

# **Perspectives on Social Inequality, Criminal Justice, and Race in the United States: A Critical Analysis**

by

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## **Abstract**

This article critically examines competing perspectives on national and state criminal justice systems' policies in terms of how they influence citizens' need for prisons with the private sector's desire for profits and their effects on the incarceration rate of African American males. The essay therefore highlights how race, mass incarceration and felony disenfranchisement are employed to influence election outcomes. In addition, it shows how the profit-seeking motive or other forms of economic incentives contribute to racist policy in the criminal justice system. The essay also points out ethically questionable public-private business relationships and other arrangements that contribute to socially-constructed economic policy instruments used to fulfill conservatives and Whites supremacists' objectives for continual white domination. This essay promotes more future research and analysis on how the criminal justice system impacts political, economic and social inequality in the African American community. Due to their considerably diminished capabilities to achieve political and economic equality, one of the recommendations of the study was that streamlining of the voting restoration process is necessary for felony disenfranchised, returning citizens and those others who have lost their voting rights.

## **Introduction**

This critical analysis is thematic in nature. Taking into consideration the extensive amount of research that has already been done on the effects the criminal justice system has on Black inequality, the thematic approach provides a more efficient method of critical analysis. The themes covered by the analysis are the following: (a) the criminal justice system's contribution to Black inequality; (b) contending views on the criminal justice system (prison industrial complex); (c) criminal justice system's perpetuation of the prison industrial complex; (d) conservatives and White supremacy resurgence produced prison industrial complex and Black social inequality; and (e) African Americans' responses to the prison industrial complex. In the conclusion, the general strengths and limitations of the perspectives reviewed and new potential contributions to them are delineated. This essay is therefore important because it will integrate, synthesize, and make sense of the competing perspectives on the topic.

Before proceeding with the analysis, it makes sense to first say something about the critical analytical approach employed to undergird the discussion, albeit briefly. Critical analysis involves developing a solid understanding of existing works on a topic. This is done by (a) identifying and explaining the positions of the authors and (b) providing an argument about the authors' arguments. To do so, the analyst must evaluate the theoretical, definitional, evidential and implicational/policy relevance questions in the works.

## **The Criminal Justice System's Contribution to Black Inequality**

This section discusses the perspectives on the relationship between criminal justice system policy and legislation and socially engineered Black inequality outcomes. Research on whether or not the criminal justice system contributes to Black inequality provides opportunities for African Americans to engage in collective action are also highlighted. In addition, examining both sides of the criminal justice system contributes to Black inequality debate that persists within academia and the arguments utilized are also discussed.

Jeff Manza and Christopher Uggen (2008) explain that "civil death" (Latin: *civilliter mortuus*) and contemporary modern day variants of disenfranchisement laws are rooted in medieval Europe, evolving from ancient Greece's *atimia* and ancient Rome's *infamia* (Stanley & Weaver, 2014; Levine, 2009). These were a series of punishments and penalties imposed upon convicted criminals that entailed losing the right to participate in politics, as well as losing many other rights associated with full citizenship and engagement in the polity. This is significant when considering that Manza and Uggen's (2008:140) survey findings show that contrary to popular belief, convicted felons and other returning citizens are oftentimes politically informed and engaged (Manza & Uggen, 2008:165).

Historically, topics and questions involving the criminal justice system and its impact on undesirable political and economic outcomes in African American communities were discussed by social science theorists in the fields of American Government and Political Behavior. The use of the criminal justice system and inequality has been examined in related research. Thus critiquing of the manner in which African Americans with a felony conviction engage and negotiate their inferior status in matters that relate to their ability to participate in their own self-determined interests needs to be addressed by further investigation (Alexander, 2010).

Jason Stanley and Vesla Weaver (2014) differentiate democratic political ideals from a state that is a 'racial democracy' as compared to a model democratic state free of racially imposed institutionalized norms. They suggest that the United States' criminal justice system intentionally administers law, order, and justice in a racially-biased and unbalanced manner, while assumingly operating under false guises of democratic political ideals and principles (Stanley & Weaver, 2014). The marginalization of one race by the unfair application of laws governing the access (and denial thereof) of democratic freedoms and notions of liberty to African American citizens to the benefit Whites and other races characterizes the United States as a 'racial democracy' (Stanley & Weaver, 2014). This parallels the principles found in the Racial Contract's *Herrenvolk*, democracy, which is defined by the 2011 Fifth Edition of the *American Heritage Dictionary of the English Language* "as a governmental system in which the majority ethnic group has a say in the government, and has the right to partake in voting, while the minority races are disenfranchised."

The connections among criminal justice system policy, mass incarceration and the privatization of prison services serve as one of the primary contributing factors for social inequality because full-citizenship rights, political and economic engagements are curtailed as a result of felon disenfranchisement acting as a barrier to access the following: employment, income, housing, education, social programs and other opportunities (Alexander, 2010; Manza & Uggen, 2008). For numerous ethical reasons, some public services should be administered solely through the public sector (Moyers et al., 2012). Violation of low-level drug offenses has been an underlining cause of the phenomenal increase in prison population around the nation (Boyd, 2001). Generations of Black men have been lost to the criminal justice system and are continuing to be exploited by the larger prison industrial complex (Muwakkil, 2005; Lotke & Wagner, 2004). According to Graham Boyd (2001), the drug war has been a deliberate and disguised war on the Black community and to a lesser extent other communities of color.

In efforts to marginalize a subordinate group and continue the established social structure, the preponderance of evidence shows that the dominant group using its influence to shrink the potential size of the minority's electorate, thereby undermining the political power of subordinate groups (Alexander, 2010; Manza & Uggen, 2008). Legal barriers are enacted upon the subordinate group, such as Jim Crow laws, and other types of racially discriminatory policies, statues, and practices. Whites, for instance, implement political restrictions if they perceive that minority groups can organize and increase their political power (Manza & Uggen, 2008).

Consistent with this literature, it is argued that geography and racial demographics, dominant group's size relative to the size of the subordinate group, civic participation, cultural norms, and public attitudes are important indicators determining the dominant group's perceived threats from, and its response to, subordinate groups' ability(s) to participate in the electorate and economy (Manza & Uggen, 2008). Thus, there is a need for a study that utilizes the Racial Contract Theory and Racial Group Threat Theory (Racial Threat Theory or Group Threat Theory) to investigate the issue. This is because the Racial Contract Theory suggests that racism itself is an intentionally devised institutionalized political arrangement, of official and unofficial rule, of official and unofficial policy, socioeconomic benefit, and norms for the preferential distribution of material wealth and opportunities. The Racial Group Threat Theory suggests that growth in the comparative size of a subordinate group increases that group's capacity to use democratic political and economic institutions for its benefit at the expense of the dominant group- (if we use Racial Contract Theory and Racial Group Threat Theory (Racial Threat Theory or Group Threat Theory)). The racial demographics of a state's prisons could possibly expose a direct relationship to voting restrictions when analyzing the comparative size of the non-White population and the subordinate group's potential to alter the quo (Manza & Uggen, 2008; Stanley & Weaver, 2014).

Research is growing regarding the criminal justice system (prison industrial complex) and mass incarceration's roles in the exploitive transferring and extrapolation of wealth out of African American and urban communities and into mostly rural poor white communities; and the significant negative outcomes felony convictions and prison histories have on future wages, earnings and employment opportunities for African Americans pipelined into prison towns for purposes that largely serve political gerrymandering, special interests groups and economic interests (Street, 2005; Lotke & Wagner, 2004; Boyd, 2001).

### **Contending Views on the Prison Industrial Complex**

A significant debate raises the question about whether the criminal justice system and related ex-felon disenfranchisement facilitates and contributes to African American social inequality. In their book, *Locked Out* (2008), Jeff Manza and Christopher Uggen affirm that the analysis and interpretation of disenfranchisement laws in the United States are shaped by the examination of democracy, race, and citizenship. Manza and Uggen classify the stance of each position of the debate over the substance and purpose of political, economic, and social participation based upon the three racial threat theories utilized: (1) group threat, (2) political threat, and (3) and economic threat (Manza & Uggen, 2008).

The right to exercise the franchise is essential to the engagement of active citizenship as an original component of the basis for democratic principles (Levine, 2009; Manza & Uggen, 2008). The center of the contemporary disenfranchisement debate primarily focuses on whether or not convicted criminals and returning citizens should possess legal rights that other American citizens take for granted (Manza & Uggen, 2008).

According to Jeffrey Reiman's article, "Liberal and Republican Arguments Against the Disenfranchisement of Felons" (2005), those arguing more from the sociological perspective of disenfranchisement assert that the Social Contract Theory implies that it is principally unethical and immoral to deny the franchise to felons who have completed their punitive obligations to society (Reiman, 2005; Manza & Uggen, 2002). Proponents for the extermination of felon disenfranchisement argue that disenfranchisement undermines support for the criminal justice system (Manza & Uggen, 2008).

Justification arguments of felon disenfranchisement laws based on states' rights are typically the most utilized defense of felon disenfranchisement supporters (Manza & Uggen, 2008; Alexander, 2010). A foundational argument made by supporters for felon disenfranchisement is that law violators cannot and should not be allowed to participate in making law for those who adhere to the rule of law (Reiman, 2005:12). Those arguing from this viewpoint oftentimes point to the fact that children, the mentally challenged, and noncitizens are also excluded from voting (Reiman, 2005).

Racist criminal justice system policies and legislation are incongruent to sustaining a more perfect democratic process (Rottinghaus, Manatt & Manatt, 2003). In her article, "White Man's Justice, Black Man's Grief: Voting Disenfranchisement and the Failure of the Social Contract" (2008), Geneva Brown express the notion that the trouble with felon disenfranchisement laws is that such laws have played a role in the nation's racially polarized history and in recent election outcomes. Disenfranchising criminal offenders is also linked to mass incarceration, and the practice represents a larger set of collateral penalties that follow a felony conviction (Lotke & Wagner, 2004). However, it is quite complicated to get to the source of this dilemma. The conservative estimate of 700,000 to 1,000,000 prison industrial complex personnel consisting of police officers, judges, district attorney prosecutors, courts, juries, penal administrators, legislators, service contract providers, members of the executive branches of both federal and state governments, etc. are all interconnected and involved in the criminal justice system and each plays an essential and self-perpetuating role in the existence and growth of the prison industrial complex (Alexander, 2010).

Supporters of prison privatization billed it as a way to ease overcrowding and lower costs to taxpayers (Joel, 1988). In her article, "Demystifying Community Corrections: Educating the Public" (2000), Margot C. Lindsay express the view that most often, community correctional approaches such as intergovernmental collaborations and community partnership offer the best alternative and public good to mass incarceration policies and legislation (Lindsay, 2000:14; Lindsay & Shilton, 2001). Other advocates for alternative sentencing approaches believe that the nation's criminal justice system is better served through more community-oriented alternatives to incarceration approaches for low level nonviolent drug offenders (Unze, 2007).

Opponents to mass incarceration and felon disenfranchisement view drug addiction as an illness, not a crime (Alexander, 2010). They argue that physical relocation due to imprisonment away from a convicted felon's respective community is counterproductive to rehabilitation (Rottinghaus, 2003). Opponents to disenfranchisement argue the following: (1) felon disenfranchisement disregards John Locke's Social Contract "principle of proportionality," (2) it does not promote rehabilitation, nor (3) does it act as a deterrent to committing future crime (Hull, 2003). According to the American Bar Association (ABA), contrary to returning citizens' rehabilitation objectives, some researchers suggest that the United States sends the message that it is a nation that does not grant second chances (ABA, 2007).

Supporters of current criminal justice approaches to illegal drugs view it as a crime and argue that breaking the social contract forfeits offenders' rights to engage in democratic political participation (Rottinghaus, 2003). The supporters of criminal legislation for low level crimes committed due to drug addiction predicate their belief on the notion that large numbers of African American men have voluntarily chosen a life of crime and thus deserve to be incarcerated. The argument is that due to their culture, poor work ethic, and family dynamics, African American men have to accept the idea that high rates of incarceration are a consequence of their own poor decision making (Alexander, 2010). What supporters fail to effectively justify and explain is the alarming increase in the incarceration rates of African American males when African American males' drug usage is nearly identical to that of Whites (Western, Kleykamp & Rosenfeld, 2004).

### **Criminal Justice System's Perpetuation of the Prison Industrial Complex**

The United States has the highest incarceration rates in the world (Sentencing Project, 2014). The prison industrial complex is a collaborative partnership between private sector business and public sector government interests (Davis, 1997). At the same time that the nation has engaged in its current criminal justice system social control policies, funding to alleviate the circumstances and conditions that contribute to criminal behavior and activity has declined (Mauer, 1990). The prison industrial complex twofold objectives are profit and social control (Goldberg & Evans, 2001). The failure of the state policy to promote optimal human capital development in the form of social policy contrasts economic policy. National and state governments invest approximately \$80 billion or more annually to the criminal justice system to address what critics consider as being a social problem.

National and states' policies have taken a law enforcement approach to a social problem (Alexander, 2010). Racial Threat Theory's political, economic, and racial composition models incorporating race better explain for rising levels of criminal punishment in the United States (Manza & Uggen, 2008). Partly as a result, as a conditioned response to declining economic and job opportunities, a generation of young Black men has turned to crime (Western et al., 2004).

Evidence suggests that disenfranchisement denies ex-felons access to mainstream society by facilitating cycles of induced poverty and dysfunction (Lawrence, 2011). A systematic range of civil punishments and informal stigmas imposed with a criminal conviction successfully deny citizens the rights of citizenship. This denial makes performing the duties of citizenship difficult (Manza & Uggen, 2008). In contemporary United States today, it is completely legal to discriminate against convicted felons in just about all the ways that it was once previously legal to discriminate against African Americans (Alexander, 2010). Historical forms of discrimination include employment discrimination, housing discrimination, denial of the right to vote, denial of educational opportunity, denial of public benefits and social programs, and elimination from jury duty (Alexander, 2010).

According to the Substance Abuse and Mental Health Services Administration (Fellner, 2009), White Americans engage in more illegal drug use than African Americans. The passage of the 1986 Anti-Drug Abuse Act created a 100:1 sentencing disparity ratio for crack cocaine compared to sentencing for possession of powder cocaine (Vagins & McCurd, 2006). According to a 2013 report, African Americans are almost four times more likely to be arrested for marijuana possession than a White person (ACLU, 2013). At its height, the GOP led War on Drugs incarcerated African American males at a rate approximately four times that of South Africa during apartheid (Boyd, 2001). Brad Heath's study (2014) of 1,581 locations around the nation shows that Blacks are arrested at a rate three or more times greater than Whites. In at least 70 locations nationwide Blacks are arrested more than ten times that of other races (Heath, 2014). This situation results in a rapid increase in the incarceration of African Americans and Hispanics (Dunnaville, 2000). These facts argue against notions and assertions that criminal justice system is colorblind and characterized by race-neutral sentencing legislation. Crack sentencing guidelines, while race-neutral in appearance, were knowingly applied in a race specific manner targeting African Americans (Boyd, 2001). The same is true for the many urban sentencing enhancement zones establishing tougher drug conviction penalties for possession of illegal drugs within a certain distance of schools (Prison Policy Initiative, 2014). In major metropolitan communities impacted by the drug war, as many as 80 percent of young African American men now possess criminal records and are thus subject to legally recognized discrimination for the rest of their lives (Alexander, 2010:7). Locked out from fully participating in mainstream society politics and economy, these young men live a caste-like underclass and super-underclass existence (Alexander, 2010:12).

The criminal justice system administers separate, unequal standards of justice for African Americans through unequal treatment at every stage of the criminal justice process (Dunnaville, 2000). When African Americans make up a large proportion of a state's population, that state is significantly more likely to adopt or extend felon disenfranchisement laws (Manza & Uggen, 2008:61). African Americans are disproportionately prosecuted by targeting and unfair treatment by police and other frontline law enforcement officials, by racially skewed charging and plea bargaining decisions of prosecutors, by discriminatory sentencing practices, and by failure of judges, elected officials and other criminal justice policy makers to remedy the inequities (Dunnaville, 2000).

Absent in the public debate concerning the plight of contemporary African Americans is that a huge percentage of them are not sufficiently liberated to properly pursue social mobility. They lack economic opportunity, attend deprived schools, and are overwhelmed by poverty and dysfunction (Manza & Uggen, 2008). They are barred by disenfranchisement laws from assimilating into the mainstream. All major institutions with which they come into contact are designed to place barriers to prevent their social mobility (Alexander, 2010:13).

In his article, “How Speculating on Prisons Leads to Mass Incarceration” (2012), Christopher Petrella argues that mandatory minimum sentencing structures, “three-strike” laws, and “truth-in-sentencing” laws that drive up African American incarceration rates are derived from motivations rooted in capitalists’ pursuit of profits (Petrella, 2012; Shammass, 2014). The loss of liberty for vulnerable urban lower-class African Americans translates into earned revenue streams for stakeholders that profit and benefit from the prison industrial complex to the benefit of corporate interests and many demographical segments of the White populace (Lichtenstein, 2015). This factor provides relatively no incentive on the part of privately managed correctional management companies to provide adequate and sufficient offender rehabilitation and reentry programs designed to acclimate and assimilate returning citizens back into mainstream society (Alexander, 2010). Moreover, studies have uncovered various capitalist schemes on the part of judges, prosecutors, and other prison industrial complex related entities designed to assure a sufficient number of incarcerated offenders necessary to ensure breakeven and/or profit return margins on bottom-line financial statements of privately run companies (Shapiro, 2011). Conversely, many state and local police agencies now implement property forfeiture legislation designed to raise departmental revenue and/or reduce operating costs associated with conducting criminal justice system activities (Moore & Sumner, 2013; Boyd, 2001). Law enforcement agencies now approach law enforcement objectives not with the goal of maximizing public safety, but more frequently with the goal of raising funds to support and continue their own department’s operations. ‘Policing for profit’ has become a modus operandi of drug interdiction units in states around the nation. In such departments, law enforcement agencies possess direct incentives and motivation to conduct traffic stops, raid properties, and etc in efforts to seize as much property from citizens as possible (Balko, 2014).

As they perform the role expected of productive, responsible and active citizens, law abiding citizens’ likelihood of desisting from crime should correspondingly increase (Manza & Uggen, 2008). Stigma associated with serving prison time represents the most challenging barrier to making a living (Alexander, 2010; Pager, 2007). In their article “Wisconsin’s Mass Incarceration of African American Males: Workforce Challenges of 2013,” overcoming employers reluctance or refusal to hire them, obtaining stable employment, restrictions on the types of jobs they can hold, and limited social networks combine to make returning citizens and ex-offender populations the most difficult to place and sustain in full-time employment (Pawasarat & Quinn, 2013; Alexander, 2010; Uggen & Manza, 2008).



## **Conservatives and White Supremacy Resurgence Produced Prison Industrial Complex and Contributes to Black Social Inequality**

There exists continued need for more research on mass incarceration in the United States to provide us a better understanding of the real causes of inequality, civil death and dysfunction which destabilize African American communities in the United States. Limited research has been conducted exploring the relationship among conservative public officials, private correctional management companies, profit motives, White supremacists' interests, and African American social outcomes (Alexander, 2010). Researchers have attempted to gain insight into foundational factors leading to Black social inequality in the United States in order to assist policymaking at both governmental and institutional levels (Mauer, 2006). Coinciding with the Racial Group Threat Theory and Racial Contract Theory's predicament that force and violence are necessary in order to maintain the dominant group's interests, research is growing suggesting that the law enforcement and the criminal justice system in the United States are moving from the role of 'protecting and serving' to one which consists primarily of a more militarized-oriented 'command and control' role (Adams, 2014). The criminal justice system's War on Crime and War on Drugs masquerade as two of the primary political strategies and initiatives playbooks for conservatives' exploitation of race, class, region and religion representing the declaration of an unofficially declared but relatively effective war on voting and political participation impacting the African American community (Boyd, 2001).

The Republican Party's Southern Strategy and its resurgence involve implementation of factors such as the manipulation of race, class, regional and religious differences, in combination with special interests and conservative political ideology, contribute to the problem (Berman, 2012; Powell, n.d). Politicians who skillfully marginalize certain minority groups accumulate wealth from state resources and minimize the benefits of a racial group that can activate and instigate the insecurity of the dominant group (Manza & Uggen, 2008). Dedication to ending discrimination and bettering the living standards of the lower class has long since ended (Social Science Research Council, 2014), resulting in virtually little change in African American poverty rates from 1969 to 2011 (U.S. Census Bureau, 2012). Robert C. Smith's *Conservatism and Racism: And Why In America They Are The Same* (2010) estimates that 35 percent of the Republican Party's power base is attributable to segments of conservative Whites responding to their interests being threatened by real or perceived African American political and economic advancements, as well as their ability to participate in and determine mainstream contemporary politics.

President Reagan incorrectly framed and blamed failed liberal policies concerning the War on Poverty for the failure to increase African American living standards in those years (NUL, 2009). Moreover, evidence shows that the conservative Reagan Administration was incorrect in its assessment. The Kennedy-Johnson Administration and President Johnson's War on Poverty initiatives were significantly effective in reducing poverty levels and had created a period when both upper-income and lower-income standards of living improved (NUL, 2009).

Liberals lost the ideological battle and the War on Poverty ended, replaced by sustained conservative initiatives that engaged in a war on poor African American communities (NUL, 2009). Many programs that were perceived to largely or moderately benefit African Americans were eliminated due to White backlash (Smith, 2010; Walters, 2003; Manza & Uggen, 2008; Alexander, 2010). In his 1972 reelection, President Nixon, announced his administration would return to policy promoting work ethic and self-reliance (Jones, 2014:90). His administration cut progressive and liberal social welfare programs (Jones, 2014:90), while simultaneously promoting conservative law and order policy initiatives (Walters, 2003:172), as well as, class and racial preserving 'trickle down economics' and corporate welfare and subsidy policies.

The Reagan Administration expanded the federal government's role in law enforcements' abilities to control crime through federal crime policy legislation devoted to the War on Drugs (Mauer, 2006). Utilizing political and media manipulation, the drug war became a top initiative of the Reagan Administration. Reflective of the success of the Reagan Administration's political initiatives, the size of the increase in drug prosecutions during the 1980s was significantly larger than any real rise in drug offenses (Mauer, 2006). Republican controlled state governments' incarceration rates rose the fastest (Manza & Uggen, 2008). By 1984, the Black unemployment rate had nearly quadrupled, while the White rate had increased only marginally. This was not the result of a significant change in Black values or culture, but the consequence of the nation's deindustrialization, globalization, and technological advancement (Western et al., 2004). Urban factories closed as the nation transitioned to a service-oriented economy. African Americans were suddenly trapped in jobless communities with little or no economic opportunities (Western et al., 2004). Mass incarceration and felony disenfranchisement became a deliberate social policy instrument designed to manipulate political and economic outcomes (Manza & Uggen, 2010). Such new stealthy and coordinated policy schemes had been developed and put into practice quickly (Alexander, 2010). Mass incarceration and the prison industrial complex in the United States emerged in scope as strikingly effective and well planned systems of racialized social control that function in a manner parallel to Jim Crow (Alexander, 2010; Blackmon, 2008). A pattern emerged concerning African American inequality and African American rate of incarceration. Between the years 1980 and 2006, the African American incarceration rate increased four times as much as the increase in the White incarceration rate (Stanley and Weaver, 2014). Not surprisingly, the disparity between Black and White household wealth quadrupled from 1984 to 2007 (Ford, 2010). The Social Science Research Council's "The Measure of America 2013-2014" American Human Development Report measuring disparities, found African Americans consistently lagged behind other racial groups in the following human well-being indexes: (1) long and healthy life, (2) access to knowledge, and (3) a decent standard of living (Lewis & Burd-Sharps, 2013).

Michelle Alexander expresses the belief that the continued economic disintegration of inner city African American communities could and should have stirred national and localized attention, debate, and focus, thereby creating political will among politicians to address urban social disparities.

Policymakers lack political will and have missed opportunities to extend economic stimulus packages, human capital development incentives and bail out plans for ensnared underclass and super-underclass citizens hardest hit due to the transition of the American economy from one based on manufacturing to a service-sector dominated economy. Political will and public sentiments could have been manipulated to launch new initiatives and approaches to alleviate social inequality. Educational opportunities, job placement and career training, public transportation, and relocation assistance would aid African Americans transitioning to a new global economy and aid their participation in mainstream society. Instead, resources were mobilized to fight the largely Conservative manufactured War on Drugs (Alexander, 2010). A benign neglect and laissez-faire racism, race-neutral, policy racism approach characterized political strategy to address urban decline in the African American community. Resources were deployed that effectively ensured that the nation and the two races would continue to be 'separate and unequal.' Community and economic development has give way to "prisonomics" and "carceral Keynesianism" (Street, 2005).

### **African Americans' Responses to the Prison Industrial Complex**

Many post-Civil Rights integrated African Americans, as well as other racial groups harbor unrealized notions about racial progress (Alexander, 2010; Ford, 2010). Until recently, the African American community's distrust in the nation's criminal justice system had largely been confined to the sentiments of the African American community. Lack of outrage and protests in the African American community against the criminal justice system has surprised many observers of the mass incarceration of African American males (Mauer, 2006; Alexander, 2010).

Resistance has been low key. Black leadership has been largely ineffective. Disturbingly, Black officeholders have been unsuccessful in reordering priorities and initiatives directed at promoting equality and more equitable distribution of resources and opportunities. What has become clearer is the need for broader and comprehensive analyses regarding the criminal justice system's role in facilitating African American social inequality (Alexander, 2010). There has been a significant and growing awareness of the criminal justice system in the wake of the August 9, 2014 shooting of Michael Brown in Ferguson, Missouri and Eric Garner in New York City (Ghandnoosh, 2015). However, emphasis of the protests movements initiated since the death of Michael Brown have primarily focused on the alarming number of African American male fatalities, directly from or while in the custody of law enforcement, with lesser emphasis given to larger structural and institutionalized racism issues that exist within the criminal justice system. According to researchers, there needs to be more attention focused on racist policies and sentiments of the criminal justice system that give rise to the expanding prison industrial complex as it relates to African Americans, particularly the relationship and interaction of law enforcement institutions with African American males (Alexander, 2010).

Black Civil Rights leaders in the post-Civil Rights era, organizations and institutions such as the National Association for the Advancement of Colored People (NAACP), National Urban League (NUL) and other Black community development institutions have been largely ineffective in their efforts to develop congenial theories, strategies and responses to post-Civil Rights opportunities and challenges. The Lawyer's Committee on Civil Rights Under Law and other similar organizations largely focus on disenfranchisement laws from a voter suppression legislation perspective, such as repealing voter ID laws on a per state basis. Largely as a result of faith-based initiatives, by offering reentry programs African American institutions of faith have taken on a larger role in rehabilitating and reintegrating returning citizens.

In 2014, under the leadership of Attorney General Eric Holder, the Department of Justice called for the re-enfranchisement of disenfranchised felons (Flatow, 2014). In relation, the Obama administration has begun releasing low-level non-violent offenders from federal prisons whom were recipients of unfair sentencing structures. These guidelines promote fairer sentencing structures and represent a shift away from mandatory minimum sentences (Flatow, 2014). Through its Smart on Crime initiative, the U.S. Department of Justice (DOJ) has instituted efforts on reforming sentencing bills, improving reentry policies, and minimizing collateral consequences (DOJ, 2014). The Department of Justice has partnered with the Congressional Black Congress (CBC) advocating for sentencing reform efforts. The CBC also advocates the interests of Native Americans and victims of immigration-related disenfranchisement. African American organizations such as the CBC utilize a case approach to the issue of felon disenfranchisement and voter restriction legislation. Their efforts have yet proved to be monumental in dismantling felon disenfranchisement laws. Generally, the matter has been consistently addressed at the state level of government. Each state has responded to the issue of felon disenfranchisement in a manner peculiarly considerate of its own interests (Key, 2006).

More efforts are needed to combat felon disenfranchisement from a national policy standpoint. Post-Civil Rights Second Reconstruction African American convicted felons now have to try to reintegrate into integrated and gentrified communities. Due to the nature that disenfranchisement laws are instituted at the discretion of the state, considerable resources would have to be expended to eradicate felon disenfranchisement in every state. It will take a landmark ruling from the Supreme Court and/or a congressional amendment to the Constitution in order for the complete eradication of felony disenfranchisement, voter suppression, and restriction laws to occur. In 2013, the Supreme Court's rejected Section 4 of the Voter Rights Act of 1965. This provides an indication that voting rights issues in this nation remain fluid and those institutions such as the courts 'legislating from the bench' and state legislative assembly rulings and legislation based upon both real and perceived progress of African Americans and minorities. The Racial Group Threat Theory informs us that Whites will grow more conservative in their sentiments in accordance to real and perceived African American voting rights advancements, and political and economic progress.

As a result of all the aforementioned factors, if historical and contemporary patterns persist, one could expect in the foreseeable future that the plight of African Americans will be one characterized by newer and even stealthier 'race-neutral' criminal justice system legal restrictions that results in continued disparate outcomes and social inequality.

## **Conclusion and Recommendations**

The preceding analysis offers a general as well as in-depth understanding of the relationship between how the criminal justice system contributes to Black inequality and the prison industrial complex. The fundamental features of the criminal justice system's contribution to Black inequality and social policy, its use to regulate African American political and economic participation, and the challenges facing the African American community as a result of disproportionate state and national African American male incarceration rates of those who attempt to engage in the fight for full rights of citizenship are also represented. In addition, the role of the criminal justice system in strengthening or marginalizing political and economic participation is shown to be significant to understanding racial disparities and the stance of a researcher.

The analysis outlines attitudes, opinions and perceptions held, and most authors use empirical evidence to support and/or rebut them. In efforts to effectively engage in political and economic participation, one must gain an understanding of the outcomes of felony disenfranchisement in the criminal justice system contributes to Black inequality and prison industrial complex and how these outcomes influence elections, social policy, and private sector and corporate interests. Without this understanding, one cannot possibly identify the process, or lack thereof, of expanding political and economic democratic principles to all the nation's citizens. Similar to the varying conservative, moderate and liberal ideologies regarding the criminal justice system's role in social policy, advocates' views on the influence of criminal justice system contributes to Black inequality and prison industrial complex seem to diverge. This creates room for doubt and warrants further examination concerning the validity of previous analyses and expands opportunities for future research regarding the issue of felony disenfranchised contributes to inequality.

This paper therefore calls for new investigations to add to previous works on the topic by examining the political, economic, social, and cultural impacts of African Americans and the criminal justice system's contribution to social inequality in efforts to minimize inequality in African American communities. Such work will be beneficial to scholars and activists in learning the concepts related to the effective use of the criminal justice system in facilitating political and economic inequality. By understanding the role that the criminal justice system plays in influencing political mobilization and political and economic participation, African Americans will be assured greater political legitimacy.

Moreover, such work will be helpful to public officials, non-profit organizations, and voters by informing them about political mobilization, objectives and strategies. It will also serve as a reference for researchers on the subject of social inequality and political and economic participation. More importantly, this suggested work will inform those African Americans who are conscious of institutionalized forms of discrimination and its relationship to African American social inequality.

Recognizing the interconnectedness of political and economic participation and empowerment, as it relates to civil death and social inequality this study recommends that:

- R. 1** Streamline the process for felony disenfranchised, returning citizens and those who have lost their voting rights to regain the right to vote. Those labeled as a criminal by means of having a criminal record are subject to discrimination in many aspects of their lives. Felony disenfranchised and those with criminal records have marginal and disproportionate participation and representation in lawmaking institutions. Their ability to achieve political and economic equality is considerably diminished. Their status is reduced to that of second-class citizenship as a result of credentialing and they are denied legitimate access to policymaking and related institutional processes concerning their well-being. Strong consideration should be given regarding making the restoration process a one-stop portal process.
- R. 2** Partner and collaborate in the dissemination of participatory citizenship strategies by African American leaders to mobilize and support under-resourced and underserved communities.
- R. 3** Strategize and partner with non-profit and faith-based organizations to deliver reentry programs, voter restoration, job-training and other programs important to political and economic participation.
- R. 4** Develop annual social indexes, measuring key index variables within the African American community regarding political, economic and social progress. Count prisoners in vital statistics that measure inequality.
- R. 5** Advocate utilization of state and federal resources away from criminal justice system and more toward education and job training programs.

- R. 6** Revise current laws and policies that have disparate impacts. Anticipate disparate impacts of new and future criminal justice policies.
- R. 7** Conduct third-party short-term, mid-term, and long-term economic studies detailing cost-benefit analyses of other cost-effective alternatives to mass incarceration and carceral initiatives.
- R. 8** Establish community-oriented drug courts that administer alternative sentencing for small quantities of drugs and other non-violent crimes.
- R. 9** Recognize drug addiction as a public health problem, rather than a criminal problem. Devote more resources to drug addiction treatment programs and away from incarceration facilities.
- R. 10** De-privatize the corrections industry. Scale back and eventually eliminate private prison contracts and abolish prison-bed occupancy guarantees. Amend civil and criminal asset forfeiture laws.
- R. 11** Revise Census' "group quarters" rules and "usual residence" rules. Discontinue prison-gerrymandering and distribute federal funds to the community in which the inmate originally resides.

## References

Adams, K. (2014). "Protect & Serve" to "Command & Control"? *Rio Rancho Observer*. Retrieved from [http://www.rroserver.com/opinion/columns/article\\_648a1f1a-354e-11e4-839d-001a4bcf887a.html](http://www.rroserver.com/opinion/columns/article_648a1f1a-354e-11e4-839d-001a4bcf887a.html).

Alexander, M. (2010). *The new Jim Crow: Mass incarceration in the age of colorblindness*. New York: The New Press.

American Bar Association. (2007). *Second chances in the criminal justice system: Alternatives to incarceration and reentry strategies*. American Bar Association Commission on Effective Criminal Sanctions.

American Civil Liberties Union. (2014). *Written Submission of the American Civil Liberties Union on Racial Disparities in Sentencing*. Submitted to the Inter-American Commission on Human Rights 153rd Session, October 27, 2014.

- Balko, R. (2014). Policing for profit in Tennessee. *The Washington Post*. Retrieved from <https://www.washingtonpost.com/news/the-watch/wp/2014/11/12/policing-for-profit-in-tennessee/>.
- Berman, A. (2012). Obama on voter suppression: “It’s a problem.” Retrieved from <http://www.thenation.com/blog/170830/obama-voter-suppression-its-problem#>
- Berman, A. (2012, September ). Voter suppression: The confederacy rises again. *The Nation*. Retrieved from <http://www.thenation.com/blog/169709/voter-suppression-confederacy-rises-again#>.
- Berman, A. (2012). How the GOP is resegregating the South. *The Nation*. Retrieved from <http://www.thenation.com/article/how-gop-resegregating-south/>.
- Blackmon, D.A. (2008). *Slavery by another name*. New York: Doubleday Broadway Publishing Group.
- Boyd, G. (2001). The drug war is the new Jim Crow. *American Civil Liberties Union*. Retrieved from <https://www.aclu.org/drug-law-reform/drug-war-new-jim-crow>
- Brown, G. (2008). *White man’s justice, Black man’s grief: Voting disenfranchisement and the failure of the social contract*, 10 Berkeley J. Afr.-Am. L. & Pol’y 287 (2008). Retrieved from: <http://scholarship.law.berkeley.edu/bjalp/vol10/iss2/8>.
- Davis, A. (1997). *The prison industrial complex* [CD-ROM]. Colorado Springs, CO: AK Press Audio.
- Dunnville, C.M., Jr. (2000). Unequal justice under the law—racial inequities in the justice system. *Virginia Lawyer*. Virginia State Bar. Retrieved from <https://www.vsb.org/publications/valawyer/dec00/dunnville.pdf>.
- Fellner, J. (2009). Race, drugs, and law enforcement in the United States.” *Human Rights Watch. Stanford Law and Policy Review*. Retrieved from <https://www.hrw.org/news/2009/06/19/race-drugs-and-law-enforcement-united-states>.
- Flatow, N. (2014). U.S. Attorney General: Time to restore voting rights of every person who has completed their criminal sentence. Retrieved from <http://thinkprogress.org/justice/2014/02/11/3277531/attorney-general-time-restore-voting-rights-person-completed-criminal-sentence/>



Ford, G. (2010). Study shows Blacks will NEVER gain wealth parity with whites under the current system.” Retrieved from <http://www.blackagenda.com/content/study-shows-blacks-will-never-gain-wealth-parity-whites-under-current-system>.

Ghandnoosh, N. (2015). Black lives matter: Eliminating racial inequality in the criminal justice system. The Sentencing Project. Retrieved from [http://sentencingproject.org/doc/publications/rd\\_Black\\_Lives\\_Matter.pdf](http://sentencingproject.org/doc/publications/rd_Black_Lives_Matter.pdf)

Heath, B. (2014). Racial gap in U.S. arrest rates: “Staggering disparity.” *USA Today*. Retrieved from <http://www.usatoday.com/story/news/nation/2014/11/18/ferguson-black-arrest-rates/19043207/>.

Joel, D. (1988). A guide to prison privatization. *The Heritage Foundation*. Retrieved from <http://www.heritage.org/research/reports/1988/05/bg650-a-guide-to-prison-privatization>.

Jones, M.H. (2014). *Knowledge, power, and black politics*. Albany, NY. State University of New York Press.

Key, V.O, Jr. (2006). *Southern politics in state and nation*. Knoxville, TN: The University of Tennessee Press.

Keyes, S., Millhiser, I., Van Ostern, T., & White, A. (2012). Voter suppression 101: How conservatives are conspiring to disenfranchise millions of Americans.” Retrieved from [http://cdn.americanprogress.org/wp-content/uploads/issues/2012/04/pdf/voter\\_suppression.pdf](http://cdn.americanprogress.org/wp-content/uploads/issues/2012/04/pdf/voter_suppression.pdf).

Lawrence, K.O. (2011). *Race, crime, and punishment: Breaking the connection in America*. Washington, D.C.: Aspen Institute.

Levine, E.L. (2009). Does the social contract justify felony disenfranchisement? 1 *Wash. U. Jur. Rev.*, 193. Retrieved from [http://openscholarship.wustl.edu/law\\_jurisprudence/vol11/iss1/5/](http://openscholarship.wustl.edu/law_jurisprudence/vol11/iss1/5/)

Lewis, K. & Burd-Sharps, S. (2013). The measure of America 2013–2014. *Social Science Research Council*. Retrieved from <http://www.measureofamerica.org/docs/MOA-III-June-18-FINAL.pdf>.

Lichtenstein. (2015). Mass incarceration has become the new welfare. *The Atlantic*. Retrieved from <http://www.theatlantic.com/politics/archive/2015/09/mass-incarceration-has-become-the-new-welfare/404422/>.

Lindsay, M.C. (2000). Demystifying community corrections: Educating the public. Center for Community Corrections. Retrieved from <http://centerforcommunitycorrections.org/wp-content/2-public-education.pdf>.

Lindsay, M., & Shilton, M.K. (2001). The public is willing. *Fordham Urban Law Journal*. Retrieved from: <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1839&context=ulj>.

Lotke, E. & Wagner, P. (2004). Prisoners of the census: Electoral and financial consequences of counting prisoners where they go, not where they come from. *Pace Law Review*. 24 (2) , 587-607.

Manza , J. & Uggen, C. (2002). Democratic contraction? Political consequences of felon disenfranchisement in the United States. *American Sociological Review*, 67, 777-803.

Manza , J. & Uggen, C. (2008). *Locked out: Felon disenfranchisement and American Democracy*. New York, NY: Oxford University Press.

Mauer, M. (2006). *Race to incarcerate*. The Sentencing Project. New York, NY: The New Press.

Moore, N.M. (2015). *The political roots of racial tracking in American criminal justice*. New York, NY. Cambridge University Press.

Moore, T. & Sumner, S. (2013). The perils of policing for profit: Why Tennessee should reform its civil asset forfeiture laws. Beacon Center of Tennessee

Moyers et al., (2012). The United States of ALEC: Bill Moyers on the secretive. Corporate-Legislative Body Writing Our Laws. Retrieved from [http://www.democracynow.org/2012/9/27/the\\_united\\_states\\_of\\_alec\\_bill](http://www.democracynow.org/2012/9/27/the_united_states_of_alec_bill).

Petrella, C. (2012). How speculating on prisons leads to mass incarceration. *Truthout*. Retrieved from <http://www.truth-out.org/news/item/11965-is-corrections-corporation-of-america-about-to-embark-on-another-round-of-prison-speculation>.

Powell, J. (n.d.). The new Southern strategy. *Berkeley Diversity*. University of California, Berkeley. Retrieved from [diversity.berkeley.edu/new-southern-strategy](http://diversity.berkeley.edu/new-southern-strategy).

Prison Policy Initiative. (2014). Unpacking mass incarceration. Retrieved from <http://www.prisonpolicy.org/>

Reiman, J. (2005). Liberal and republican arguments against the disenfranchisement of felons. *Criminal Justice Ethics*, 24 (1), 3-18.

Rottinghaus, B., Manatt, C., & Manatt, K. (2003). Incarceration and enfranchisement: International practices, impact and recommendations for reform. *International Foundation for Election Systems* Retrieved from [http://www.prisonpolicy.org/scans/08\\_18\\_03\\_Manatt\\_Brandon\\_Rottinghaus.pdf](http://www.prisonpolicy.org/scans/08_18_03_Manatt_Brandon_Rottinghaus.pdf).

Shammas, M. (2014). End the prison-industrial complex. *Huffington Post*. Retrieved from [http://www.huffingtonpost.com/mike-shammas/end-the-prison-industrial-complex\\_b\\_4561459.html](http://www.huffingtonpost.com/mike-shammas/end-the-prison-industrial-complex_b_4561459.html).

Shannon, S. & Uggen, S. (2012). Incarceration as a political institution. Retrieved from [http://www.socsci.umn.edu/~uggen/Shannon\\_Uggen\\_BW\\_10.pdf](http://www.socsci.umn.edu/~uggen/Shannon_Uggen_BW_10.pdf)

Shapiro, D. (2011). Banking on bondage: Private prisons and mass incarceration. *ACLU*. Retrieved from <https://search.yahoo.com/yhs/search?p=Banking+on+Bondage%3A+Private+Prisons+and+Mass+Incarceration&ei=UTF-8&hspar=mozilla&hsimp=yhs-003>.

Social Science Research Council. (2014). Measure of America, 2013-2014. Retrieved from <http://www.formstack.com/forms/index.php>

Stanley, J. & Weaver, V. (2014). Is the United States a “racial democracy”? *New York Times*.

Street, P. (2005). Race, place, and the perils of prisonomics: Beyond the big-stick, low-road, and zero-sum mass incarceration con. Retrieved from <http://www.prisonpolicy.org/news/zmagjulaug2005.html>.

United States Census Bureau. (2014). Historical Poverty Table 2; 2012 Census Report (Accessed April, 8, 2016).

Unze, D. (2007). Drug courts offer offenders alternatives. *USA Today*. Retrieved from <https://www.nycourts.gov/courts/2jd/brooklyntreatment/USATodayArticle.pdf>.

Valelly, R.M. (2009). *The two reconstructions: The struggle for Black enfranchisement*. Chapel Hill, NC: University of North Carolina Press.

Walters, R.W. (2003). *White nationalism, Black interests: Conservative public policy and the Black community*. Detroit, MI: Wayne State University Press.

Western, B. (2004). *Incarceration and invisible inequality*. Department of Sociology. Princeton University, Princeton, NJ

Western, Bruce, M. Kleykamp & J. Rosenfeld. (2004). *Economic inequality and the rise in U.S. imprisonment*. Department of Sociology. Princeton University, Princeton, NJ.