



Research Paper

A Tool Misused: Reviewing the Historical Mechanisms of Incarceration as a Form of Persecution Against African Americans

Buyu Lyu

Rutgers Preparatory School

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I. Introduction

Beginning in 1960s, inequalities in the United States incarceration system have garnered increasing scholarly attention.¹ This trend correlates with the progression of the Civil Rights Movement, while the structural framework of social inequality in the United States was being reshaped by the rapid expansion of prison populations.² Moving into twenty-first century, the United States remains one of the countries that incarcerates a relatively high proportion of its population.³ Researchers have identified a newly emerged and unequal form of stratification driven by incarceration, describing it as an "engine of social inequality."⁴ This system contributes to racialized categorization⁵ and produces a marginalized group bound by shared experiences of incarceration, crime, poverty, racial minority status, and limited educational opportunity.⁶ As a socially marginalized group, the men and women in correctional facilities face significant barriers to the opportunities for upward mobility that are accessible to the general population. Their social and economic disadvantages which often lead to recidivism (relapse into criminal behavior after previously convicted) tend to persist throughout their lives and are frequently passed on to future generations. The current US justice system reflects a deeply rooted form of institutionalized inequality that perpetuates racial and class disparities. However, the mechanisms of this inequality are often misunderstood. Current studies on incarceration mostly examine the causes, effects, and potential solutions of increasing rate of imprisonment, but the unfair treatment of those accused and incarcerated and the historical development of such treatment, which underpins the increasing rates, is rarely studied.⁷ Prior to addressing

¹ See Appendix 1.

² Bruce Western and Becky Pettit, "Incarceration & Social Inequality," *Daedalus* 139, no. 3 (July 2010): 8–19, https://doi.org/10.1162/daed_a_00019;

Katherine Beckett and Megan Ming Francis, "The Origins of Mass Incarceration: The Racial Politics of Crime and Punishment in the Post–Civil Rights Era," *Annual Review of Law and Social Science* 16, no. 1 (October 13, 2020): 433–52, <https://doi.org/10.1146/annurev-lawsocsci-110819-100304>.

³ Becky Pettit and Carmen Gutierrez, "Mass Incarceration and Racial Inequality," *American Journal of Economics and Sociology* 77, no. 3-4 (October 29, 2018): 1153–82, <https://doi.org/10.1111/ajes.12241>.

⁴ Bruce Western, "Bruce Western, Punishment and Inequality in America . New York, Russell Sage Foundation, 2006," *Socio-Economic Review* 5, no. 3 (June 15, 2007): 569–84, <https://doi.org/10.1093/ser/mwm003>.

⁵ Lawrence Bobo and Victor Thompson, n.d., https://www.brown.edu/Departments/Economics/Faculty/Glenn_Loury/louryhomepage/teaching/EC%2022/2/Bobo_Thompson_2006.pdf.

⁶ Bruce Western and Becky Pettit, "Incarceration & Social Inequality," *Daedalus* 139, no. 3 (July 2010): 8–19, https://doi.org/10.1162/daed_a_00019.

⁷ Becky Pettit and Carmen Gutierrez, "Mass Incarceration and Racial Inequality," *American Journal of Economics and Sociology* 77, no. 3-4 (October 29, 2018): 1153–82, <https://doi.org/10.1111/ajes.12241>.

potential solutions to the unjust practices in the American legal system, it is valuable to undertake an examination of these factors that lead to it. This study examines incarceration through inequality of racial disparities. This paper will address these perspectives by analyzing their historical origins and underlying mechanisms. It will assess the extent to which unfair incarceration practices become dehumanizing and will investigate the potential impact of such unfair practices on future generations.

Racial Disparity

In 2014, Michael Brown, an 18-year-old male, was fatally shot by law enforcement officer Darren Wilson in Ferguson, Missouri. This incident served as a catalyst for the Black Lives Matter movement, exposing racially biased aspects of the United States' criminal justice system. By the end of the twentieth century, the racial disparity of incarceration rates increased, as one in three Black individuals is likely to experience imprisonment within their lifetime.⁸ In the year 2000, Black individuals accounted for nearly half of the national prison population, despite representing only 12.9% of the overall United States population.⁹ Twenty years later, although changes have been made to incarceration policies to abate disparities in prisons, Black people still were imprisoned five times as the White individuals across the nation in 2020.¹⁰

War on Drugs

The War on Drugs that was spurred at the end of twentieth century under Nixon's administration as an effort to stop the production, distribution, and use of illicit drugs is a direct cause of racial disparities in the United States justice system. The War on Drugs policies including mandatory minimum sentencing and stop-and-frisk practices, disproportionately affected Black communities. During the War on Drugs, the incarcerated population in American jails and prisons grew dramatically from 300,000 to 2.3 million, and half were drug-related defendants. In 1996, the national incarceration rate for Black individuals and White individuals was eight to one.¹¹ According to the *Washington Post*, African Americans are more likely to be arrested for possessing or selling drugs than White people, despite the fact that both groups use drugs at similar rates and White people are actually more likely to sell drugs.¹² Disproportionate arrest, conviction, and sentencing rates for drug offenses have devastated communities of color. In fact, these are the intentional effects on the Black community. The extensive practice of mass incarceration during the war on drugs has reinforced racial stereotypes and anti-Black beliefs. According to Richard Nixon's political aide John Ehrlichman, Black people are one of the government's enemy during Nixon's reign. They could not directly outlaw Black people, but by perpetuating the association of Black people with criminal drug activity, the government could disrupt those communities.¹³ The government deliberately initiated this conflict, targeting Black populations. In other words, the government was aware of the repercussions of the mass incarceration policies at the time, as these outcomes were their intended objectives.

Sara Wakefield and Christopher Uggen, "Incarceration and Stratification," *Annual Review of Sociology* 36, no. 1 (June 2010): 387–406.

⁸ Bruce Drake, "Incarceration Gap Widens between Whites and Blacks," Pew Research Center, September 6, 2013, <https://www.pewresearch.org/short-reads/2013/09/06/incarceration-gap-between-whites-and-blacks-widens/>;

Nazgol Ghandnoosh, "One in Five: Ending Racial Inequity in Incarceration," The Sentencing Project, 2023, <https://www.sentencingproject.org/reports/one-in-five-ending-racial-inequity-in-incarceration/>.

⁹ Paul Guerino et al., "Prisoners in 2010," 2011, <https://bjs.ojp.gov/content/pub/pdf/p10.pdf>;

US Census Bureau, "Census 2000 Brief: The Black Population: 2000," Census.gov, August 2001, <https://www.census.gov/library/publications/2001/dec/c2kbr01-05.html>

¹⁰ Ashley Nellis, "The Color of Justice: Racial and Ethnic Disparity in State Prisons," The Sentencing Project, 2021, <https://www.sentencingproject.org/reports/the-color-of-justice-racial-and-ethnic-disparity-in-state-prisons-the-sentencing-project/>;

Becky Pettit and Carmen Gutierrez, "Mass Incarceration and Racial Inequality," *American Journal of Economics and Sociology* 77, no. 3-4 (October 29, 2018): 1153–82, <https://doi.org/10.1111/ajes.12241>.

¹¹ Bureau of Justice Statistics, "Bureau of Justice Statistics," <https://bjs.ojp.gov/content/pub/pdf/cpius96.pdf>.

¹² Christopher Ingraham, "White People Are More Likely to Deal Drugs, but Black People Are More Likely to Get Arrested for It," *Washington Post*, September 30, 2014, <https://www.washingtonpost.com/news/wonk/wp/2014/09/30/white-people-are-more-likely-to-deal-drugs-but-black-people-are-more-likely-to-get-arrested-for-it/>.

¹³ Dan Baum, "Legalize It All," *Harper's magazine* (Harper's Magazine Foundation, March 31, 2016), <https://harpers.org/archive/2016/04/legalize-it-all/>.

Broken Window Theory

Proponents of stringent punitive measures and zero-tolerance disciplinary policies, including the mayor of New York City, Rudy Giuliani, cited the Broken Window Theory to justify their approach, contending that mass incarcerations during this time could serve as an effective strategy to diminish overall crime rates¹⁴ The Broken Window policy was first instituted in New York City in 1990 by then Police Commissioner William J. Bratton, under the name “zero-tolerance” policing. Under the Broken Window policies, the government claimed that Black neighborhoods often had more visible disorder — so police focused policy areas that had more crime like broken windows with zero-tolerance disciplinary on Black neighborhood,¹⁵ as they are already regarded as inherently hazardous due to the historical context of the War on Drugs. This legacy contributes to the classification of Black people as a significant threat to others

However, research indicates that law enforcement agencies that initiate contact with Black individuals with the procedure of “stop, frisk, search and arrest”,¹⁶ evokes systemic distrust about the law enforcement agencies, undermines citizens’ rights to due process, and damages the legitimacy of law enforcement among underprivileged communities. Although governments implemented policies aimed at reducing crime, these measures resulted in the widespread incarceration of Black individuals, compromising their freedom, rights, and safety. When law enforcement perceives the Black community as a threat, while overlooking the predicaments faced by Black individuals, historical discriminatory practices such as redlining often occur. These practices then contribute to poverty and marginalization. The infringement upon Black individuals’ freedoms has been historically justified under the guise of public safety. However, public safety should not be achieved at the expense of compromising the liberties of Black people or any marginalized community. Unfortunately, such circumstances continue to manifest in contemporary society.

“School to Prison Pipeline”

The persecution of Black people affects not only adults but also adolescent students, who often face being arrested for minor infractions that should be handled by educators rather than law enforcement. The 1971 War on Drugs laid the foundation for deeply entrenched racial disparities within the criminal justice system, and its punitive legacy reverberates in the educational sphere through the “school-to-prison pipeline”. This phenomenon, disproportionately affecting Black youth, refers to the policies and practices that push school children, especially Black children, out of classrooms and into the juvenile and criminal justice systems.¹⁷ For example, during War on Drugs, police in Mississippi arrest and transport youths to juvenile detention centers for minor classroom infractions, while in Jefferson Parish, Louisiana, school officials have given police “unfettered authority” to stop, frisk, detain, question, search, and arrest students both on and off school grounds. This framework exemplifies the tendency to for American law enforcement to prioritize incarceration over proper education, especially targeting adolescents of color. According to the National Institutes of Health, African-American students are 3.2 times more likely than white students to be suspended or expelled¹⁸, with Black children making up 18 percent of the student body but accounting for 46 percent of those suspended more than once.¹⁹ The presence of police officers in schools has risen by 38 percent between 1997 and 2007, leading to a surge in arrests for nonviolent offenses.. More than 70 percent of students arrested at school or referred to law enforcement are Black or Hispanic, showing that African American students were disproportionately punished compared with White students. When children are pushed out of their classrooms, they lose access to education, which limits their future opportunities and choices. Without a strong educational foundation, they’re less likely to secure stable jobs and participate in civic life, or advocate for their needs within society. This exclusion silences their voices,

¹⁴ Cade Terada, “The Return of Broken Windows Policing,” Common Justice, March 25, 2024, <https://commonjustice.org/blog/the-return-of-broken-windows-policing>.

¹⁵ Cade Terada, “The Return of Broken Windows Policing,” Common Justice, March 25, 2024, <https://commonjustice.org/blog/the-return-of-broken-windows-policing>.

¹⁶ Mylan Denerstein, “Twentieth Report of the Independent Monitor Racial Disparities in NYPD Stop, Question, and Frisk Practices: An Analysis of 2013 to 2022 Stop Reports,” 2024, <https://www.nypdmonitor.org/wp-content/uploads/2024/04/2024.04.11-927-1-Twentieth-Report.pdf>.

¹⁷ American Civil Liberties Union, “What Is the School-To-Prison Pipeline?,” American Civil Liberties Union, June 6, 2008, <https://www.aclu.org/documents/what-school-prison-pipeline>.

¹⁸ Jayanti Owens and Sara S McLanahan, “Unpacking the Drivers of Racial Disparities in School Suspension and Expulsion,” *Social Forces* 98, no. 4 (June 20, 2020), <https://doi.org/10.1093/sf/soz095>.

¹⁹ Marilyn Elias, “The School-To-Prison Pipeline,” Learning for Justice (Southern Poverty Law Center, 2013), <https://www.learningforjustice.org/magazine/spring-2013/the-school-to-prison-pipeline>.

leaving their communities underrepresented and underprivileged. As a result, members of marginalized groups may turn to alternative paths—including crime—to survive or cope under impoverishment, leading them to consequences under the criminal justice system. Once entangled in the system, these victims face further persecution, reinforcing cycles of poverty and incarceration that are passed down to the next generation. This vicious cycle aligns with the historical strategy articulated by Nixon's administration to criminalize Black communities, using mass incarceration as a means of social control over African Americans. Thus, educational exclusion in "school to prison pipeline" is not just a personal tragedy but also a deliberate part of a larger system that perpetuates the inequality through depriving access to education from Black children.

Disenfranchisement

Incarceration in the United States also strips millions of Americans—disproportionately Black people—of their right to vote, reinforcing racial inequality in democratic participation. According to a research conducted by *The Sentencing Project* in 2020, 5.2 million people, 1 in 45 adults, in the United States are denied access to the vote because of a felony conviction, and African Americans make up 39% of people disenfranchised in prisons.²⁰ This disenfranchisement is a violation of the United States' pledge to "universal and equal suffrage"²¹ and a perpetuation of "the racist Jim Crow-era," when states expanded felony classifications to target African Americans and suppress their votes in the way of "literacy tests," "grandfather clauses," and "poll taxes". Today, these same laws continue to weaken the 15th amendment, which secured equality in voting, the democratic participation and the political representation of communities of color. Felony disenfranchisement undermines the promised democratic ideals by excluding millions of Americans, particularly African Americans, from participating in elections. By excluding African Americans from the electoral process, their opportunity to express voice, advocating for solutions to the issues they face, is suppressed and ultimately marginalized.

Today, states vary widely in their treatment of voting rights for those with felony convictions. However, only Maine and Vermont allow voting even while incarcerated²². These felony disenfranchisement laws continue to disproportionately affect Black communities and perpetuate political and social marginalization. The rationale often used to justify disenfranchisement—that those who break the law are unworthy of democracy—clashes with the social contract notion that convicts are expected to reintegrate and contribute to society. This contradiction creates a stratification that treats people with convictions as second-class citizens, denying their fundamental human rights.

II. Conclusion

The United States' criminal justice system, historically rooted in racial discrimination and inequity, continues to function as a powerful driver of social stratification, systematically marginalizing Black communities and other communities of color. From the emergence of mass incarceration during the War on Drugs to the application of punitive disciplinary measures like broken windows policing and the school-to-prison pipeline, the country has consistently targeted and criminalized Black populations under the guise of maintaining order and public safety, where justice becomes injustice as law enforcement is used as a tool to persecute communities of color. These policies not only deny Black Americans equal protection under the law but also deprive their fundamental democratic rights through felony disenfranchisement, perpetuating cycles of poverty, political marginalization, and community destabilization.

Unfortunately, the implicit discrimination of Black people in the legal system and the misuse of incarceration still exists. After COVID, jailed population increased dramatically more for Black people than white people,²³ and African Americans are still four times as likely as their White peers to be sent to jail.²⁴ Families are often left without breadwinners, children are more likely to experience poverty and emotional trauma, and entire neighborhoods experience higher levels of economic distress and instability.²⁵ To dismantle these extended

²⁰ Chris Uggen et al., "Estimates of People Denied Voting Rights due to a Felony," *The Sentencing Project*, October 30, 2020, <https://www.sentencingproject.org/reports/locked-out-2020-estimates-of-people-denied-voting-rights-due-to-a-felony-conviction/>.

²¹ United Nations, "Universal Declaration of Human Rights," United Nations, 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

²² Nicole Lewis, "All the Prisoners in Maine and Vermont Can Vote. Here's Why Few Do," *The Marshall Project*, June 11, 2019, <https://www.themarshallproject.org/2019/06/11/in-just-two-states-all-prisoners-can-vote-here-s-why-few-do>.

²³ See Appendix 2.

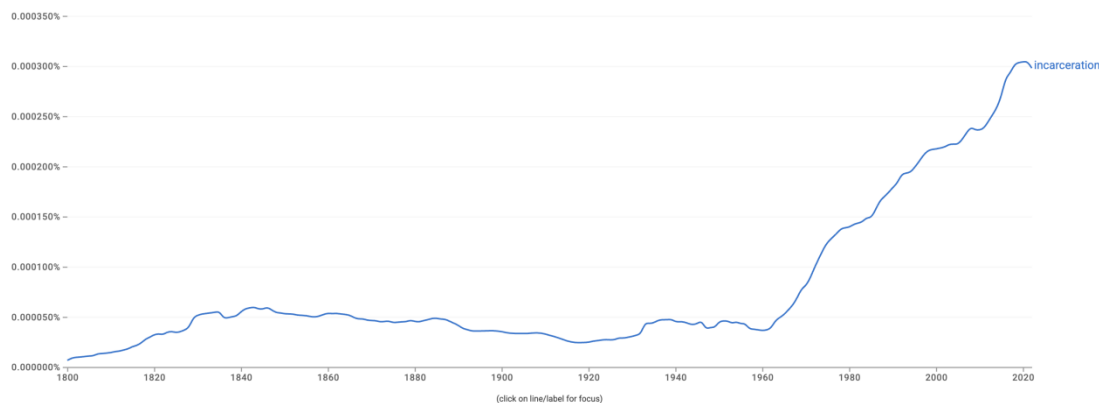
²⁴ See Appendix 3.

²⁵ Christopher Wildeman and Emily A Wang, "Mass Incarceration, Public Health, and Widening Inequality in the USA," *The Lancet* 389, no. 10077 (April 8, 2017): 1464–74, [https://doi.org/10.1016/s0140-6736\(17\)30259-3](https://doi.org/10.1016/s0140-6736(17)30259-3).

injustices, it is imperative that the United States confront its historical legacy of racialized punishment originated in the 13th Amendment, which allows the mechanisms of involuntary servitude as a punishment for crime²⁶ and prioritize reforms or reparations that restore democratic rights, invest in racial wealth gap, and conduct public safety in ways that respect the dignity and humanity of all people. Only through these systemic revolutions can the legal system break the vicious cycle of inequality, dismantle the legacy of historic discrimination, and build a better one that ensures equality for all.

Appendix

Appendix 1

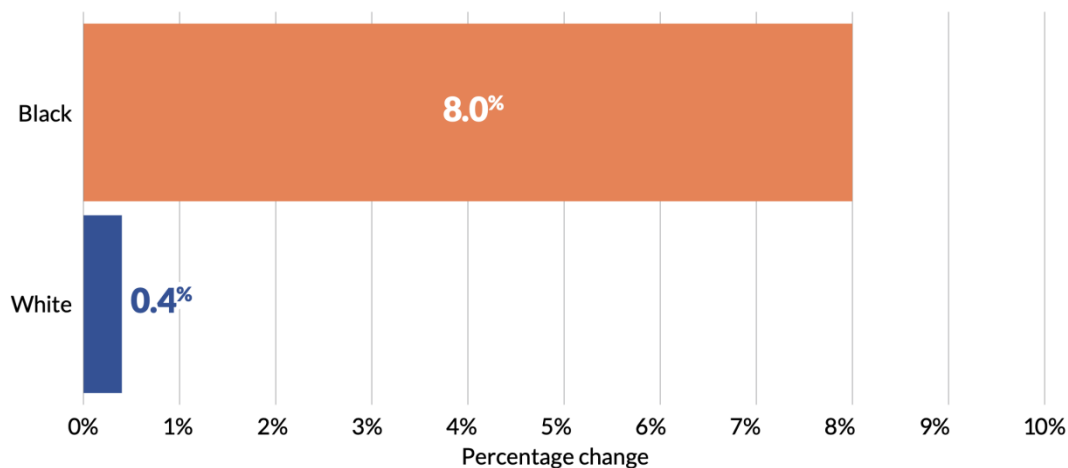


A rising focus in literature and research on incarceration

Google Ngram:

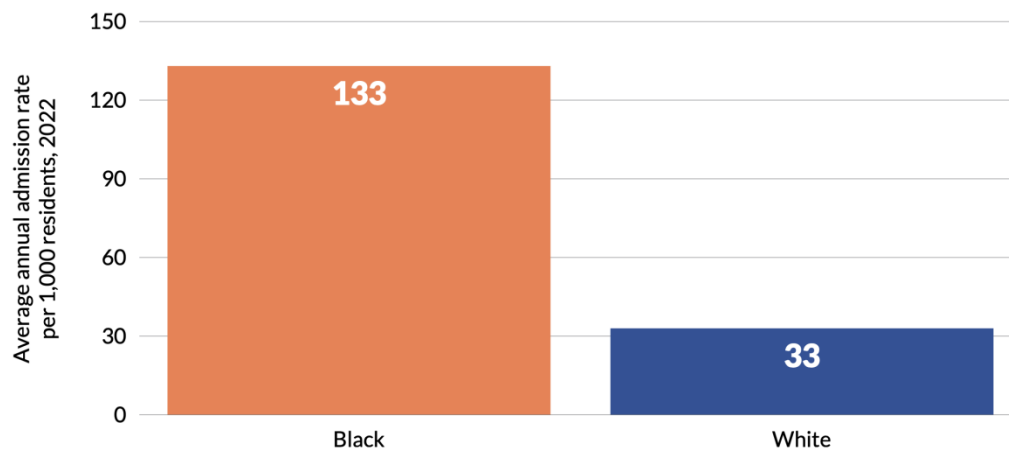
https://books.google.com/ngrams/graph?content=incarceration&year_start=1800&year_end=2022&corpus=en&smoothing=3

Appendix 2



New York University Public Safety Lab, “Jail Data Initiative” (2020-2022), accessed Jun. 6, 2025, <https://jaildatainitiative.org/>

²⁶ Congress, “U.S. Constitution - Thirteenth Amendment | Resources | Constitution Annotated | Congress.gov | Library of Congress,” [constitution.congress.gov](https://constitution.congress.gov/constitution/amendment-13/), December 6, 1865, <https://constitution.congress.gov/constitution/amendment-13/>.



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