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Stratification of the Deep South

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The Prison System and Slavery in the South

The HBO television series Oz depicts prison life as a world in which criminals establish their own patriarchic system where the weak are easily dominated by the powerful and in order to survive, a common thief or vandal may be forced to transform into a killer. The show also depicts the logistics of running a prison and conveys exactly how much of a role politics and money play in making things function in a maximum security prison. Similar to real life, this patriarchic prison system presented in Oz is merely a result of a construct designed by those in charge of the prisons. Administrative powers choose to allow prisoners to continue to fulfill their role as criminals while in jail as long as they stand to profit and gain status in society. What the television show Oz fails to depict, however, is a common practice of convict labor carried out in most penitentiaries in the South. This flawed southern correctional institution practice is a product of a continued desire to uphold slavery and racism and draws stark parallels to the plantation systems of the past. Very closely related to slavery, the prison labor system is dependent upon the socio-economic injustices that can be traced back to pre-reconstruction.

The show Oz depicts a world where Aryan whites and Muslim blacks, among others, constantly feud and battle for power in jail. While this representation is not

completely inaccurate, the racial demographics of many jails in the South are much less diverse than the television show. It is important to outline the racial makeup of prisons to better point out the parallels slavery makes with the prison system. According to the Justice Department's Bureau of Justice Statistics, the United States is the leading jailer in the world with at least 1.35 million federal and state inmates and even more in local and county jails, totaling nearly 2 million.¹ Although black males make up a minority, roughly 12 percent, of the United States population, they make up over half of those imprisoned all together. In many Southern states, up to one-third of African American males are presently disenfranchised from voting because of a criminal record.² It is a fact that prison sentences in the United States are grossly disproportionate and lean heavily on blacks and Latinos, specifically; they receive longer sentences for drug offenses.³ In the South, this racial shift in prison sentencing occurred shortly after the Civil War. It is important to note that pre-emancipation, blacks abided by plantation justice or faced the consequences of their owner, not the formal laws that applied to whites.⁴ Prior to the war, prisons were comprised of mostly white immigrants in urban areas. After the war, there was a dramatic change where convicts were mostly collected from "black belt counties."⁵ This racial shift in prisoner demographics was a result of white people attempting to hold on to the familiarity of pre-emancipation ways at a very scary time in the South. There was a great deal of work that needed to be done after the devastation of the Civil War and

¹ Angela Williams. *Our Collective Responsibility to Black Males*. Black Issues in Higher Education. Reston. Nov 6, 2003. Vol 20. Iss. 19. p.30.

² Rose Braz. *Overview: Critical Resistance to the Prison-Industrial Complex*. Social Justice. San Francisco: Fall 2000. Vol. 27, Iss. 3; pg. 1, 5 pgs.

³ Kim Gilmore. *Slavery and Prison—Understanding the Connections*. Social Justice. San Francisco: Fall 2000. Vol. 27, Iss. 3; pg. 195, 11 pgs.

⁴ Christopher R. Adamson. *Punishment after Slavery: Southern State Penal Systems, 1865-1890*. Social Problems. Vol. 30. No 5. Thematic Issues on Justice. (Jun. 1983). Pp.555-569.

⁵ Edward L. Ayers. *Vengeance and Justice: Crime and Punishment in the 19th Century American South*. 1984.

black prisoners were an easy solution to fulfilling the labor needs of an economically devastated region.

The economic benefit of slave labor has been a key component of the American economy for over one hundred years. Similar to this economic benefit, the economic impact of labor in the prison system creates a great deal of capital for the country. The exact origins of prison systems acting as racialized slavery institutions date back to post-emancipation when the slaves were freed. Up until this point, blacks provided free labor for whites who provided, at best, minimal necessities for their slaves. The whites who previously relied on blacks for labor stood to lose money if they lost that work force. As a resulting loophole to this problem, the 13th Amendment included a clause that authorized states to use prison labor as a means of sustaining the losses they were bound to incur otherwise. Slavery was abolished, “except as a punishment for crime” and the law intended for prison work to be a transition from slave labor to paid labor.⁶ Former slaves who became prisoners were leased out to repair the damaged South and help local white people in need of a work force. The people they were leased out to were called white “Redeemers” -- the white planters, politicians, and small farmers-- and they wanted to take the South back to the days of pre-emancipation where slavery ruled, all in the name of advancing the infrastructure and economic viability of the region. After the Civil War, convict labor, and more specifically convict leasing, not only helped the South to industrialize after devastation to the infrastructure but it also ensured that racial oppression continued.⁷ As the demand for new workers increased, convict leasing

⁶ Kim Gilmore. *Slavery and Prison—Understanding the Connections. Social Justice*. San Francisco: Fall 2000. Vol. 27, Iss. 3; pg. 195, 11 pgs.

⁷Alex Lichtenstein. *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South*. London: Verso. 1996

provided Southern whites with a steady workforce of blacks who failed to escape the harshness of racist Black Codes and other legally approved unjust practices.

In order to facilitate their need for inmates, “Redeemer” whites instituted Black Codes in 1865, the first year of Reconstruction, which harshly punished blacks for crimes like vagrancy, loitering, and public drunkenness.⁸ These Black Codes were local and state laws that restricted the civil liberties and rights of blacks in the South and meant “to keep the Negro exactly what he was: a propertyless rural laborer under strict controls, without political rights, and with inferior legal rights.”⁹ They were essentially formal ways of preventing blacks from truly being free after emancipation. In many ways, as the “Redeemers” attempted to roll back progress made during Reconstruction, imprisonment was used as a way to influence some freed slaves to become wage laborers. When the 13th Amendment was ratified, the states took on two conflicting roles; first, to appear to grant blacks equal rights to the national government and secondly, to establish new, state-supported racist measures to prevent blacks from having those equal rights.¹⁰ As this unjust prison system developed and became progressively more racialized, the belief proliferated throughout the Southern prison systems that hard labor convict jobs belonged solely to blacks.¹¹ This mistreatment of blacks was not exclusive to only black men; like black men and women working in the fields, black women were also forced to carry out much of the same hard labor. This is a further indication of the comparison drawn between slave labor and the prison system.

⁸ Angela Davis. *“From the Convict Lease System to the Super-Max Prison.” States of Confinement: Policing, Detention, and Prison.* New York: St. Martin's Press. 2000

⁹ Kenneth A. Stamp. *The Era of Reconstruction, 1865-1877.* New York: Alfred A. Knopf Starobin, Robert S. 1965.

¹⁰ Kim Gilmore. *Slavery and Prison—Understanding the Connections. Social Justice.* San Francisco: Fall 2000. Vol. 27, Iss. 3; pg. 195, 11 pgs.

¹¹ Lichtenstein, Alex. *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South.* London: Verso. 1996.

Just like the painstaking work that slave laborers were forced to perform, convict laborers were forced to do work that free laborers refused to do including dangerous swamping, mining, and railroad building. As these convicts carried out their work, both the lessees and the states found that they were profiting from these criminals imprisonment. In fact, the profitability of prison labor became such an issue that labor unions adamantly fought to end the practices all together in fear of competition. This would later result in the Prison Industries Reorganization Administration establishing a mandatory “state-use” system where the state would only use the inmates for state projects.¹² Just like slavery, the income generated from prison labor was more than enough of a reason for whites to want to continue these practices. For example, Georgia Governor and Chief Justice Joseph E. Brown became a millionaire serving as one of the state’s biggest lessees.¹³ Leasers and lawmakers alike throughout the South developed a mutually beneficial relationship in which they profited from convict leasing labor. Prison labor generated profit served as a very comparable supplement to the income generated from slave labor in the South. The same exploitive nature of slave labor drove the demand for prison labor in Confederate states.

Not unlike the negotiations and bartering that occurred during the slave trade, over the years legal counselors bargain potential prison inmate’s lives in a system that seems to have been built to work against them. Even though the Constitution of the United States guarantees legal rights to a person convicted of a crime, those with power have the ability to hold the states accountable. For a poor black person in the South,

¹²Elinor Myers McGinn. *At Hard Labor: Inmate Labor at the Colorado State Penitentiary, 1871-1940*. New York: P. Lang. 1993.

¹³David M. Oshinsky. *“Worse Than Slavery”: Parchman Farm and the Ordeal of Jim Crow Justice*. 1996.

those legal guarantees from the Constitution failed to truly apply to them at all, whether before or after emancipation. Many of the judges in the Death Belt of the American South are elected on the grounds that they carry out the vengeful demands of the white majority community.¹⁴ These elected judges found that the angry white majority wanted blacks put in jail, sent back to oppressive slavery-like conditions, to quickly reclaim their role as the driving labor force in South, free or unfree.

The impact of waging such an unjust pursuit of blacks in the South created many injustices in the legal system. One common trend that occurred during this post-emancipation witch-hunt was the practice of plea bargains. These plea bargains generally consist of the accused agreeing to relinquish all legal error and more importantly, waiving the right to challenge the legality of the initial proceedings in an appeal or through other measures. Making this issue of plea bargains even worse, “roughly 90 percent of all criminal defendants, and an even higher percentage of defendants of color, have court-appointed counsel.”¹⁵ The danger with court appointed attorneys, who were and continue to be a problem in our legal system, is that often times, they are underpaid and overworked. Their wages may be dependant upon state-set limitations and as a result, they find that it is more profitable to make as many plea bargains as possible to go through as many cases as they can. Because of these facts, ninety percent of criminal cases end with a guilty plea to the initial charge or a lesser one. Again, the economic benefit of manipulating blacks within the legal system in the South was very much so a driving factor for many whites to actively pursue more criminal claims. The legal system

¹⁴ Michael Tigar. *Lawyers, Jails, and the Law's Fake Bargains*. Monthly Review. New York. July/August. Vol. 53. 29-42 (2001).

¹⁵ Ibid.

fed blacks to the prison system just like whites had fed blacks to plantation owners' years before.

In the dramatic series *Oz*, most of the trouble for prisoners arises from intra-inmate issues within the walls of the penitentiary. The prisoners have to constantly watch their backs for fear of attacks by other inmates in power struggles and often times, the only people they can turn to when in need are the therapists, priests, wardens, and other prison officials who can potentially help them from the outside. The show has captured only half of the actual situation. In reality, prisoners in Southern jails have had to battle both the outside and inside forces of the penitentiary.

When newly emancipated blacks were in fact sentenced to prison terms in the South and subsequently leased, they quickly discovered that their first concern was surviving the ever harsher and brutal conditions inflicted upon them by their lessees.¹⁶ Although it should never be implied that blacks were treated well during slavery, slave owners had a vested economic interest in ensuring that their slaves lived long lives. Unlike slave owners, when black inmates were handed over to lessees, the lessees knew that they would not be able to keep their labor force forever because either their lease would expire or the inmate's term in prison would end.¹⁷ Lessees would attempt to fully exploit prison labor by keeping inmates well after their scheduled release dates or overworking them as they approached the end of their lease or prison sentence.¹⁸¹⁹ Statistically, the mortality rate of leased laborers ranged from anywhere between 17-

¹⁶Henry Calvin Mohler. *Convict Labor Policies*. 15 J. AM. INST. CRIM. L. & CRIMINOLOGY 530. 530, 548-53 (1925).

¹⁷ Jennifer Roback. *Southern Labor Law in the Jim Crow Era: Exploitative or Competitive?*. *U. Chi. L. Rev.* 1161, 1162 (1984).

¹⁸ *Ibid.*

¹⁹ Milfred C. Fierce. *Slavery Revisited: Blacks and the Southern Convict Lease System, 1865-1933*. 215 (1994).

40%.²⁰ In 1883, a doctor from Alabama predicted that “most convicts died within three years” as leased prisoners.²¹ These harsh conditions made prison leasing one of the most notoriously debated issues throughout the country.

Although humanitarian efforts and labor unions placed a great deal of pressure on ending the system, the practice of prisoner leasing ceased to be a dominant figure in the South only after the costs outweighed the profits.²² In Georgia, the price of leasing a convict rose to roughly \$670 and was equal to the wages of a free laborer.²³ As the price for convict leases went up throughout the South, prison labor shifted to the aforementioned “state-use” system, removing the control of inmates from private lessees and into the hands of public control. While the Northern prison systems saw the same shift and put inmates back into the prisons, the Southern prison system put inmates in the fields and on the roads working chain gangs.²⁴ The image of blacks working on chain gangs is “one of the most deeply felt symbols and experiences of white oppression and abuse.”²⁵ Chain gang imagery is very reminiscent of slavery days when blacks would plow fields in rows with white owners looming over them ominously. While many may argue that the chain gang is merely the result of being convicted of a crime, one cannot disregard the fact that for blacks, criminal convictions may not be free of prejudice and thus, discredit the very foundation for which a person is imprisoned in the first place.

²⁰ Edward L. Ayers. *Vengeance and Justice: Crime and Punishment in the 19th Century American South*. 1984.

²¹ Christopher R. Adamson. *Punishment After Slavery: Southern State Penal Systems, 1865-1890*, 30. *Social Problems*. 555, 556 (1983).

²² Matthew J. Mancini. *One Dies, Get Another: Convict Leasing in the American South, 1866-1928*. Alabama. 104 (1996).

²³ Ibid.

²⁴ Jane Zimmerman. *The Penal Reform Movement in the South During the Progressive Era, 1890-1917*. 17 *J.S. HIST.* 462, 463 (1951).

²⁵ Alex Lichtenstein. *Chain Gang Blues*. *Dissent*, Fall 1996. 7, 10.

The basic structure of southern state penal systems revolves around racial oppression and white power. After the Civil War, there was a drastic change in prison sentencing that created an atmosphere of “brutal discipline and hard labor” for newly emancipated blacks.²⁶ One of the major problems with the racially charged prison systems of the South can only be attributed to issues of control, power and hatred. When slavery was abolished, one of the first methods whites developed to control blacks was through the prison system. The practice of prison labor served as an extension of the newly discontinued slave system that was equally as profitable and easy to maintain through the unjust legal system, in fact, it was self-sustaining once it began. The hatred that whites harbored for blacks allowed whites to carry out their unjust policies in the name of profit. Even though the formal institution of slavery ended with the ratification of the 13th Amendment, more progress needed to be made to actually see blacks freed from the bondage of the South. The transition blacks should have been making from enslaved to free citizens was halted by prison labor. Without education, opportunity, and equality for blacks in the southern region of the United States, slavery would exist with or without a formal system because the black mind would continue to be trapped in one way or another, in this case, the prison.

²⁶ Kenneth A. Stampp. *The Era of Reconstruction, 1865-1877*. New York: Alfred A. Knopf Starobin, Robert S. 1965.

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