

A Historical Overview of the Growing Prison Industrial Complex

In this section, the origins of the Prison Industrial Complex are presented. This historical context is important in examining current prison policies and practices, as well as the current disparity in numbers of incarcerated Black American men and women.

Convict Leasing (Post Civil War)

Post-Civil war reconstruction was beyond what many thought it would be. The Southern economy was in ruins and resources were scarce. The idea of “reintroducing the forced labor of Blacks as a means of funding government services was viewed by Whites as an inherently practical method of eliminating the cost of building prisons and returning Blacks to their appropriate position in society” (Blackmon, 2008, p. 53). Even though the Thirteenth Amendment to the constitution abolished slavery, the constitution still permitted *involuntary servitude* as punishment for convicts. This in turn meant that “forcing convicts to work as part of punishment was clearly legal” (Blackmon, 2008, p. 53). As a result, “every southern state enacted an array of interlocking laws essentially intended to criminalize Black life” especially after 1877 (Blackmon, 2008, p. 53). For the purposes of this study, the term ‘southern states’ is defined as the states displayed in Table 1 as well as the target state in this study, Louisiana.

Criminalizing Black American life was fairly an easy task in the reconstruction era. Many of the laws created in this era did not specify that they were directly put into place for Black Americans, but they were rarely offenses that could be committed by White Americans. Vagrancy laws were passed in every southern state except for Arkansas and Tennessee. These laws, punishable by prison, vaguely meant that “any freed slave not under the protection of a White man could be arrested for the crime” (Blackmon, 2008, p. 53). In Mississippi, the law required that freed slaves had to enter into labor contract by the first of every year with White

American farmers in order to evade arrest, and in some other southern states freed Black American slaves could not legally be hired for work without permission and discharge papers from their previous employer, *their former slave master*. It was also a crime in some places for a Black American man to change jobs without consent. It was clear by these laws that the newly freed Black American slaves were not full citizens and in many instances and contexts, targeted for crimes which would ultimately, by the 13th Amendment, return them to the same servitude from which they had been emancipated. The system was set up to criminalize Black American slaves and return them to slavery.

Convict leasing was another profitable venue for the states which allowed it. At this point, the criminalization of Black American life had led to an increase in Black American incarcerated individuals. “Many states in the South and the North attempted to place their prisoners in private hands during the 18th and early 19th centuries” (Blackmon, 2008, p. 54). In this way the states were no longer responsible for the care of the prisoners and responsibility was all left up to the *private wardens* and their discretion. This worked at saving expenses, but ultimately the states did not profit or gain any revenue from the arrangements. Not long after the Civil War, states began leasing and selling their now majority freed slaves – incarcerated individuals to railroad companies, planters, and various mining companies in order to receive a profit and lessening the burden of having to feed, clothe, and house their state prisoners. States like Texas in 1866, would lease out 250 convicts to a railroad and profit \$12.50 a month; and states like Texas would lease out 100 Black American inmates to a railroad company for \$2500 (Blackmon, 2008). Moving forward it was clear that “the combination of trumped-up legal charges and forced labor as punishment created both a desirable business proposition and an

incredibly effective tool for intimidating rank-and-file emancipated African Americans”

(Blackmon, 2008, p. 55). See table below with examples of state convict leasing records:

Table 1: Sample of convict leasing records post-Civil War (Blackmon, 2008; Carlton, 1967)

State	Year	#Convicts Leased	Company
Texas	1866	250	Railroad
Georgia	1868	100	Georgia/Alabama Railroad
	1868	134 sold	Selma, Rome, and Dalton Railroad
	1868	109	Railroad construction
Alabama	1866	374	Alabama and Chattanooga Railroad Company
Arkansas	1867	Selling rights to prisoners	
Mississippi	1868	241	Planter Edmund Richardson
	1871	241	Planter Nathan Forest
Florida	1869	50	
North Carolina	1872	farming out	
South Carolina	1877	430	Sold
Tennessee	1871	800	Tennessee Coal, Iron, and Railroad Company

Louisiana	1870	Entire LA State Penitentiary at Baton Rouge	S. L. James and Co. 21 year lease voted on by the government for \$25000
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Convict leasing continued for several years, post-Civil War, especially in the Southern states.

Jim Crow Era

Jim Crow way of life was focused around an unyielding set of codes and anti-Black American laws which governed many states – Southern and Northern – within the United States from 1877 to the mid-1960s. In more of an attempt to *criminalize Black American life* these laws prohibited the mingling of Black Americans and White Americans, and made this mingling a criminal offence for anyone attempting to go against it. Many restrictions were placed upon Black Americans that made them susceptible to being labeled as criminals. Black Americans and White Americans were not allowed to use the same public facilities such as restaurants and restrooms, transportation, entertainment spaces, nor public venues. These facilities were supposed to be considered *separate but equal*, but in most cases the Black American facilities were substandard, far below the quality of the White Americans'. For Black Americans to use White American facilities would lead to arrests and jail time, but White Americans were not limited to usage of only their facilities. Mingling of Black Americans and White Americans was prohibited, but Black Americans were usually the recipients of the criminal label. The *redemption* period post-civil war ushered in a time of abandonment of southern Black

Americans, where they were no longer under the protection of federal troops and were subject to legislation and laws that terrorist White American organizations put into place to supposedly *redeem* the southern states. “Tens of thousands of African Americans were arbitrarily arrested during this period, many of them hit with cost and fines, which had to be worked off in order to secure their release” (Alexander, 2012, p. 31). Once again this fed into the *convict leasing* pool where “prisoners were sold as forced laborers to lumber camps, brickyards, railroads, farms, plantations, and dozens of corporations throughout the South” (Alexander, 2012, p. 31). Convicts were literally considered *slaves of the state*, and all rights and liberties were relinquished upon conviction.

During the years following the *redemption* era of the south the “convict population grew ten times faster than the general population” (Alexander, 2012, p. 32). The disproportionate amount of Black Americans within the convict population was staggering. Oshinsky explains, “As we were looking at the country’s first prison boom, the ‘prisoners became younger and blacker, and the length of their sentences soared’” (1996, p. 63). The conservative efforts of southern White Americans ushered in more segregation laws which were deliberately set to “encourage lower-class Whites to retain a sense of superiority over Blacks” (Alexander, 2012, p. 34). This kept the upper-class White Americans from contending with the possibility of poor Black Americans and poor White Americans from forming alliances which could topple their caste system which was politically, viably, and economically important for them. Throughout the Jim Crow era, laws were passed in the South that disenfranchised and discriminated against Black Americans in every aspect of daily life. This racial isolation was evident in “schools, churches, housing, jobs, restrooms, hotels, transportation, restaurants, hospitals, orphanages, prisons, funeral homes, morgues, and cemeteries” (Alexander, 2012, p. 35). This oppression of

Black American life and perpetuation of laws to criminalize that life or being Black American, continued well into the 1950s. Racist White Americans had successfully put their social class system in order, and any crime that could be associated with Blackness led to jail time. This was the way of life - especially in the Southern states - up until World War II led to the *grassroots* of the Civil Rights movement.

The Era of America Tough on Crime

Although the Jim Crow Era officially died with the completion of the Civil Rights movement, which abolished laws that segregated Black Americans and criminalized Black American life, there was still a need for White American conservatives to “search for a new racial order that would conform to the needs and constraints of the time” (Alexander, 2012, p. 40). “Barred by law from invoking race explicitly, those committed to racial hierarchy were forced to search for a new means of achieving their goals according to the new rules of American democracy” (Alexander, 2012, p. 40). The proponents of the racial caste system would now stand behind the words *law and order* as opposed to *segregation forever* (Alexander, 2012). The term *law and order* projects a reasonable view of society; the hidden intent was insidious. That intent was to maintain the status quo of enslavement of people of Color. Black Americans were still subject to the same demoralizing conditions of slavery, but now it was masked with the words found in the 13th amendment that allowed for the enslavement of people who’ve committed crimes. *Law and order* essentially was a way to continue to criminalize Black American life and railroad Black Americans back into another system of slavery. The *law and order* was essentially *laws* to continue to keep the caste system in *order*.

All efforts to support civil rights and demonstrations associated with the movements were considered by southern conservatives as threats to natural *law and order*. As an example, “Civil

rights protests were frequently depicted as criminal rather than political in nature” (Alexander, 2012, p. 41). Ironically during this time, overall crime rates in the nation had spiked. It was not necessarily linked to the Civil Rights Movement, but the media perceived it as such. The media and politicians would label actions of *defiance* in conjunction with the Civil Rights Movement as criminal offenses. Whenever Black Americans participated in sit-ins, protests, boycotts and other forms of social order *defiance*, they were then labeled as disrupting *law and order* thus perpetuating criminal acts against the state. Economic and demographic issues coupled with the large number of baby boomers reaching the typical crime-producing age was largely the blame for the spike, but the media chose to sensationalize crime reports and offer this as further evidence that there was a breakdown in “lawfulness, morality, and social stability in the wake of the Civil Rights Movement” (Alexander, 2012, p. 41).

Law and order became a central theme in political views and agendas of candidates based on an “effort to mobilize the resentment of White working-class voters...threatened by the sudden progress of African Americans” (Alexander, 2012, p. 46). Where political party lines were once drawn based on regions-typically Democratic southerners and Republican northerners - now were being assigned based on the *Southern Strategy*, where “law and order rhetoric among working-class Whites and the intense resentment of racial reforms...led conservative Republican analysts to believe that a new majority could be created by the Republican Party. (Alexander, 2012, p. 44). Not only was there a shift in political party allegiance, there was also a change to the basis of how candidates appealed to their constituents. Overwhelmingly, now Republican candidates leaned toward the use of *coded anti-Black rhetoric*, which peaked the interest of “Southern White Democrats (who) had become angered and alienated by the Democratic Party’s support or civil rights reforms” (Alexander, 2012, p. 45). *Law and order* was the main topic

used for presidential debates. Following the 1968 election of President, Richard Nixon, “race had become, yet again, a powerful wedge, breaking up what had been a solid liberal coalition based on economic interests of the poor and the working and lower-middle classes” (Alexander, 2012, p. 47). And “by 1972, attitudes on racial issues rather than socioeconomic status were the primary determinant of voters’ political self-identification” (Alexander, 2012, p. 47).

Promises to get *tough on crime*, an extension of *law and order*, began to emerge during the Ronald Reagan campaign. Once again politicians were using carefully crafted language and concepts, “racialized appeals (to) target (the vote of) poor and working-class Whites” (Alexander, 2012, p. 49). President Reagan and the Justice Department launched a crusade against *street crime* by cutting the agents assigned to White-collar criminals and shifting attention to it, specifically urban drug-law enforcement. The *War on Drugs* officially began in “October 1982” and “by waging war on drug users and dealers, Reagan made good on his promise to crack down on the racially defined *others* – the undeserving” (Alexander, 2012, p. 49). During the War on Drugs campaign, federal monies were allocated for punitive instead of rehabilitative methods of fighting the drug epidemic. For example, Black American citizens living in the inner-city were the target of this war as “the decline in legitimate employment opportunities increased incentives to sell drugs” (Alexander, 2012, p. 51). The epidemic, which swept the nation in a media frenzy, was *crack cocaine*. “Crack hit the streets in 1985 leading to a spike in violence as the drug market stabilized” (Alexander, 2012, p. 51). Instead of responding to the epidemic with “treatment, prevention, and education” initiatives the U.S. government responded with antidrug legislation which was “extraordinarily punitive, this time extending far beyond traditional criminal punishments and including new *civil penalties* for drug

offenders” (Alexander, 2012, p. 53). The criminal punishments included in the Anti-Drug Abuse Act of 1998:

authorized public housing authorities to evict any tenant who allows any form of drug-related criminal activity to occur on or near public housing premises and eliminated many federal benefits, including student loans, for anyone convicted of a drug offense. The act also expanded use of the death penalty for serious drug-related offenses and imposed new mandatory minimums for drug offenses, including a five-year mandatory minimum for simple possession of cocaine base — with no evidence of intent to sell. Remarkably, the penalty would apply to first-time offenders (Alexander, 2012, pp. 53-54).

The War on Drugs continued into the next presidency of George W. Bush, Sr. and was concealed in race-neutral language that allowed White Americans who were opposed to racial reform a platform to express their resentment toward Black American progress without being labeled as racists.

Though the media and political agendas overpublicized public concern over crime and drugs, there was little to no correlation with the actual crime rates. This politically created frenzy of a need for anti-crime toughness geared toward communities of Color would now give way to the “new racial caste system- mass incarceration” (Alexander, 2012, p. 55). Prison and jail populations exploded, and the “number of people behind bars in the United States was unprecedented in world history, and one fourth of young African American men were now under the control of the criminal justice system” (Alexander, 2012, p. 56). Republicans were no longer the authority on tough on crime issues, whereas both political parties used it as an avenue to obtain popular votes. Democrat President, Bill Clinton, “endorsed the idea of the *three strikes and you’re out* law” which issued a life sentence to those convicted a third time offense (Alexander, 2012, p. 56). He created “dozens of new federal capital crimes, mandated life sentences for some three-time offenders, and authorized more than \$16 billion for state prison grants and expansion of state and local police forces” (Alexander, 2012, p. 56). During his two

terms in office during the 1990s, President Clinton created a plethora of laws and mandates that led to the largest increase in in federal and state prison population than under any other presidency. During Clinton’s tenure the federal government cut funding for public housing by 61% and increased funding for corrections 171%. This created more housing for urban poor within the jails than within the standard housing project (Alexander, 2012).

Thus, increases in incarceration can be directly linked to political aspirations and resultant catch phrases over the last several decades in the U.S.. Figure 1 outlines increases.

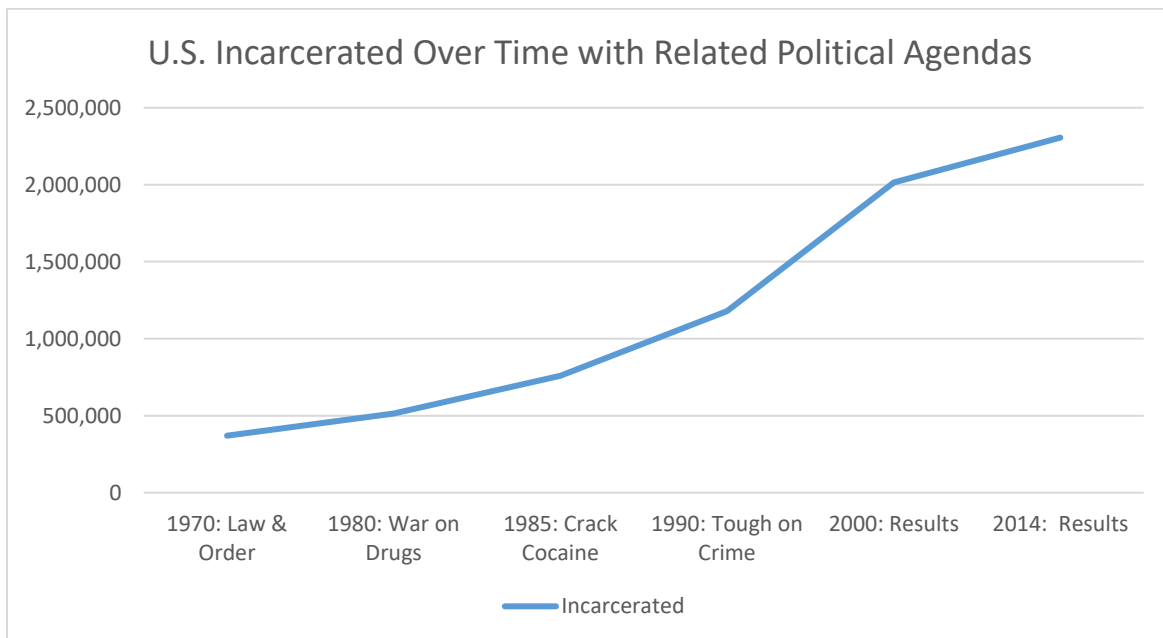


Figure 1: U.S. Incarceration Rates over Time with Related Political Agendas (DuVernay, 2016)

Current Prison Industrial Complex (PIC)

The term Prison Industrial Complex (PIC) is used to describe the overlapping interests of government and industry that use surveillance, policing, and imprisonment as solutions to what are, in actuality, economic, social, and political problems (Herzing, 2005). As discussed in her 2005 *What is the Prison Industrial Complex* article, Herzing highlights the ever-growing issue of mass incarceration and the industrialization of the prison system which has led to the use of this

term as opposed to the term Criminal Justice. In her article, she dissects the issue from various angles as she looks at criminalization, media, surveillance, policing, courts, and the prison system.

For the purposes of this research, I focus mainly on the courts and the prison system complex. The emphasis of this research is on education and self-efficacy for incarcerated men who have chosen to pursue post-secondary educations despite being in the confinement of the PIC. Within the PIC the court system is “shaped by structural inequalities, so it follows that the courts target people of Color and poor people” (Herzing, 2005, p. 5). These people are typically the ones who cannot afford proper legal representation and therefore are forced to wrangle with overburdened public defenders who are unable to give their cases the type of extensive support and counsel that they may need. This in turn, leads to being charged with and also convicted of crimes for which they may have otherwise been able to receive a lesser charge and lesser jail time (or avoid jail time all together), hence, flooding our jail system with people of Color and people who are in impoverish situations. As a personal, current example, I have recently witnessed in the news a case of a man who murdered a pastor in Calcasieu, Louisiana by shooting him during a church revival. With an experienced attorney and finances, the man was able to get the grand jury to reduce the charge from second degree murder, which holds a mandatory life sentence in Louisiana, to manslaughter, which only carries a sentence of 40 years of jail time with parole eligibility. “State law defines manslaughter as a homicide without any intent to cause death or as a homicide committed in the heat of the moment when a person was provoked beyond the point of self-control.” (KPCLTV.com, 2013). In this case, who can truly judge whether or not there was intent to cause death and whether or not the provocation was beyond the point of self-control? The court system is in complete control as to whether a person

is charged with first or second degree murder for life, versus a manslaughter charge which gives them an opportunity to redeem themselves and actually have a chance to be rehabilitated and reintroduced to society after they have paid a hefty price for taking a life. In another instance Seth Fontenot of Lafayette Louisiana, an 18 year old White American male, was found guilty of manslaughter in the 2013 shooting death of a 15 year old White American teen, Austin Rivault. Fontenot was originally charged with first degree murder because of the circumstances of the crime. Subsequently, an investigation revealed that Fontenot's vehicle had been previously burglarized and that he had sat in wait for the culprit to come back. There were numerous text messages where Fontenot stated that he was going to *kill* the assailant; and when the opportunity presented itself, he not only chased them down, but also fired his weapon into their vehicle killing the 15 year old boy, taking the law into his hands versus contacting law enforcement. All of these things pointed to the fact that by definition, this was premeditated murder which constitutes a first degree offense punishable with a life sentence in Louisiana. Surprisingly even with all of these facts in play, due to representation and undoubtedly the presence of *White American male privilege* - defined as "entitlement, sanction, power, and advantage or right granted to a person or group solely by birthright membership in a prescribed group or groups" (Black & Stone, 2005, p. 245), Fontenot received thirteen month sentence for manslaughter and aggravated battery instead of the original charge of first degree murder and attempted first degree murder. Part of his defense was that his 18 year old brain was not fully mature enough to know the gravity of what he was doing, yet in this state we have countless juvenile offenders (charged at 17 years old or younger) currently illegally serving natural life sentences for various crimes in Louisiana. This story is yet another example of how the legal system is set up to make allowances when certain people deem it necessary. In Louisiana, there are currently more than

4,000 individuals serving life sentences without the possibility of parole (LWOPP). The majority of these people are serving this sentence because of a first or second degree murder conviction, defined by the Louisiana law as “when the offender has a specific intent to kill or to inflict great bodily harm” – again – my perspective – I feel as though the charging and conviction for these crimes can be totally subjective on a case by case basis. As stated by Herzing,

the rich have crucial advantages when it comes to the court system. Those who can afford to hire their own attorneys are less likely to be imprisoned. They can afford bail, which allows them to leave jail and conduct their own investigations and better prepare for trial. They can afford better attorneys, better expert witnesses, better private detectives, and more *respectable* alibis. Those who cannot afford bail and come straight to court from jail are more likely to be imprisoned. Additionally, poor people are not only found guilty more often than people who are not poor, they are also recommended for suspended sentences and probation less frequently than people with more money (Herzing, 2005, p. 5).

All leading back to the notion that court system is deeply engrossed in the PIC and that imminent jailing and slavery is overwhelmingly disproportionate to the disadvantaged and underprivileged in our society.

The Prison System itself is the epitome of the PIC. The dehumanizing effect of the prison structure lends to the lowering of self-efficacy and lack of socialization within the walls of the institution. This in itself aids in the fortifying of the infrastructure of the PIC. When humans are isolated from one another and from societal norms this can lead to system dependency and lack of self-worth. In turn, this system can be continually perpetuated within the eyesight of normal society without being looked upon as the modern day slavery that it is. The use of prison labor has caused an increase in American business. Paleaz illustrates this, stating, “At least 37 states have legalized the contracting of prison labor by private corporations that mount their operations inside state prisons” (2014, p. 2). Using prison labor at lower cost to companies has

motivated the court systems to place longer sentences on many crimes, thus sustaining and increasing their workforce. The private prison industry has also boomed over the last 10 years going from five institutions to over 100 across the nation. In private prisons, the company receives a set amount of money per prisoner which is not correlated to the daily maintenance of the individuals (Paleaz, 2014). The warehousing of human beings has had a prolific effect on the economy and “the private contracting of prisoners for work fosters incentives to lock people up. Prisons depend on this income. Corporate stockholders, corporations, and other entities who make money off prisoners’ work, lobby for longer sentences, in order to expand their workforce” (Paleaz, 2014, p. 1). Thus, just as convict leasing post-Civil War was a profitable and resourceful means of harnessing human labor, the PIC extends and expands this view of accessing cheap human capital.

Families Pay the Price

While stakeholders continue to accumulate wealth from the use and everyday life of the disenfranchised incarcerated individual, the families of these individuals ultimately pay the large price tag that is associated with incarceration. People often think about prison life and how one could essentially want for nothing as they are provided state-issued shelter, food, and some basic clothing; but this is only the case if prison is meant to be totally about penalization, solitude, and dehumanization. Many incarcerated individuals have lost loved ones and friends based on the financial demands that the PIC places on families to maintain communication, palatable food, adequate clothing, medical care, and basic needs – like soap and deodorant – that make everyday life *livable*. Incarcerated individuals in Louisiana make an average of \$3.20 a week based on their job and whether they work a 40 hour week or not. The maximum state wage is a whopping \$.08 an hour for typical work at LSP at Angola. As full time students, the men who agreed to

participate in this study did make this *top dollar* wage, and once graduated were able to take on jobs within the prison that hopefully allotted them the same. Some men are able to get extra work for a small amount more, or they get jobs within specific programs that can allow them to make a few extra dollars from grants provided, but most must support themselves and their families with the \$3.20 they make weekly. Needless to say, the true cost of the PIC falls on the loved ones of the incarcerated. Listed below are typical expenses for the families of incarcerated men at LSP Angola without the \$3.20/weekly salary of their loved one:

Table 2: Average cost for amenities for prison families at LSP

Item	Incarcerated Family Cost Within Prison	Free Person Cost Outside Prison
Phone Calls	\$3.20/15min	Free
Emails	\$.25/email	Free
Medical Care (Call Out)	\$6 appointment \$12 emergency	Insurance
Average Meal at Visit	\$10-\$12per visitor and inmate	\$5-\$7 per person
Visit Pictures	\$3 (4X6)	Free
This table does not include the weekly expenses of toiletries, food, and clothing that incarcerated men must buy within the prison at inflated costs.		

With these non-tax deductible expenses looming over loved ones, it is difficult for incarcerated persons to maintain continual contact with their families. It is also difficult for families to assist their loved ones with purchasing commissary items because most of the items are more

expensive than they would be in the stores (See Appendix A for Union Supply quarterly *care package* cost.). It is evident that the incarcerated individuals would not be able to afford these things on their own, so ultimately, the burden falls back on the families.

So Why Aren't People in Outrage

The state of the PIC in the United States has set the stage for much of the way we operate as a nation of commerce. Just as in the case of the ending of slavery, the U.S. economy would suffer a great disparity from the breakdown of the PIC. Prison is big money. "The market trend toward increased outsourcing and privatization results in growing businesses for numerous industries at the expense of our communities" (Political Research Associates, 2005, p. 1). Most people in those communities are unaware of the financial gain that businesses and commerce are making from the PIC. The people in these communities are faced with the cycle of poverty and incarceration on a daily basis. It is a way of life for them. People who are not directly involved with the PIC or have a loved one who is incarcerated for the most part do not know that this issue exists.

Using myself and my lens of experience as an example, as a middle class educator, I was completely unaware of the issues associated with mass incarceration. I surmise that had I just been told about it and not affected by it because of my ties to my loved one, I wouldn't have given it a second thought. The way the PIC is set up it is "structural not superficial" (Shah, Aziz, & Chamberlain, 2005, p. 1); therefore, it is woven into the way our society operates and is kept hidden in plain sight.

Since the first colonists set foot on the shores of what is now called the United States of America, the political, economic, and social structures of U.S. society, including the U.S. State, have been based on systems of oppression that enable one group of people to enjoy privilege and to hold and exercise power over others; and these systems have been ideologically justified (Shah, Aziz, & Chamberlain, 2005, p. 1).

These interwoven hidden systems of oppression have permeated the history of U.S. society from its inception and have been the driving force for our societal norms. In some instance there have been social justice advocates who have attempted to expose and combat the existing state of affairs, but most of these efforts are met with “political and social forces calling for retaining the status quo, which privileges the wealthy, Whites, heterosexuals, and men; and that supports an imperialistic and militaristic international agenda while opposing social and economic equality and justice within the United States” (Shah, Aziz, & Chamberlain, 2005, p. 1). Hence, the issue remains unaddressed and out of accepted public discourse.

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