

# Whoever Says ‘Prison’ Says Black: The Genealogy of the Criminal Justice System

**Maanas Sharma**

*Maanas Sharma is the founder and Editor-in-Chief of JIPP. He is also the captain and research lead of the policy debate team at the School of Science and Engineering in Dallas and a nationally competitive mathematician. At his core, Maanas is passionate about transdisciplinary policy and bringing historical and social-scientific understandings to quantitative policy solutions.*

**Image:** “Generational Oppression” by Ricardo Chucky



*“Whoever says ‘prison’ says Black.”*

*~Professor Jared Sexton, University of California-Irvine*

Professor Sexton’s words highlight a particularly troubling reality in today’s carceral state. However, this begs the question of why: Why is the prison system today in the United States that targets and breaks apart Black families? While we can isolate any number of bad policies that have contributed to mass incarceration and over-policing of Black communities, we cannot disentangle this contemporary issue from history. Rather, history sheds light on the truth of the matter: the prison is simply the newest instantiation in a long history of state control of Black people in America.

The arrival of the first African slaves in America 401 years ago in 1619 inextricably shaped the course of the United States. Though slavery was “abolished” in 1865, new systems have been born to take its place. Namely, slavery shifted to sharecropping after the end of the Civil War. Later on, as Black sharecroppers began to prosper and move off plantations, the state shifted to new methods of control. The government began to physically place Black people under government control through segregation, and soon after, redlining. Moreover, the government fueled a psychological and physical war against Black people. More than 6,500 Black Americans were lynched by white Americans to “intimidate, coerce, and control Black communities with the impunity of local, state, and federal officials...” Moreover, state-sponsored race massacres, like Tulsa’s “Black Wall Street” Massacre decimated Black communities at the first sign of independence and prosperity, effectively nullifying the (minimal) expansion of civil rights. As negative public perception of these actions increased after decades of intense Black struggle, a careful transition into our current criminal “justice” system was orchestrated. The criminal justice system maintains the (in)visible hand of the state over Black people through criminalizing the very economic and social situations they were forced into, continuing to inflict violence, and extracting Black labor: just as slavery did 200 years ago. Indeed, we can still see the vestiges of slavery in our carceral state:

- ❖ Formerly incarcerated people are called “free men.”
- ❖ Solitary confinement is directly informed by the tactics used in the slave hold.

- ❖ Breonna Taylor’s killers have not yet been charged with murder, not as some exception to the rule, but because police contracts ensure they can not.
- ❖ 1 in 3 Black men, and rising, will be incarcerated by the state in their lifetime.
- ❖ In a carefully crafted exception to the 13th amendment, chain gangs of Black men line up, chained together, working the South’s plantations, sold as “prison labor” for no pay.

The goal of criminal “justice” is so clear that the Supreme Court of the United States says “apparent [racial] disparities in sentencing are an inevitable part of our criminal justice system.” Though the Supreme Court’s words here are shocking to many, they accurately describe the American body politic. The current instantiation of the criminal justice system is inextricably linked to the logics of racial control created by chattel slavery. Indeed, the crafters of the system have long recognized its racialized motivation; for us to avoid doing so is a great disservice to movements for justice. However, recognizing the racialized foundations of our current system does not mean we cannot fight for reforms. Instead, renowned abolitionist Rachel Herzing suggests we make incremental steps that “steal” some of the Prison Industrial Complex’s power so that it cannot “continually increase its power and hold on our lives.” She characterizes abolitionism as a constitutive action that uses reform, where we say “this is the world I want to live in, therefore, I need to take these steps to create the conditions that make that world possible.”

Using this framework, it is clear that, for example, ending qualified immunity and the war on drugs are “good” things. The former makes it possible to hold police officers accountable and the latter is a decrease of the state’s crackdown on people of color for petty reasons. These will certainly aid movements to decrease the power of the carefully crafted carceral system over Black bodies. Nevertheless, we must never lose sight of the fact that our true goal is something specific — true liberation. The United States has a pattern of simply dressing up oppressive policies in makeup and calling it a day. When the government finally gives in, we must proactively hold it accountable to ensure that this pattern does not repeat itself this time around. It is our job as people dedicated to a more just future to demand more.

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