nations to adopt free trade policies that end up devastating their economies, but make elite Americans and others quite rich. So if the challenge is that one cannot defend civil rights without also taking on free-market capitalism, one should respond "Indubitably".

Finally, sometimes the very phrase "mass incarceration" is misunderstood. Colorado district attorney George Brauchler said the following: "'mass incarceration' is a myth. Individuals with their own attorneys were convicted and sentenced individually" (as cited in Hutchins, 2016). This comment does not even rise to the level of being racist. It is simply an equivocation on the term mass incarceration. The thought behind the phrase is not that people are tried, convicted, and sentenced in one great mass. It is rather that blacks and other minorities are being (yes, individually) convicted and sentenced at a much higher rate than are whites. This chapter has set out some of the central arguments in the case for the conclusion that mass

incarceration is a deadly serious civil rights issue, and that it is little different, at its core, from other large-scale attempts to disenfranchise African-Americans, such as slavery and Jim Crow laws. Alexander may have made the notion famous, and her book is particularly well argued, but there are many other people (some cited above) who hold roughly the same view, whether or not they use the term "Jim Crow". A few objections were briefly examined. I want to end by emphasizing a point made several times already. It is important enough to reiterate yet again. Racism is a crucially important topic. But it too is merely a symptom of a larger problem. The problem is that since the very founding of the United States elites have constantly sought and found ways to protect, in James Madison's memorable phrase, the interests of the "minority of the opulent against the majority". At the end of the day, the elite minority does not really care about race, any more than Abraham Lincoln did. They use the racism of the white majority as a tool to ensure that the majority of all people of color remain poor.

Bias Against African Americans

Chapter Summary

There are numerous ways in which society is biased against African Americans. These biases can come from individuals, or they can come from societal institutions as a whole. There is evidence that shows the existence of bias against African Americans in many different aspects of society. Society has shown itself to be biased towards Blacks in areas of education, housing, law enforcement, and in many other areas. The goal of this chapter, is to focus more on the ways in which society is biased in this regard, and not necessarily on the causes for these occurrences. For the purposes of providing a background on the African American experience in the United States, a history of important events is presented chronologically. Following this, instances of bias against African Americans are discussed. These biases are presented by different categories. The main goal of this chapter is to show that institutions within the United States are biased against African Americans, and to provide specific examples of how these biases occur.

Introduction

Overall, race relations in the United States have been marked by many relative improvements over time. This is not to say, however, that there are not many areas which have not improved, and also many areas that have become much worse. The rapper Mos Def, in his lyrics from the song *Fear Not of Man* released just before the new millennium, reminds us, "A lot of things have changed, a lot of things have not." Here, the lyricist is remarking on human relationships, and social interactions. We see here that while there have been many general improvements in social rights since the days of slavery, there are still many instances where the unfair treatment of African Americans occur. These types of racial bias are not always explicit, and they are also not always quantifiable. In addition, they are not always provable. Often, claims of bias against Blacks will be denied or minimized by whites and other non-Blacks. Many times, discriminatory behaviors are hidden behind racist beliefs, or by unfair practices that are carried out by many of society's institutions. Various forms of bias can range in intensity, and can be associated with a multitude of different outcomes. For example, there is a big difference between a police bias which contributes to the loss of life, and a bias which stems from the beliefs formulated by an individual. While there is some correlation between police and individual bias, police bias focuses on bias that stems from the institution of law enforcement as a whole; on the other hand, individual bias focuses on bias that directly comes from and is perpetuated by the individual.

Police

There have been a number of occurrences involving allegations of unfair treatment of African Americans by the police. The topic of police bias against African Americans is a good starting point, as it has received considerable attention in the media as of late. For example Floyd v. City of New York is a 2013 case in which millions of minorities, especially Blacks, were stopped and

frisked by the police because of racial bias. The existence of this type of bias seems to suggest

the extreme extent, and seriousness of, bias against African Americans as a whole. If the police

are biased towards this group, this shows how prevalent this type of discrimination might be. The

general populous relies on the police to enforce laws, to protect, and to establish a general sense

of right and wrong. With the existence of bias against African Americans by the police, a group

that is supposed to uphold justice and create a sense of safety, a dangerous precedent is set. In

media, many people have seen claims of police mistreatment by African Americans (Dixon &

Lindz, 2000). This has the potential to set a bad example, and could influence the treatment of

African Americans in other social contexts.

The Rodney King beating, and subsequent L.A. riots of 1992 were the beginning of a

string of situations which brought forth many strong claims as to the mistreatment of African

Americans by the police. The Ferguson riots of 2014 showed that even so many years after civil

rights victories and the abolition of slavery, there are many instances and accusations of unfair

treatment and bias against African Americans. According to Markman (2015), "There are myriad

reasons why African-American criminal suspects, most of whom are male, are killed by police.

Some of these reasons have roots in the revolutionary changes of the 1960s and the push to grant

equal civil rights to people of color" (p. 1). Markman (2015) goes on to explain that many

injustices involving African Americans and their interactions with police come from personal

bias and a lingering resentment on the parts of white officers regarding achievements of the civil

rights movement. Markman (2015) provides several reasons as to why this bias exists. . Although

it can often start with the biases of an individual, there are also many other reasons for this type

of discrimination. Coverups by fellow officers, and the inability of commanding officers to

discipline those who have shown racial bias, are products of a reluctance in police culture to confront racism and so perpetuates it.

Just how are the police biased against African Americans? Quite simply, Blacks are disproportionately targeted by policing strategies such as Terry Stops. Terry Stops are when a police officer stops a suspicious individual and searches them for contraband or illegal substances. Linderman and Tucker (2016) describe an investigation which lasted around one year and found overwhelming instances of police bias toward African Americans. They point out that "officers make a large number of stops — mostly in poor, Black neighborhoods — with dubious justification and unlawfully arrest citizens" (p. 1). According to Makarechi (2016):

A study by a University of California, Davis professor found "evidence of a significant bias in the killing of unarmed Black Americans relative to unarmed White Americans, in that the probability of being Black, unarmed, and shot by police is about 3.49 times the probability of being White, unarmed, and shot by police on average (para. 3). This shows that police can be biased against African Americans. One consequence of this is mistrust of police by Blacks. This mistrust, which manifests itself in a higher occurrence of unarmed shootings of African Americans, is a sobering example of how police forces can be biased towards Blacks. Similarly, a study by the Washington Post found that, compared to Whites, Blacks were less likely to be posing a threat to the police at the time when they were fatally shot (Makarechi, 2016, para. 4). Makarechi (2016) goes on to state that, "fewer than one in three Black people killed by police in 2016 were [sic] suspected of a violent crime or armed" (para. 5). Finally, according to Makarechi (2016):

In San Francisco, although Black people accounted for less than 15 percent of all stops in 2015, they accounted for over 42 percent of all non-consent searches following stops.

This proved unwarranted: Of all people searched without consent, Black and Hispanic

people had the lowest 'hit rates' (i.e., the lowest rate of contraband recovered). In 2015,

Whites searched without consent were found to be carrying contraband at nearly two

times the rate as Blacks who were searched without consent (para. 7).

This type of data, coupled with news reports of police interactions with African Americans,

suggests the existence of police bias towards this group, and also shows the ways in which this

discrimination manifests itself (Dixon & Lindz, 2000). Unfair profiling is a main way in which

police are biased towards Blacks. In addition to this, the data seems to suggest that police show

bias against Blacks in how they evaluate their threat level. Data that point to African Americans

as being unfairly targeted, and as being the consistent victims of unwarranted fatal shootings,

show that mistrust is one way in which police are biased towards Blacks (Makarechi, 2016). This

is a very serious reality, as the loss of life is always of great concern. These types of situations

also demonstrate the powerful consequences that can be attributed to bias.

Employment

There are many ways in which employers are biased against African Americans. This is a

particularly important area, because a career provides the financial means for an individual or

family to care for themselves. Also, a career is very important for a person's identity. Often, it is

the way that people define themselves, create a notion of self-worth, and can be a lens through

which they view the rest of the world. Employment discrimination can have devastating effects.

In addition to emotional damage, it can prevent a person from attaining financial stability. This,

in turn, can have an impact on the education that can be provided to one's children, the

neighborhood where someone can afford to live, and the availability of various other

opportunities. According to Ford et al. (2004), in the years since civil rights legislation, there has been a push for companies to increase their workplace diversity by hiring minorities, yet "African Americans and other minorities still remain underrepresented" (p. 113). Often this is because they do not receive an opportunity to even interview due simply to their names, which are often perceived as "ethnic" (Ford et al., 2004). Bertrand and Mullainathan (as cited in Ford et al., 2004), devised an experiment where they manipulated applicant resumes to have either distinctly White sounding names or names commonly associated with African Americans. The study found that the White names received 50% more invitations for interviews than did the African American names, even when they had identical resumes. (Ford et al., 2004, p. 113). This is a direct example of employer bias against African Americans.

By limiting their options even before the interview process, African Americans can be at a huge disadvantage in terms of job prospects. When searching for employment, bias of this type is a huge disadvantage. According to Coleman (2003), African American males and females experience workplace discrimination involving issues such as wage raises and promotions in higher numbers than Whites (p. 894). Coleman (2003) goes on to state, that "Blacks earn less than Whites when working in the same industries" (p. 894). According to Mason (as cited in Coleman, 2003), "given the same socioeconomic background factors, Blacks complete more years of schooling than Whites and have a higher probability of graduating from high school, implying more skill, not less; nevertheless, they still earn lower wages" (p. 894). Here, we can see that African Americans face discrimination from employer bias, which is evident in hiring practices, and also evident in statistics involving the achievements of different races in relation to their qualifications. According to Elmer (2010), the *Equal Employment Opportunity Commission*

(EEOC) had 33,579 claims of "racial discrimination and harassment," in 2009, and these claims were "overwhelmingly filed by African-Americans" (p. 1). Elmer (2010) describes some of the claims of discrimination that were made, which include instances of racist name calling, and situations where Black workers were fired for certain reasons, while Whites, for the same reasons, were not fired. As should now be evident, employers can be biased against Blacks in a variety of ways. These different types of discrimination are evidence of racism through racial bias.

These types of discrimination can also be an outcome of various institutional failings, which allow for biases against Blacks. According to Elmer (2010), racial discrimination was the reason for 70% of employment related class-actions lawsuits, many involving settlements of more than $5 million dollars (p. 2). Here, we see that the accounts of individual African Americans, show that institutionalized employment practices are often biased towards Black workers.

According to Pager and Shepherd (2008), "wages of both Blacks and Hispanics continue to lag well behind those of Whites" (para. 18). Bendick et al. (as cited in Pager & Shepherd, 2008), found that in one test "Whites were offered wages that were on average 15 cents/hour higher than their equally qualified Black test partners" (para. 18). Similarly, Cancio et al. (as cited in Pager & Shepherd, 2008) found that "controlling for parental background, education, work experience, tenure, and training, White men earn roughly 15% more than comparable Blacks (White women earned 6% more than comparable Black women)" (para. 20). Here we can see solid examples of the effects that institutional bias against African Americans can create.

Education

There are various instances of bias against African Americans that are evident in areas of education. Discrimination in education can greatly limit the opportunities that are available to an individual, which then greatly limits the chances for upward mobility. The notion of bettering oneself, and the ability to improve one's situation through hard work, are the basis for much of what is considered *The American Dream.* Biases in education can greatly limit the ability of African Americans to better themselves, and create a situation where upward mobility is much more difficult. In the many years since the Brown V. Board of Education decision, there have been many additional types and many additional occurrences of discrimination within the educational system. Aloud and Alsulayyim (2016) list low levels of enrollment among Black students, and various instances of colleges neglecting Black students, as some of the outcomes of bias against African Americans in education. Aloud and Alsulayyim (2016) point to the court case *Milliken V. Bradley,* which showed that schools in Detroit were "racially imbalanced" by design (p. 6). In many cities throughout the United States, there are instances of this type of intentional segregation, whereby district lines are drawn in a manner which creates segregation in public school. Consequences of this segregation include: poorer tax bases in Black School Districts, less resources from states, and reduced educational outcomes.

There are a number of biases which are present in the day-to-day activities of schools as well. Rudd (2015) states that African American students receive more disciplinary consequences and suspensions than White students (para. 1). Rudd (2015) goes on to provide a variety of data on imbalanced disciplinary treatment for African Americans, showing that throughout various cities in the United States, they are far more likely to be suspended, expelled, or receive some form of disciplinary action. According to Rudd (2015):

Racialized disproportionality in the administration of school discipline is now a national

crisis. In January of 2014, The U.S. Department of Justice, Civil Rights Division and the

U.S. Department of Education, Office of Civil Rights, issued a national "guidance" to

assist public elementary and secondary schools in meeting their obligations under Federal law to

administer student discipline without discriminating on the basis of race (para. 19). We can see

here that Blacks are discriminated against in education. Teachers treat Blacks differently than

they do Whites, and classrooms are structured differently according to their racial compositions.

In every aspect, the way that some teachers see Black or minority students is radically different

than how they see White students.

Housing

There are a number of biases against African Americans in the area of housing. Housing

discrimination can greatly restrict the choices that an individual has regarding where they live.

This impacts the school their children will likely attend, the level of crime in their neighborhood,

and many other circumstances. For example, Heltzel (2016) reports that a bank unfairly

discriminated against several African Americans who were attempting to obtain home mortgages

(p. 1). A group called *The Fair Housing Justice Center* carried out an investigation which lasted

two years, and found that Black applicants were unfairly discriminated against (Heltzel, 2016, p.

1). Heltzel (2016), goes on to explain that Black applicants were given smaller loans than Whites

(even when they had much better credit), were subject to higher fees than Whites, and were also

advised against moving to White neighborhoods. According to Heltzel (2016), the lawsuit stated

that "determining an African-American customer's buying power has more to do with the color

of her skin than objective financial indicators," and that the company in 2015 "made 1,599 loans

for principal home purchases but only 40, or 2.5 percent, went to Blacks" (p. 6). According to the

Fair Housing Justice Center, many times African Americans are faced with these types of

discrimination. This creates a situation where they are unfairly treated, obtain less equity and less

wealth, and are encouraged to purchase homes in less desirable towns and neighborhoods

(Heltzel, 2016, p. 6). This encouragement to locate to certain neighborhoods can negatively

impact and narrow school choices and access to high-paying jobs, furthering the negative effects

of this type of discrimination (Heltzel, 2016, p. 6). Interestingly, the report found that many of

the biases against African Americans come from policies that were put into place by the lender,

and not always from individual racial biases; i.e. structural bias in the system or structural

racism.

This existence of this type of discrimination is not limited to one place, or to one

example, either. Crowell (2010), describes various cases involving the *U.S. Department of*

Housing and Urban Development, the *Consumer Financial Protection Bureau,* and the

Department of Justice, which involve housing discrimination against minorities. Each of these

cases were "based on the Equal Credit Opportunity Act that bans creditors from discriminating

against applicants in credit transactions on the basis of characteristics such as race and national

origin" (Crowell, 2010, p. 46).

From all of the previously mentioned cases, we can see that there are numerous ways that

institutions are biased against African Americans. Heltzel (2016) points to unfair policies and

practices, improper employee training, and ignorance of fair housing and lending laws as

contributing to discrimination against Blacks by lenders. This type of situation is likely evident

in many other businesses in the housing industry (e.g., insurance and title companies), and

indeed across a wide variety of industries (as other parts of this chapter show). According to

Pager and Shepherd (2008), the Department of Housing and Urban Development examined

housing discrimination from 2000-2002 and found numerous instances of bias against Blacks

(para. 26). According to the study, those that were discriminated against received far less

information, were provided fewer opportunities for viewing homes, less financial help, and were

discouraged from living in wealthy neighborhoods and encouraged instead to choose

neighborhoods with more minorities (Pager & Shepherd, 2008, para. 26). Pager and Shepherd

(2008) also point out that there are many biases in the area of housing which come after a

dwelling is obtained. These often involve landlords who refuse maintenance for African

Americans, or "unequal enforcement of a residential association's rules" (para. 29).

Consumer Transactions

There is a great deal of evidence that many consumer transactions can be biased against

African Americans. In fact, Ridley-Thomas (2016) states that, "According to a 2015 Gallup poll,

more African American adults feel discriminated against while shopping than doing anything"

(para. 2). Ridley-Thomas (2016) goes onto state that the *Center for Popular Democracy* showed
that Blacks were profiled as possible shoplifters seven times more often than Whites (para.

3). Similarly, according to Pager and Shepherd (2008), a study showed that from 1993 to 2000,

Blacks were victims of overpricing at car dealerships, paying an average of $339 more than the

average White customer paid, even when they had similar credit. Harris (as cited in Shepherd &

Pager, 2008) found that in federal cases for consumer discrimination, there were many instances

of longer waiting periods, and higher prepayments required, for African Americans.

Other

There are a variety of ways that individuals and institutions can be biased against African Americans, with this bias occurring across many different settings. These biases present themselves in a variety of ways, and are manifestations of several different biased thought processes as well as structural biases. Sue et al. (2008), in a study focused on the reasons for, and underpinnings of, racist thought, provide many different examples of bias against African Americans. They begin with a discussion of what they refer to as the "assumption of intellectual inferiority" (p. 333). This refers to the belief that Blacks are "intellectually inferior, inarticulate, or lacking common sense" (Sue et al., 2008, p. 333). The authors further state that often times feelings like this can be present in academic or employment settings (p. 333). They identify attitudes of second-class citizenship, assumptions of criminality, assumption of inferior status, assumed universality of the Black American experience, assumed superiority of White cultural values/communication styles, and underdeveloped incidents/responses as reasons behind the bias against African Americans. These can be considered reasons for biases, but at the same time, can also be ways in which biases present themselves.

The notion of second-class citizenship is described by Sue et al. (2008) as being the overall feeling that African Americans do not deserve equal treatment. This can present itself in simple situations, such as a grocery clerk overlooking a Black male, or a cashier not wanting to take money from the hand of a Black female, both situations described by real people in the study by Sue et al. (2008). Assumption of criminality describes the notion that people may be unfairly suspicious or afraid of Blacks. Situations where seeing a Black person in a hoodie, or a store clerk being afraid of being robbed when a Black male comes in late at night, are both ways

that individuals can be biased against Blacks. This type of thinking is often used as a reason for the existence of unwarranted police violence towards Blacks. By assuming that an African American is likely to be up to no good, a police officer may be unfairly profiling an individual. This could cause them to be more apt to use force, or to be on edge. Either way, these types of assumptions can create a situation where the use of violence, or an overall escalation, can be more likely. Assumption of inferior status is the general belief that Blacks are most likely lower income, prone to violence, or more likely to possess a variety of other undesirable qualities. Assumed universality of the Black American experience, is the idea that Blacks are all similar, or that most Black people know each other.

Here, Sue et al. (2008) describes these types of experiences: "Many participants endorsed the feeling that in work and school settings, they were often looked to as the 'Black representative' who could 'speak for all Black people' (p. 334). For the topic of assumed superiority of White cultural values/communication styles, we are reminded of situations where the communication styles used by African Americans are considered to be of lesser value (e.g. Ebonics). Each of these examples shows how individuals and processes can be biased against African Americans. Often times, people may exhibit these types of biased behaviors without being aware that they are doing so.

Conclusions and Significance

The history of African Americans in the United States is full of many civil rights advances. From slavery to the eventual guarantee of equal rights, there have been many successes which mark the history of African Americans. These were accomplished through war, through the efforts of many different individuals, through people standing up against hegemony

and dominant structures of modern life and through a gradual change in the overall attitude surrounding the rights of African Americans.

However, at the same time, racial biases and discrimination toward this group are still very much present. Many argue that these injustices, while still very much alive, are now simply more hidden. While civil rights for Blacks are guaranteed on *paper*, there may be an entirely different reality in *practice*. While African Americans are guaranteed equal rights under the law, there are various interactions involving both individuals and organizations which are biased against African Americans. These types of bias are identified in a range of social situations. The police, educational institutions, financial institutions, and consumer interactions, are all settings where bias against African Americans has been documented. These types of bias can come from personal beliefs, institutional shortcomings, or a combination of the two. If we are to overcome these types of injustices, we must be aware of their existence, and also be aware of their causes. As stated previously, those who perpetuate and carry out biased acts may not always be completely aware of what they are doing. Many times, individuals carry out discriminatory actions that are encouraged by the institutions they are a part of, as was the case in the many examples of unfair treatment by mortgage companies. Whatever the reason for these biases, it is important that we are aware of them, and that attention is given to these areas of concern. In the search to be a fair and just people, we must constantly take a look at how we treat all members of society. Ultimately, most would agree that it is important to provide fair treatment and equal opportunity to all citizens. Most importantly, this fair and equal status should never vary from person to person, and should always be guaranteed - regardless of race.

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