

**Mass Incarceration: Prisoners are People, Not Slaves**

Emily Gomez

University of California, Merced

WRI 010

Professor Snyder

Dec 4, 2019

## **Abstract**

Slavery has remained alive in the United States, well past the implementation of the 13<sup>th</sup> amendment. It has simply taken on a different name: The United States Prison System. The prison system was the scapegoat for our country to continue to take advantage of people without any repercussions. I have compiled research from various sources to highlight the negative impacts of our current prison system on minoritized individuals and their communities. The research demonstrates that the mass incarceration of minoritized individuals is caused by the selfishness of prison corporations and is supported by United States policies and judicial systems. Mass incarceration does more harm than good and serious reform such as changing the penalties of certain offenses, choosing rehabilitation instead of imprisonment for drug charges, stopping private prisons from profiting off of prisoners, and changing the three strikes law and plea bargains is needed.

*Keywords:* Mass incarceration, Three Strikes Law, racial discrimination

### **Mass Incarceration: Prisoners are People, Not Slaves**

The United States makes up only 5% of the world's population yet makes up 25% of the world's prison population meaning one in four American citizens will be imprisoned in their lifetime. Mass incarceration is an issue for communities, more specifically, minority communities. One in 12 African American men end up in jail whereas only one in 87 white men end up in jail (Dickinson, 2015). The cycle of racism continues onto law practices because the justice system is set up primarily on racist and prejudice foundations. Minorities are criminalized and unjustly put in prisons by the United States at times for selfish, inhumane reasons. Private prisons are built more rapidly than schools and are being filled up by minorities to meet profitable quotas. There is prejudice and racism in the criminal justice system that sometimes wrongfully convicts Latinos, and African Americans. The cycle continues with the help of stereotypes, making prisons and probation profitable corporations, and laws such as the Three-Strikes Law (Dickinson, 2015). Therefore, to reduce criminalization and mass incarceration, laws need to change, private prisons should not be profiting on putting people in jail, and rehabilitation should be considered before sending individuals straight to prison.

The 13<sup>th</sup> Amendment abolished slavery throughout the United States which caused the Southern economy to plummet. Slave owners no longer had slaves as their main source of income and could no longer use them to complete hard labor. Eventually the prison system found a loophole within the 13<sup>th</sup> amendment of the constitution which protected everyone with the exception of criminals. The exception of criminals to this constitutional law allowed prisoners to be used as slaves since they were no longer protected by the 13<sup>th</sup> amendment. In 1972 the prison population was 300,000 prisoners and in 2014, the prison population skyrocketed at an alarming

rate to 2.3 million prisoners. Masses of African Americans were imprisoned for minor crimes. All 2.3 million prisoners were legally allowed to be treated as slaves and were subjected to hard labor that slaves had to go through for very little pay or sometimes, no pay at all (DuVernay, 2016). Although it was abolished, slavery was still somehow legal and present in the United States in another form. The United States has found several ways from slavery to mass incarceration to use people for the benefit of the economy and themselves that are technically considered constitutional.

Minorities have always been targeted. Another example of singling out minorities is the 15<sup>th</sup> amendment that provided everyone equal right to vote. To keep minorities from voting, “Poll taxes, property qualifications, literary tests, residence requirements, and complicated registration systems were instituted” which made the voting process a lot harder for those who could not read or write (The Harvard Law Review Association, 1939). Latinos or other minorities who did not speak English would not be able to pass literary tests and may not have had citizenship in the United States which met the residence requirements for voting. Lower income people would not be able to afford the taxes. The Government has had an incredibly easy time keeping minorities out of political policies by implementing these new voting requirements. The justice system also instituted policies that made it easier to put minorities in prison and keep them in there for as long as possible.

The war on drugs in the 1980s was an epidemic that aided in keeping minorities in jail by instilling policies created on a money hungry agenda. By 1985 the prison population doubled from 300,000 in 1972 to 759,100 in 1985. Crack cocaine was a new smokable form of cocaine that was extremely popular in lower income communities and mainly used by minorities due to how inexpensive it was versus powder cocaine which was primarily used in suburban areas and

by wealthier people (DuVernay, 2016). Besides the physical differences between crack and powder cocaine, the major difference is the sentencing an individual receives if they are caught with either of the substances. An individual caught with one ounce of crack cocaine receives the same sentence as someone who was caught with 100 ounces of powder cocaine. It is the same drug in different forms yet the type which is usually used by lower income people requires a much harsher punishment than if the individual was caught with the more expensive form of cocaine (DuVernay, 2016). The prison population almost tripled in only 10 years and kept rising. There were many people incarcerated for being in possession of crack cocaine who were charged with a longer sentence than those who were caught with powder cocaine. This kept minorities in prison, but higher income people were able to get away with using powder cocaine because there is very little consequence compared to those using crack cocaine. Federal law states that 5 grams of crack cocaine, which is the weight of a nickel, is a five-year minimum sentence (Biskupic and Locy). The 100-1 ratio of the difference in sentencing is far too harsh and congress people have already proposed ideas about either making the sentencing for powder cocaine harsher or the sentencing of crack cocaine less harsh (Biskupic and Locy). The long sentences for being caught with crack cocaine were placed with the purpose of putting lower income people in jail and punishing the users harshly when they need necessary drug rehabilitation.

Minorities are often criminalized in the news and media. Laws that make them susceptible to being in prison for so long such as the harsh crack cocaine sentencing shines a bad light and misconstrues how minorities are viewed as a whole in society. Stereotypes are reinforced by the justice system and in society. Corrections Corporation of America passed SB 1070 which made it legal for police officers to stop anyone who looked like an immigrant and check their citizen status (DuVernay, 2016). Undocumented people were placed in holding

centers which were basically prisons. They were treated almost exactly like prisoners and more police officers were placed in the streets to detain as many undocumented people as they could find (DuVernay, 2016). Latinos were targeted and government officials made it their legal duty to collect as many undocumented people as possible.

In most cases, these minorities are from low income communities and cannot afford to pay for legal fees to escape unfair sentences or fight for their cases. According to Mirko Bagaric, a human rights and sentencing researcher and law professor at Deakin University, “the reality is that criminal justice today is, for the most part, a system of pleas, not a system of trials... Plea bargaining is so prevalent and one sided that it had been asserted that the constitutional right to trial by jury, for most is a myth” (2019). Defendants are offered plea bargains because it is easier to declare themselves guilty for a set amount of time in prison instead of going to trial and risking a longer sentence. Most of the time lower-income minorities accept this plea deal because they feel as if they have no other choice. By accepting the plea bargain and pleading guilty the individuals won’t have to pay for an expensive trial. Plea bargains are typically advertised as a better solution considering that going to trial could give them a much longer and harsher sentence. Ninety-seven percent of prisoners have accepted plea bargains. Minorities are in prison because they simply cannot afford to get out or just because they have a fear of being given a much longer sentence by going to trial (DuVernay, 2016). The people on the jury can be biased towards a certain ethnic group and convince themselves that the defendant is guilty no matter the circumstances of the trial (DuVernay, 2016). This is not to say that trials are unfair, but the court has proven on multiple occasions that long jail sentences are used keep people off the streets for as long as possible. . Several more laws were put in place based on the same agenda such as the Three Strikes Law.

As always, the United States implements policies that help them put and keep people in jail. The three strikes law, mandatory sentencing law, and truth in sentencing law keep people in jail for harsh amounts of time compared to the offenses committed. The three strikes law means that after a 3<sup>rd</sup> criminal offense, offenders could be facing life in prison no matter how big or small the 3<sup>rd</sup> offense is. Mandatory Sentencing has a set minimum amount of time a criminal is supposed to serve for a committed offense which was not up for debate or for judges to refute. Judges are not be able to lessen the sentence given the circumstances the crime was committed within. Truth in sentencing forces criminals to complete at least 85% of the sentence given before being released (DuVernay, 2016). Laws like these unfairly keep people in jail for a very long time. Not only is there a lengthy minimum, but prisoners must complete most of their sentence before getting out. Three strikes law, mandatory sentencing and comparable laws “often result in unjustly and disproportionately severe punishments to no significant crime-preventive effects” (Tonry, 2014). If there are no benefits to these punishments, why continue? Why not change these laws in a way that will help society? Corporations want people in jail to bring in loads of profit.

Several prisons were built in the early 2000s and were required to be filled. Prison corporations make \$1.7 billion in profit per year just for having inmates in jail (DuVernay, 2016). Corrections Corporation of America even profited off the holding centers which were populated mostly by undocumented Hispanic people (DuVernay, 2016). The American Legislative Exchange Council (ALEC) had the primary goals of promoting greater use of private prisons, goods, and services, prison labor, and increasing the size of the prison population (Cooper et al., 2016). By forcing prisoners to work for very low wages and increasing the size of prison population, they make more money. Many private businesses are making money off of

people going to prison and keeping them in prison(Cooper et al., 2016). The laws such as mandatory sentencing and the three strikes law benefit these businesses because it forces prisoners to remain in prison which provides a continuous influx of money per person.

Inside the prisons, Federal Prison Industry, UNICOR, makes \$900 billion from prison labor. Prisoners work for less than a dollar an hour as chefs, janitors, and even firefighters, meanwhile UNICOR makes billions just for keeping them in prison (DuVernay, 2016). With the laws structured to help put people in jail, it is extremely easy to profit on the lives of criminals. In California, working prisoners are paid \$0.50 an hour for jobs that require them to wake up early or provide laborious work. Criminal justice debt has become a large revenue generator for the state prisons and private prisons. The economy benefits from prisoners because jails do not have to pay them fair wages. Even outside of prison these businesses are making money off of ex-prisoners by putting them on probation or parole. The people on probation and parole are prisoners in their own communities and even though they are home, they are still bringing in profit for UNICOR. Private prison businesses are inhumanely profiting on human life (DuVernay, 2016). The lives of these prisoners are seen as lump sums of money to these businesses rather than people who could be in desperate need of rehabilitation.

### **Conclusion**

Solutions have been proposed by the U.S. Panel such as the lessening of the crack rock sentences and changes in laws such as mandatory sentencing however more should be done (Biskupic and Locy). Imprisonment should not be the first option given to criminals. Rehabilitation should be offered in place of prison for those caught selling or using drugs. Also, businesses should not profit on prisoners as much as they do because it is an inhumane way to make money and push the agenda for criminalization. The only thing that prisons have proven to

be good for is profit. To treat these criminals like humans and get them the help they deserve, more attention should be placed on how to rehabilitate them rather than focusing on increasing corporate profit. By doing this, less people would be in jail for unfair amounts of time and for unfair reasons.

## References

- Ava DuVernay & Jason Moran. (2016). 13<sup>th</sup>. USA. <http://www.avaduvernay.com/13th>
- Bagaric, M., Clarke, J., & Rininger, W. (2019). Plea Bargaining: From Patent Unfairness to Transparent Justice. *Missouri Law Review*, 84(1), 1-46.  
<https://scholarship.law.missouri.edu/mlr/vol84/iss1/5>
- Cooper, R., Heldman, C., Ackerman, A. R., & Farrar-Meyers, V. A. (2016). Hidden corporate profits in the U.S. prison system: The unorthodox policy-making of the American Legislative Exchange Council. *Contemporary Justice Review*, 19(3), 380–400.  
<https://doi.org/10.1080/10282580.2016.1185949>
- Dickinson, T. (2015). Crime, Politics and Justice. *Rolling Stone*, 1238, 34-37.  
<https://doi.org/10.2307/133342>
- The Negro Citizen in the Supreme Court. (1939). *Harvard Law Review*, 52(5), 823-833.  
<https://scholarship.law.umn.edu/mlr/1207>
- Toni Locy & Joan Biskupic. U.S. panel to urge change in crack penalties. *USA Today*.
- Tonry, M. (2014). Remodeling American sentencing: A ten-step blueprint for moving past mass incarceration. *Criminology & Public Policy*, 13(4), 503–533. <https://doi.org/10.1111/1745-9133.12097>