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Being Black is a Crime:
An examination of the historical use of racist rhetoric to maintain the mass criminalization of
black people

Presented to the Faculty of the
Ogden Honors College

Louisiana State University

In Partial Fulfillment of the
Requirement for the degree of the
Bachelor of Humanities and Social Sciences with Honors

Charlisse Walters
Spring 2022

"Yes, the carceral state encompasses the formal institutions and operations and economies of the criminal justice system proper, but it also encompasses logics, ideologies, practices, and structures, that invest in tangible and sometimes intangible ways in punitive orientations to difference, to poverty, to struggles to social justice and to the crossers of constructed borders of all kinds."

-Ruby Tapia

**Being Black is a Crime:
An examination of the historical use of racist rhetoric to maintain the mass criminalization
of black people**

*“The first victim was a young Negro”
-Martin Luther King Jr. (Why we Can't Wait)*

Introduction

When studying the carceral state, scholars have offered many critiques and research to evaluate the institution and its discrimination against individuals based on race, sex, orientation, and health. One of the most common focuses are racial disparities and biases against mental illness. For instance, research of the carceral state mirrors information surrounding statistics such as, “[b]lack Americans are incarcerated in state prisons at nearly five times the rate of white Americans.”¹ A statistic that is commonly credited to social, economic, and political forces. Social, economic, and political factors are external factors that are officially sanctioned or recognized. Although these are important findings and critical in examining the carceral state quantitatively, a qualitative approach is just as compelling in gathering a complete observation of the carceral state. Therefore, one should also focus on ideologies, practices, and logic. By studying these specific factors one can see both informal and formal sanctions that have established the foundation of the carceral state. Unlike social, economic, and political forces, ideologies, practices, and logic reveal internal sentiments that transition into external sentiments. Thus, the duplexity of ideologies, practices, and logic of historically racial rhetoric is directly connected to the mass criminalization of black people. For the purpose of this paper, criminalization will be used to refer to “being criminalized” rather than being “stereotyped as a

¹ Nellis, Ashley. *The Color of Justice: Racial and Ethnic Disparity in State Prisons*. <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prison>. Accessed 5 Apr. 2022.

criminal.”² Furthermore, this research will evaluate historically racist tactics that are still relied on to ensure the longevity of the carceral state. In doing so, I analyze the origin of criminalization while evaluating covert tactics such as laws and policies, white victimization, to support the idea that the criminalization of African American is needed to maintain the carceral state. In doing so, it is revealed that racial rhetoric is pivotal in furthering the mass criminalization of African Americans. This paper also undermines the primary focus of the carceral state by highlighting the criminalization of black people and practices that target black communities. In a nation that is becoming hyper aware and sensitive to racial sentiments, it is often frowned upon to acknowledge the harsh disparities of race. In the words of Michelle Alexander, “racism is highly adaptable.”³ Likewise, this paper contends that one must discuss the brutal history of anti-black rhetoric to effectively dismantle the racial disparities of the carceral state. Further, by acknowledging the historical narrative of racist rhetoric in mass criminalization, I find that mass criminalization forces black people into a continuous cycle of injustice. Moreover, in understanding past racial rhetoric, one can see the pattern of mass incarceration is rooted in the mass criminalization of people of color, specifically black people. With this understanding, I find that future carceral scholars and researchers can better dismantle the carceral state, after recognizing that justice is a civil right and not a human right.

The Dehumanization of Black People

² Lisa Marie Cacho makes the distinction between the two stating, “To be stereotyped as a criminal is to be misrecognized as someone who committed a crime, but to be criminalized is to be prevented from being law-abiding.” *Accessible at file:///Users/charlissewalters/Downloads/Social%20Death%20Racialized%20Rightlessness%20and%20the%20Criminalization%20of%20the%20Unprotected%20(Lisa%20Marie%20Cacho)%20(z-lib.org).pdf*.

³ The New Jim Crow [article] Symposium: Mass Incarceration: Causes, Consequences, and Exit Strategies *Ohio State Journal of Criminal Law*, Vol. 9, Issue 1 (Fall 2011), pp. 7-26. Alexander, Michelle.

Before democracy, chattel slavery in America was born. The structure and content of the original Constitution was based largely on the effort to preserve a racial caste system—slavery—while at the same time affording political and economic rights to whites.

- Michelle Alexander, *The New Jim Crow*

Before the transition into criminalization, black people were first dehumanized. The infamous Declaration of Independence reads as follows: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”⁴ The irony is that slavery not only existed, but was protected in all thirteen colonies, when the founding fathers declared independence from Great Britain. As enslaved people, black people were excluded from the liberties and equality that is exemplified in the Declaration of Independence. This act was one of the first in the dehumanization⁵ of black people as they were not recognized as members of “all men.” While this was not explicitly stated, it was implied, as the founding fathers wished to remain neutral on the topic of slavery. Some scholars could argue the omission of slavery meant the Declaration of Independence was all inclusive. However, in order to be included in the narrative, black people had to first be regarded as people and not property, which was not the case. So there became a duality, where white America enforced democratic values onto everyone except African/African Americans. Therefore, the Declaration of Independence established that equality was not a human right, but a civil right. Had equality been undeniably a basic human right, black people would not have been precluded from the narrative. Consequently, the Declaration of Independence enforced equality for all white men, so women, Native Americans and black men were shut out from this right. Furthermore, the institution of slavery and

⁴ <https://www.archives.gov/milestone-documents/declaration-of-independence>

⁵ *Dehumanization*: to deprive (someone or something) of human qualities, personality, or dignity; such as: a. to subject (someone, such as a prisoner) to inhuman or degrading conditions or treatment; b. to address or portray (someone) in a way that obscures or demeans that person's humanity or individuality; to remove or reduce human involvement or interaction in (something, such as a process or place). Available at <https://www.merriam-webster.com/dictionary/dehumanization>.

discussions of race caused growing tension for American politics. After signing the Declaration of Independence, there were conflicting views on how slaves should be represented; so, the Three-fifths Compromise⁶ was proposed. As Howard A. Ohline points out, “from the beginning (1787) sectional conflict focused on the institution of slavery and that then and later northern antislavery sentiment was motivated primarily by political instead of humanitarian or ideological motives.”⁷ In other words, the debate over the Three-Fifths Compromise was not a matter regarding humanity; otherwise, enslaved people would have been considered fully a person, not three-fifths of one. As aforementioned, the signing of the Declaration of Independence signified that equality was a civil right. The Three-Fifths Compromise reiterated those sentiments as it revealed that racial equality was also an acquired civil right not a human right. Thus, the concept of democracy and race, as it is understood today, was established during the founding of America.

To sustain the ideology that equality was a civil right, there had to be legal justification and reasoning. As a result, white people relied on ideologies, practices, and logic to prove black people were not a part of the few who acquired their civil rights. One of the most notable and efficient tactics relied upon was scientific racism. Scientific racism also termed, biological racism, refers to a “history of pseudoscientific methods proving white biological superiority and flawed social studies to show “inherent” racial characteristics that still influence society today.”⁸

⁶ The Articles of Confederation had apportioned taxes not according to population but according to land values. The states consistently undervalued their land in order to reduce their tax burden. To rectify this situation, a special committee recommended apportioning taxes by population. The taxes that the Three-Fifths Compromise dealt with were "direct" taxes, as opposed to excise or import taxes. *Available at* https://www.digitalhistory.uh.edu/disp_textbook.cfm?smtID=3&psid=163

⁷ Ohline, Howard A. “Republicanism and Slavery: Origins of the Three-Fifths Clause in the United States Constitution.” *The William and Mary Quarterly*, vol. 28, no. 4, 1971, pp. 563–84, <https://doi.org/10.2307/1922187>. Accessed 8 Apr. 2022.

⁸ Muhammad, Khalil Gibran. 2019. *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America*, with a New Preface. Cambridge: Harvard University. <https://library.harvard.edu/confronting-anti-black-racism/scientific-racism>

In other words, science was weaponized to legitimize white superiority and black inferiority. In fact, Thomas Jefferson published in *Notes on the State of Virginia*, "I advance it therefore, as a suspicion only, that blacks ...are inferior to the whites in the endowments of body and mind."⁹ Although Jefferson acknowledged he did not have substantial evidence to prove his claim, he urged scientists and philosophers to provide proof, sparking the rise of scientific racism. Carolus Linnaeus, the "father of modern taxonomy" coined the term "homo sapiens" which can be categorized into four major subdivisions- *H. americanus*, *H. africanus*, *H. europaeus*, and *H. asiaticus*.¹⁰ However, when placing these subcategories into a hierarchy, Linnaeus placed *Africanus* at the bottom claiming they were "sluggish or neglectful."¹¹ By placing black people at the bottom, Linnaeus set the tone for future research. He implied that black people were indecent human beings, unlike their counterparts who possessed almost perfect human characteristics. Shortly after Linnaeus's findings, Johann Friedrich Blumenbach found that Linnaeus' four race system would be better classified as five races. Originally, Linnaeus' primary ordering principle was cartographic. In other words, there was no obvious hierarchy. Blumenbach found that these racial differences were not attributable to cultural biases and subjective behavioral characteristics; instead, they were dependent upon "geography, diet and mannerism."¹² Thus, he insinuated that all racial characteristics cannot define any separate and bonded group. Blumenbach's five race categories created a major shift in the mapping of humans. For instance, Blumenbach found Europeans to possess superior beauty in comparison to the other four categories; so, he placed the other categories into a ranking based on their proximity to the

⁹ Jefferson, Thomas, and Joseph Meredith Toner Collection. *Notes on the state of Virginia*. Boston: Lilly and Wait, 1832.

¹⁰ Müller-Wille, Staffan. "Carolus Linnaeus". *Encyclopedia Britannica*, 6 Jan. 2022, <https://www.britannica.com/biography/Carolus-Linnaeus>. Accessed 5 April 2022.

¹¹Ibid.

¹²Britannica, The Editors of Encyclopedia. "Johann Friedrich Blumenbach". *Encyclopedia Britannica*, 19 Jan. 2022, <https://www.britannica.com/biography/Johann-Friedrich-Blumenbach>. Accessed 9 April 2022.

European race. Furthermore, Blumenbach, “then presented all human variety on two lines of successive departure from this Caucasian idea- Asians on one side and Africans on the other.”¹³ In doing so, Blumenbach had already affirmed the moral and mental equality of all peoples. While Blumenbach may not have intended to create a system that would support westerners’ racist ideology, he did anyway. By affirming European standards, Blumenbach provided white Americans with another justification for dehumanizing black people and subjecting them to slavery. Even more, Blumenbach’s findings are historic in that it provided white America with the premise to establish a long-lasting system that can be traced into the discrimination against African Americans today. Despite Blumenbach’s attempt to disprove scientists and their cultural biases of race, Blumenbach’s implications only further categorized black people into an inferior status. Relying on these pseudo-scientific methods, white people were provided “factual evidence” to morally justify slavery and black inferiority. As a result, enslaved black men were characterized as brutish, savage, and criminalistic.¹⁴ The effects of characterizing enslaved black men based on subjective behavioral characteristics, provided white men with the necessary tools to further objectify and vilify black people. By relying on scientific racism, white people were provided with a particular language and terminology that would serve to validate black people’s inferiority.

Postbellum

Although Postbellum marked the end of slavery, white people still relied on tactics from the Antebellum era. Post slavery, African Americans began to experience economic growth and a

¹³ Gould, Stephen Jay. “On Mental and Visual Geometry.” *Isis*, vol. 89, no. 3, [The University of Chicago Press, The History of Science Society], 1998, pp. 502–04, <http://www.jstor.org/stable/237145>.

¹⁴ Brute. Defined as of or relating to beasts. one who lacks intelligence, sensitivity, or compassion : a brutal person. “Brute.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/brute>. Accessed 2 Apr. 2022.

sense of individuality which threatened white supremacy and instilled a fear of black mobility. As stated by Calvin John Smiley and David Fakunle, “[t]his fear was met with a shift from Black people being viewed as compliant and submissive servants to savages and brute monsters.”¹⁵ It is in this fear, that white supremacists legitimized antiblack racism and labeled it Jim Crow.

Jim Crow set the pace in establishing long lasting racist practices that are still sustained into today’s atmosphere. Once slavery became outlawed, white people could no longer label black people as slaves unless they were convicted of a crime. So white supremacists became more tactful and covert in legalizing the criminalization of black people and began to heavily rely on aggressive and meticulous laws, policies and antiblack rhetoric. The 13th Amendment, commonly referred to as *The Abolishment of Slavery Clause* reads as follows:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

This loophole was undeniably intentional as the outlawing of slavery was economically damaging. Recognizing the Constitution had a loophole in legalizing slavery, white people began creating absurd laws to target African Americans. As a result, laws such as vagrancy¹⁶ laws and laws that prohibited miniscule actions such as gambling, (or any form of mischief), and “insulting gestures” to easily criminalize African Americans.¹⁷ After enforcing the narrative that black people were lawless, white supremacists sought to further display black people’s inferiority. For instance, the “Separate but Equal Clause” was written into the United States

¹⁵ Smiley, Calvin John & Fakunle, David. (2016). *From “brute” to “thug:” The demonization and criminalization of unarmed Black male victims in America*. Journal of Human Behavior in the Social Environment. 26. 1-17. 10.1080/10911359.2015.1129256. 353.

¹⁶ Vagrancy laws targets habitual drunkards, prostitutes, habitual gamblers, people who loiter, and able-bodied people who seek to support themselves with welfare or charity rather than seeking employment. *Accessible at* <https://www.britannica.com/topic/vagrancy>.

¹⁷ Alexander, Michelle, author. *The New Jim Crow : Mass Incarceration in the Age of Colorblindness*. New York :New Press, 2010.

Constitution and upheld by the Supreme Court. In establishing this clause, racial criminalization became an official and legal tactic. This law explicitly revealed that the Equal Protection Clause of the Fourteenth Amendment was circumstantial. More significantly, the “Separate but Equal Clause” revealed that true equality was never an objective. Therefore, mass criminalization reveals that the current justice system is flawed, as the protection of African American rights are situational.

One of the most brutal and horrific effects of criminalization was the use of lynching.¹⁸ In the 19th and early 20th century, white Americans relied on lynching to terrorize and control black people. From 1882 to 1968, 4,743 lynchings occurred in the U.S., and of those lynchings, 3,446 were black.¹⁹ Black people comprising seventy-two percent of the lynchings was no coincidence and revealed that these acts were racialized. While lynchings are defined as a form of violence done to administer justice, this was not the case. Instead, it was a tactic that further dehumanized black people. Lynchings were performed as a spectacle as mobs of white people gathered to watch as black people were mutilated and tortured. There were also pictures captured for the sake of souvenirs. Because lynchings relied solely on accusations, and not substantial evidence, every black person became a target/suspect. Therefore, punishment became arbitrary and was done simply because black people “violated” social customs and/or racial expectations. For instance, during Jim Crow white people became vigilant in enforcing the protection of white women from black women. As a result, the accusation of rape, even without identification, led to the lynching of innocent black men. For instance, in 1921, Dick Rowland was accused of raping a white woman, but the charges were dropped. Despite the false accusation, thousands of white

¹⁸ Lynching. Defined as, a form of violence in which a mob, under the pretext of administering justice without trial, executes a presumed offender, often after inflicting torture and corporal mutilation. Abbott, Geoffrey. "lynching". *Encyclopedia Britannica*, 18 Aug. 2021, <https://www.britannica.com/topic/lynching>. Accessed 22 April 2022.

¹⁹ The numbers are not concrete as there are many lynchings that have been unreported. Accessible at <https://naacp.org/find-resources/history-explained/history-lynching-america>.

people attempted to lynch Rowland. They were unable to as members of the black community gathered to protect Rowland. In response, the white mob, “including city-appointed deputies, followed and terrorized Greenwood, shooting indiscriminately at any Black person they saw and burning homes and buildings;” resulting in the death of several hundred black people.²⁰ This tragedy became known as the Tulsa Massacre. What these lynchings reveal is that crime was not deserving of punishment but being black was. As a result, lynching was an act done to appease white racial sentiments. It enforced the narrative that black people were criminals even if they did not commit a crime. Furthermore, lynching established that threatening white supremacy and order was enough justification to murder an African American. Thus, Jim Crow became a refined extension of slavery, and it was during this era there became a shift from slave to criminal. Because of the major shift from relying on the overt institution of slavery to covert practices and structures during the Jim Crow Era, one must analyze the carceral state as encompassing more than just institutions and economic aspects.

Postbellum: The Introduction of White Victimization

More than ever, white supremacist played on the fears and ideologies of racist white people. It is in this fear that white people created their social, economic, and political state. However, this system could not be maintained without strategic and tactical methods. One of those methods will be through the form of victimization of white people and the criminalization of black people. For this essay, the word victim will refer to *a person that believes that outside factors and circumstances are to be blamed*. It is also through this victimization that the carceral

²⁰ *The Tulsa Massacre*. The event remains one of the worst incidents of racial violence in U.S. history, and, for a period, remained one of the least-known: News reports were largely squelched, despite the fact that hundreds of people were killed and thousands left homeless. Accessible at *Tulsa Race Massacre*. History. <https://www.history.com/topics/roaring-twenties/tulsa-race-massacre>.

state was established and preserved. But without a criminal, white victimization was void, thus the criminalization of black people arose. For instance, to further instill fear in white people, there were black caricatures created that depicted black brutes “preying” on “innocent” white women. This act could be classified as the first step in criminalizing black people, specifically, black men. Reason being is that black men were naturally characterized as a threat, simply because of their physical appearance, and under the laws of Postbellum this was enough to lynch a black man. Hence, the act of being black was the bare minimum needed to be considered a criminal.

To better analyze white victimization, one could look at the racial rhetoric of the Civil Rights Era specifically from the point of view of infamous black historical figures- Martin Luther King Jr. and Malcolm X. Reason being is that in analyzing King and X one is able to see that the criminalization of black people is not just a result of committing a criminal act; it is the result of white supremacy and racism. They also reveal the importance of ideologies as they were both religious individuals whose beliefs provided them with support in their fight against oppression. In doing so, King and X offer the viewpoint that the criminalization of black people is mythological in that it stems from the fallacies of racism and white fear. Thus, the study of King and X, reveals that the use of systemic racism has forced black people to be criminalized.

Martin Luther King Jr. and Malcolm X are normally seen as opposing forces in the struggle for civil rights and against white supremacy but are similar in that they are vilified for simply being black men. Therefore, despite King and X’s different approaches in delivering their message, their theme was one in the same- black people are suffering in America. For Malcolm X, it was evident that black people are victims. He believed black people are not victims simply because they are not given the right to vote, but because they have been robbed of their very

nature to be black. Revealed through the Nation of Islam, Malcolm X concludes that black people are victims because they are corrupted and forced into this, “evil western world ruled by a race... that preaches falsehood, practices slavery, and thrives on indecency and immortality.”²¹

This description of America is one that exemplifies the importance of history and racism in vilifying black people. Further, in X’s speech *Racial Separation* (1963) X proclaims, “[our] people in the Negro community are trapped in a vicious cycle of ignorance, poverty, disease, sickness, and death.”²² This cycle X is referring to, results in black people reverting to drugs and crime to escape their environment. However, these criminal acts are not enough to label the black man a criminal. In fact, it is enough to classify them as victims of racism and white supremacy. Further, X found that being black in America was simply enough to be considered a criminal. X notes

You can’t be a Negro in America and not have a criminal record,” he said. “Martin Luther King has been to jail. James Farmer has been to jail. Why, you can’t name a black man in this country who is sick and tired of the hell that he’s catching who has not been to jail.”²³

X is insinuating that America itself is a prison, so there is no escaping the narrative that black people are criminals. In other words, X determines prestige and rank does not make a black person exempt from criminalization, even if the “criminalizing act” was an exercise of one’s rights. Ultimately, X concludes that imprisonment is the price of blackness. Although white people rely on systemic tactics to criminalize black people, once the truth is revealed, it is white

²¹X, Malcolm. 1963. God’s Judgment of White America (The Chickens are Coming Home to Roost).https://moodle.lsu.edu/pluginfile.php/1138862/mod_resource/content/3/MXGod_sJudgmentofWhiteAmerica.pdf

²²(1963) Malcolm X, “*Racial Separation*”. BlackPast.org.
<https://www.blackpast.org/african-american-history/speeches-african-american-history/1963-malcolm-x-racial-separation/>.

²³ Malcolm X. *Message to the grassroots. Speech at Ronald Stokes Memorial. May 5, 1962.*

people who are the true criminals. In doing so, X is implying that white people are the wrongdoers which goes against the premise that black people are. Thus, X proves that if white victimization exists, black people will be criminalized simply for being black.

Without the proper analysis of King's stance on white violence, one could easily conclude that King found little to no fault in the actions of white people, a common tactic implored by insurrectionists who want to reaffirm white supremacy. However, King's ideology is complex and must be unpacked in that way. In the words of Janai Nelson, "[h]e believed in nonviolence. And he also believed in full truth and transparency about the evils of white supremacy."²⁴ In his *Letter from Birmingham Jail*, King acknowledged that white violence cannot be attributed to strictly white extremists but also white moderates:

First, I must confess that over the last few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negro's great stumbling block in the stride toward freedom is not the White Citizens Council or the Ku Klux Klanner but the white moderate who is more devoted to order than to justice. Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will.²⁵

King is inferring that white Americans have no actual desire to witness black Americans gain freedom if it means disrupting order. He also points out that white people associate the fight for freedom with being violent or threatening. Reason being, is that any time a black person fights for justice, the injustices of white people are uncovered, which in turn demonizes white people and threatens white supremacy. Therefore, the actions of white people become performative, to

²⁴ Vox, Vox, 18 Jan. 2021, <https://www.vox.com/2021/1/18/22233296/martin-luther-king-jr-whitewashed-legacy-and-message>.

²⁵ King, Martin Luther, Jr. *Letter from the Birmingham Jail*. Harper San Francisco, 1994. https://moodle.lsu.edu/pluginfile.php/1150874/mod_resource/content/1/LetterFromBirminghamJail.pdf. 97.

appease black sentiments. White people are not willing to risk their superiority; therefore, they victimize themselves. They began to claim, no matter how peaceful protests are, they are all condemnable, which is representative of white fragility. White fragility is described as, “a state in which even a minimum amount of racial stress becomes intolerable.”²⁶ This statement is intricate when modern controversies on topics such as looting arise. America was established through the act of looting- as black people were “stolen property” whose labor became privatized. Post slavery, members of KKK and white mobs, along with the help of policemen, bombed and looted black businesses and houses all in the name of exercising and protecting their God given rights. Yet, in the instance that black people are looting in response to the brutal killing of African Americans such as George Floyd, looting becomes violent and criminal. Therefore, looting is not criminal, it is committing the act while being black that is. As aforementioned, the desire to protect order more than justice is infuriating when this is only regulated when black lives are brought into question.

King furthers these sentiments by highlighting that black people’s response to a nation that denies them basic rights does not criminalize them. Even in King’s most recognized *I have a Dream Speech*; he publicizes, “the Negro is still languished in the corners of American society and finds himself an exile in his own land.”²⁷ While not implicitly stated, it can be inferred that King is finding that black people have been demonized since they were forced to America. In his sermons and textual pieces, he finds that in demonizing black people, white people have been able to perpetuate white supremacy. Furthermore, his analysis reveals that the criminalization of black people is key in not only upholding white supremacy, but racism as white supremacy is merely an extension of racism. While these are all examples of him inferring that black people

²⁶ DiAngelo, Robin. White Fragility. <https://libjournal.uncg.edu/ijcp/article/viewFile/249/116>.

²⁷ King, Martin Luther. 1991. *I Have a Dream*. New York, NY: HarperOne.

are victims, he explicitly states in, *Why we can't Wait*, “the first victim was a young Negro.”²⁸ Because of systemic racism, black people are already placed into an environment that does not seek to protect them. They are placed into statistics such as, “A black male baby born today, if we do not change the system, stands a 1 in 3 chance of ending up in jail.”²⁹ Statistics as such reveal that black youth are criminalized before they are even given a chance to develop their character. Further, the perpetuation of antiblack rhetoric and the criminalization of black youth can also be attributed to school. Schools that are predominantly black are known to have a heavy police presence or are more likely to be reported or referred to the police.³⁰ This hyper surveillance conveys the message that black youth are destined to commit a criminal act. There is also a clear distinction in how supervisors discipline black students versus their counterparts. For instance, there may be expulsions when suspension is feasible.³¹ While these examples illustrate black youth as criminals, they are victims to a system that neglects and devalues them. In other words, white supremacy has made it to where we only view black people as delinquents causing them to be culturally and quantitatively amenable to racism. Likewise, King discusses the duality and blindness that is present in white America in *Racism and the White Backlash*. Because of this duality, white America enforces democratic values onto everyone except African/African Americans; causing America to take a few steps backward for every step forward. He then describes blindness, as the inability for white people to see themselves for who they truly are. In fact, he states, that “[r]ationalization and the incessant search for scapegoats are the psychological cataracts that blind us.” Although King uses the word “us” he is not referring to

²⁸ King, Martin Luther, Jr., 1929-1968. *Why We Can't Wait*. New York :New American Library, 1964

²⁹ Claim made by Bernie Sanders.

<https://www.washingtonpost.com/news/fact-checker/wp/2015/06/16/the-stale-statistic-that-one-in-three-black-males-has-a-chance-of-ending-up-in-jail/>

³⁰ Spector, Carrie. *Schools need to acknowledge their part in the criminalization of Black youth, Stanford scholar says*. <https://news.stanford.edu/2020/06/18/school-systems-make-criminals-black-youth/>. Accessed 6 Apr. 2022.

³¹ Ibid.

black people. This is clarified when he states shortly after, “[t]o find the origins of the Negro problem we must turn to the white man’s problem.”³² And as mentioned above, the white man’s problem is their blindness. Therefore, King is arguing that by living in blindness, white people never take accountability for their actions causing them to create racist spaces and activities, giving them an excuse to victimize themselves. More extensively is the myth of the black rapist³³, that maintains white women’s historical fear that black men are predators who seek to harm them which was commonly used to uphold the practice of lynching. Further, this stereotype enforces the belief that white women are victims who must be protected from black men. One of the most common and brutal cases that reveals the consequences of white victimization and blindness, is that of Emmett Till’s. Despite having no substantial evidence or proof of Till whistling or making “ugly remarks” at Carolyn Bryant, (Till’s accuser and alleged victim), Till’s murder was justified as his murderers were found not guilty. In deciding Bryant’s husband and accomplice were not guilty, the legal system set a clear example of who they considered to be the criminal and the victim. When analyzing Till’s case, Bryant is not only displaying white victimization, but also white blindness. The political and social climate of the 50s, was one where white women could determine whether an African American lived or died. So, whether Bryant understood the magnitude of her accusation or not, the fact that she has not taken full accountability for her actions, displays her blindness. On the other hand, Emmett Till is also displaying King’s idea of “the first victim being a young Negro.” Till was a fourteen-year-old that was not given the chance to be an innocent boy simply because he was black. The harmless actions of Till would have been excused as playful behavior had he been of any other race. However, with almost two hundred years of dehumanizing and demonizing black people, Till

³² Ibid.

³³ The myth is that, “Black men target White women to sexually assault.” Sexual Assault Prevention & Awareness Center. *available at <https://studentlife.umich.edu/files/sapac/assault-black.pdf>*

became an easy target for white women such as Bryant. Therefore, the duality and blindness of white America is a tactic that directly leads to the mass criminalization of black people.

The Current Effects of Historical Racism

Those who do not remember the past are condemned to repeat it.

-George Santayana

As mentioned above, racism is highly adaptable and there are many factors of the past that have contributed to the current state of the carceral system. More specifically, the policies, reasonings, and language relied upon in the past, too, are still habituated today. There is still the reliance upon government intervention, the “myth of the black rapist” and scientific racism to not only criminalize black people but demonize them as well. Although today’s government intervention is not as blatant as the Jim Crow Era, its effects are just as imminent. To give an example, the War on Drugs³⁴, incited by former president Richard Nixon, played upon the fears of white people. According to Nixon’s domestic policy advisor, John Ehrlichman:

The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. We knew we couldn't make it illegal to be either against the war or blacks, 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 in the evening news. Did we know we were lying about the drugs? Of course, we did.³⁵

³⁴ Britannica, The Editors of Encyclopedia. "War on Drugs". *Encyclopedia Britannica*, 23 Jul. 2020, <https://www.britannica.com/topic/war-on-drugs>. Accessed 5 April 2022.

³⁵ According to a leaked 1994 quote from Nixon domestic policy adviser John Ehrlichman, President Richard Nixon began America's war on drugs to criminalize black people and hippies. *Accessed at* <https://www.brennancenter.org/our-work/analysis-opinion/race-mass-incarceration-and-disastrous-war-drugs>

During his presidency, Nixon mastered covertly including race to enforce the criminalization of drugs. He portrayed drugs as a threat to society and called for heavier policing in poorer neighborhoods. Although Nixon set the tone for the “War on Drugs,” the presidency of Ronald Reagan marked the beginning of federal law enforcement efforts. He began mentioning race in public discourse to enforce racial hostility for political gain. Using derogatory terms such as “predators” it became obvious that it was a “not so subtle code for ‘black men and women.’”³⁶ In doing so, he contributed to the rage of white Americans, and it is made clear that his main factor was not crime but race. Further, Reagan centered his focus onto crack, an issue prevalent in predominantly black and poorer neighborhoods. As a result, crime became directed at black men and women and “one fourth of young African American men were now under the control of the criminal justice system.”³⁷ Consequently, ninety percent of those admitted to prison for drug offenses in many states were black or Latino. An unfortunate shift from the past to present is that the criminalization of black people is also being brought upon by black political actors. Take for example, the study of how African American elites and middle- class African Americans influenced the development of New York’s Rockefeller Laws as well as the state of mass incarceration, conducted by Michael Javen Forter.³⁸ Forter found that due to higher demand for safety, many black elites and middle-class Americans sought action from police in their neighborhoods. As a result, the level of policing increased as well as the criminalization of African Americans. Fortner found that those who were once proud activists for racial equality became activists for regulation of the poor and the institution of crime policies. William Raspberry, an African American columnist, wrote that the “poor junkie” is to blame not “urban

³⁶ Alexander, Michelle. *The New Jim Crow : Mass Incarceration in the Age of Colorblindness*. New York : [Jackson, Tenn.] :New Press ; Distributed by Perseus Distribution, 2010. Page 118.

³⁷ Ibid. 132.

³⁸ Fortner, Michael Javen. "The Carceral State and the Crucible of Black Politics: An Urban History of the Rockefeller Drug Laws." *Studies in American Political Development* 27, no. 1 (2013): 14-35.

poverty.”³⁹ Raspberry was just one amongst many African Americans who used their platform to discuss their digressions towards crime and the poor. With Raspberry’s statement, one can see how political actors rely on policies that include racial rhetoric to appeal to racist sentiments. Also, Raspberry revealed that the efforts of some African American political actors were not geared towards civil rights and racial equality, but towards perpetuating mass criminalization. Similarly, James Forman Jr. describes black political actors as fueling black criminalization.⁴⁰ With issues such as the “war on drugs,” black elites chose to narrate the political climate to their liking, often linking drugs and violence to create strict methods of policing. He focuses on the campaigns of individuals such as John Ray and Burtell Johnson to demonstrate how they furthered their political agendas, such as maximizing sentencing by capitalizing off black individuals’ fear. Forman sees how this nature directly affects the African American community and how the world could offer them only “police and prison not help.”⁴¹ The discussion of decreasing crime and incarceration rates became a political agenda rather than a delicate issue requiring substantial thought and reform. It resulted in political actors creating any narrative that would support the reduction of crimes, so black people became, yet again, the scapegoat. Although efforts to eliminate crime increased, there was no proof that it was effective. Overall, once political actors began to direct their efforts towards black men and women, the criminalization of black people drastically increased.

Another consistent practice in maintaining the mass criminalization of African Americans, is white victimization. Because of the lingering effects of vilifying black men during the Jim Crow, there is still practice of the “myth of the black rapist.” While all rape accusations

³⁹ Ibid.

⁴⁰ Forman, James. “Locking Up Our Own”. New York. Farrar, Straus and Giroux. 2017.

⁴¹ Ibid. 130.

against a black man do not result in lynching, they are liable to result in capital punishment. With that being said, the “Central Park Jogger Case”⁴² is one that reveals the effects of simply being black in America. Even though DNA gathered from all suspects did not match the DNA samples, all six suspects were still indicted on rape charges against the woman jogger. What this case reveals are that the effects of rape culture from the Jim Crow Era are still prominent and problematic for African Americans. Case in point is, former President Donald Trump, “urging the return of the death penalty” without knowing if those black teens were guilty.⁴³ As stated above, “the first victim was a young Negro,” as they are omitted from the presumption of innocence.⁴⁴ Another example is the usage of the term “Karen” to reference the blindness of white women. The term “Karen” describes a white woman who targets and polices nonwhite individuals because they believe themselves to be indubitably correct. For instance, a “Karen” in Cambridge Massachusetts called the police officers to report a burglary on black Harvard professor, Henry Louis Gates who was then arrested and charged for trying to enter his own home. Another instance involved a Starbucks manager who called the police officers on two black men for waiting on a friend, claiming they were violating store policy if they did not purchase anything. One issue with “Karens” or any white individual that makes these unwarranted and ridiculous calls is that they are liable to result in the wrongful prosecution or even death of black people. However, the primary issue with white people engaging in any

⁴² The Central Park jogger case (events also referenced as the Central Park Five case) was a criminal case in the United States over the aggravated assault and rape of a woman in Manhattan's Central Park on April 19, 1989, occurring at the same time as an unrelated string of other attacks in the park the same night. Five black and Latino youths were convicted of assaulting the woman, and served sentences ranging from six to twelve years. *Accessible at The Jogger and the Wolf Pack*. *The New York Times*. April 26, 1989. ISSN 0362-4331. Retrieved 7 April 2022.

⁴³ Foderaro, Lisa W. (May 1, 1989). "Angered by Attack, Trump Urges Return Of the Death Penalty". *The New York Times*. ISSN 0362-4331. Retrieved April 7, 2022.

⁴⁴ *According to: The Intersection of Race and Rape Viewed through the Prism of a Modern-Day Emmett Till*, “The “presumption of innocence,” not expressly enumerated in the U.S Constitution, comes from the Bill of Rights. The general theory is that every defendant charged with a crime is presumed *innocent* until proven guilty beyond a reasonable doubt.” *Accessible at The American Bar Association*. <https://www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2019/summer2019-intersection-of-race-and-rape/>

accusation against black people, is that they can afford to wrongfully accuse black people of criminal intent with little to no repercussions. Further, it reveals that when it comes to the protection of white women, efforts will be exhausted at the expense of a black man's life.

The Effects of Mass Criminalization

The effects of mass criminalization are significant as it provokes a social death. While the scope of a social death is quite broad, it can be concluded that it results in the loss of a social connection and/or social identity.⁴⁵ For black people to have a social identity as Americans they must first view themselves as members of that society. Considering historically racist rhetoric, practices and institutions have made it clear that they are excluded from the American social group, identification is void. As a result, the loss of social identity forces African Americans into spaces where they do not feel welcome or acknowledged. Even in the instances that black people are welcomed they are often overlooked until they cause a disruption. In other words, black people are only acknowledged when they act out of character. Further, black people do not have a place in society, until their place is determined by their white counterparts. On the other hand, the mass criminalization of African Americans forces white people into a state of "white fragility."⁴⁶ By way of explanation, white people are conditioned to feel threatened any time order is disrupted. As a result, they rely on their privilege to return things back to order. Thus, the black identity becomes an extension of white American values and ideologies. And in the instance the black identity is as such, it is vilified, dehumanized, and criminalized until it mirrors

⁴⁵ Králová, Jana. (2015). What is social death?. *Contemporary Social Science: Journal of the Academy of Social Sciences*. 10. 235-248. 10.1080/21582041.2015.1114407.

⁴⁶ White Fragility is a state in which even a minimum amount of racial stress becomes intolerable, triggering a range of defensive moves. *According to sociologist Robert DiAngelo: Accessible at <https://libjournal.uncg.edu/ijcp/article/viewFile/249/116>*

white expectations. Moreover, mass criminalization causes black people to feel as if they are constantly devalued.

Conclusion

The mass criminalization of black people is an issue that cannot be attributed to tangible factors. In fact, by focusing on ideologies, practices, and logic one can see the reliance of racism in furthering the social state of African Americans. Furthermore, after my research, I concluded that in order to eradicate these disparities, there has to be a shift in how black people are viewed. We often have a tough time prioritizing black people, racism will not let us see them as victims or anything other than criminals/ rapists or anything that could fit a racist trope. Further, history has worked to dehumanize black people and to lessen their human experience. Therefore, there must be more effort in reducing that narrative. This objective can be achieved with more qualitative approaches as it enforces the idea that black people are simply that- people. Just as Marie Gottschalk states, “[n]o single factor explains its rise, and no single factor will bring about its demise.”⁴⁷ As the paper highlights, the structure of the carceral state cannot be thoroughly evaluated without looking at the reliance upon ideologies, practices, and logic. In studying these factors, I find that the use of mass criminalization is constant throughout history and has just adapted to the era of question. Likewise, my paper concludes that while slavery was motivated by primary political issues instead of humanitarian or ideological motives but the carceral state is motivated by both political and ideological motives issues. Thus, I observe that by focusing on the origin of racism and its effects, criminal justice discrimination and targeted policing throughout American history, I find that the antiblack narrative is vital in understanding the mass criminalization of African Americans. Further, by evaluating prominent religious leaders and

⁴⁷ Simon, John. *Razing the Carceral State*. n.p. The Johns Hopkins University Press. 2007. Page 35.

activists, Martin Luther King Jr. and Malcolm X, it is revealed that the criminalization of black people is mythological in that it stems from the fallacies of racism and white fear. Thus, I find that until we end the systemic effect of racism, the carceral state will remain as is. As Sally E. Hadden suggests, “We may seek the roots of racial fears in an earlier period, but that history does not displace our responsibility to change and replace the era in which we live in.”⁴⁸ For this reason, I hope that in this research future scholars recognize that understanding history just provides us with the tools necessary to dismantle our current system.

⁴⁸ De Jong, Greta. Review of *Slave Patrols: Law and Violence in Virginia and the Carolinas*. *Journal of Social History*, vol. 36 no. 1, 2002, p. 220-221. *Project MUSE*, doi:10.1353/jsh.2002.0088.

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