

# The reasons behind the mass incarceration in the USA

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## **Abstract**

This essay will reflect on Wacquant's theory of peculiar institutions and Alexander's arguments in her book "The New Jim Crow". I start by going through the history of slavery, the Jim Crow system, and the concept of ghetto in order to distinguish the reasons behind the current mass incarceration happening in the USA towards people of colour, while linking to Wacquant's theory and Michelle Alexander's arguments. Then, I present the reasons of mass incarceration and its aims. Finally, I highlight points that confirm that mass incarceration is the appropriate term for labelling the criminal system, as it is a form of racial segregation.

**Keywords:** Wacquant's theory, USA criminal justice system, Michelle Alexander, the New Jim Crow, war on drugs.

## **Introduction**

Criminologists like Loic Wacquant and Michelle Alexander argued that the mass incarceration happening towards people of colour in the United States is a form of racial segregation. In this essay, I will discuss how the criminal justice system in the USA continue to discriminate against people of colour by heavily mass incarcerating them. this essay will highlight Wacquant's theory of peculiar institutions and Michelle Alexander's book "the New Jim Crow". Firstly, I will discuss the four peculiar institutions chattel slavery, the Jim Crow system, the ghetto, and the dark ghetto by going through the history of all of them and how they generated in the current mass incarceration. Then I will focus on Michelle Alexander's arguments about the war on drugs and how it is a big contribution to the mas incarceration happening towards people of colour in the USA.

### **Chattel slavery**

According to Wacquant (2002) although slavery ended in the USA in 1865, it has been replaced with mass incarceration. Wacquant argued that the mass incarceration happening in the USA towards African Americans is a way to control them, and it can be described as modern slavery; wherein his argument he discussed four “peculiar institutions”; chattel slavery, the Jim Crow system, the ghetto, and the dark ghetto (Wacquant, 2000). Wacquant described peculiar institutions as: “institutions operated to define, confine, and control African-Americans in the history of the United States” (Wacquant, 2003). Firstly, chattel slavery is the ‘pivot’ of the racial division that made racial domination of the white race which generated racial segregation. Racial discriminatory is highly visible in the USA justice system, as the majority of the mass incarceration is happening towards people of colour. Evidently, according to recent statistics, black people are 5 times more likely to be incarcerated than white people (Nellis, 2016), and “in 12 states, more than half the prison population is Black” (Nellis, 2016), while Latins face a 1.3 times more incarceration than whites (Nellis, 2016). Further, according to a study by the International Centre for Prison, the imprisonment rate in the USA is 750 per 100,000 which is the highest rate of incarceration in the world (Bosworth, 2009). This demonstrates that the country with the highest rate of incarceration in the world, mostly incarcerate people of colour. As Wacquant (2002) argued in his theory, prison is an institution that is made to target people of colour.

### **The Jim Crow system**

The Jim Crow system is the second institution Wacquant discussed in his theory. After the 13th amendment of the USA constitution to abolish slavery (Wacquant, 2000), the Jim Crow system started being implemented on the south (Wacquant, 2002). The Jim Crow system is a racial segregation system which states that whites are superior. Until the 1960s all the institutions in the south were divided between black and white (Wacquant, 2002). For example, the use of churches and water fountains were different for a black and white person, and even the neighbourhoods were restricted to African Americans (Wacquant, 2002). Also, around the time the Jim Crow system was applied, African Americans were working in the South of the country under cheap labour (Wacquant, 2002). This resulted to a major division; a division that people of colour still suffer from as Alexander (2020) introduced in her book “the New Jim Crow”. In particular, she argues that the results of the Jim Crow laws still function on people of colour; as previously the Jim Crow laws deprived a lot of African Americans the quality of education and other welfare state which now

resulted in a big percentage of poverty. She also highlights how the war on drugs is a vehicle to mass incarceration that targets people of colour. A substantive percentage of people of colour have been labelled as felons because of “centuries-old association of blackness within criminality and devious violence” (Wacquant, 2002). Alexander (2020) states that mass incarceration and the war on drugs is the new Jim Crow system where big percentage of people of colour are classified as a second-class citizen, thus denying them the right to welfare state the minute they are labelled as felons.

### **The ghetto**

According to Wacquant (2000) the ghetto refers to racially divided areas in the north, urbanized by African Americans until the 1960s. Ghetto can be defined as: “having a particular racial component, and as being defined by social isolation, residential segregation, gross inequality, consistent poverty, and crime.” (Oxford bibliography, 2021). After slavery ended, the ghetto started to take a turn to control African Americans in the North, where white people were afraid that African Americans are going to have the same qualities as them. They created the “Inner city” concept, they refused to use the same utility as African Americans and therefore, they abounded public schools, avoided public spaces, and flew to the suburbs to avoid mixing with African Americans. By doing that they “ward off the spectre of ‘social equality’ in the city.” (Wacquant, 2002). Additionally, white people turned against the social programs that African Americans were mostly dependent on, such as, welfare state (Wacquant, 2002).

Further, Wacquant (2002) claims that the modern prison idea is a replacement of the ‘house of correction’ which was established in the ghetto era. Wacquant illustrates that the ghetto used to operate as an ‘ethnocritical prison’ where it engages a certain group of people and deny them any material goods or opportunity, which is what the mass incarceration is doing now. As Alexander states, the mass incarceration happening towards people of colour is a way to label them as felons, so they can be denied welfare state thus classifying them as a second-class citizen. Prisons and mass incarceration are the new way to oppress people of colour claiming that both prisons and the ghetto are a way of racial management and segregation (Anthony and Blagg, 2020). Where before the 1960s African Americans were punished in the ‘house of correction’ (Wacquant, 2001), now they are massively incarcerated and oppressed in prisons. As Wacquant (2000) argues, both the prison

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and the ghetto are under the same class of organisation, they are both ‘institutions of forced confinement’: where the ghetto is a ‘social prison’ while the current prison is a ‘judicial prison’.

### **The dark ghetto**

The last institution in Wacquant’s theory; is the dark ghetto and carceral apparatus. Which he referred to as the era after the 1960s where African Americans faced mass incarceration (Wacquant, 2000). According to Wacquant when the ghetto started to disappear prisons started to take over, claiming that “slavery and mass imprisonment are genealogically linked.” (Wacquant, 2002). Wacquant claims that the reason mass incarceration started against African Americans, is to be able to control them. “As the walls of the ghetto shook and threatened to crumble, the walls of the prison were correspondingly extended, enlarged and fortified.” (Wacquant, 2002). A recent statistic shows that 1 in 9 African Americans are incarcerated in seven states (Nellis, 2016). “The outcome of mass incarceration has been designed through policies created by a dominant white culture that insists on suppression of others” (Nellis, 2016); Similarly, Wacquant (2002) refers to prisons as a “judicial ghetto”. According to Bosworth (2009), the United States criminal justice system has built a punishment system that is unjust, unduly severe, wasteful, and it does massive damage to the lives of African Americans.

### **The war on drugs**

Alexander introduces in her book “the New Jim Crow” (2020) some debates on whether the war on drugs in the USA is a racial segregation scheme to label people of colour under the criminal justice system (by criminalising them and incarcerating them) while classifying them as a second-class citizen. She argues that it is the New Jim Crow system by denying African Americans their citizenship rights after serving their sentence.

The US government announced their plans of the war on drugs in 1982, which was before the crisis of the spreading of crack cocaine (Alexander, 2020). However, a few years after the announcement of the war on drugs, the crisis of crack started to spread rapidly around inner-city neighbourhoods; as a result, arrests for drug offenses were broadly among people of colour (Alexander, 2020). In less than three decades the US imprison population increased from 300,000 in 1980 to more than 2 million in 2000 and by the end of 2007 roughly more than 7 million were incarcerated, on probation, or on parole; while drug arrests accounting to most of the incarcerations (Alexander,

2020). Also, the USA has the highest incarceration rates in the world (Alexander, 2020). The country with the highest rate of incarceration in the world, mostly incarcerates people of colour and the majority of the incarceration are drug related offences. Between 1985 and 2000 drug offenses accounted for two-thirds of the raise in the federal prisoner's population, and more than half of the rise among state prisoners (Alexander, 2020). Similarly, in Washington it has been estimated that "three out of four young black men (and nearly all those in the poorest neighbourhoods) can expect to serve time in prison" (Alexander, 2020).

Moreover, in some states African American men has been incarcerated under drug offences with a 20 to 25 times greater than white men, and in major cities 80 percent of African American men have criminal records (Alexander, 2020). However, a study by the U.S. Department of Health and Human Services showed that "people of all colours use and sell illegal drugs at remarkably similar rates" (Alexander, 2020). Although mass incarceration tends to be considered as a criminal justice issue, nonetheless mass incarceration is a racial caste system that have the same qualities as the Jim Crow system. With mass incarceration people with criminal records are controlled by the government in and out the prisons, as the Jim Crow laws were "locking people of colour into a permanent second-class citizenship" (Alexander, 2020), now people with criminal records are facing the same issues.

### **The stop and search rules**

Firstly, one of the reasons that it is contributing to the mass incarceration is the stop and search laws. The Fourth Amendment prohibits unreasonable searches and seizures by the police. However, according to Alexander (2020) when the war on drug started many legal scholars noted a sudden turn within the Supreme Court's regarding the Fourth Amendment jurisprudence. After the case of *Terry v. Ohio*, the courts established stop-and-frisk rule which states that as long as police officers have a reasonable doubt that someone is engaging in criminal activity, then the police have the right to stop and question them. Alexandre (2020) debates in her book that pretext stops is one of the tools to search for drugs, and she argues that any minor traffic violation would give the police the right to stop and search vehicles. For example, in the case of *Whren v United States*, the police stopped a driver as he failed to turn the signal on and then they proceeded to search the vehicle for drugs; Whren appealed on the basis that the police violated the Fourth Amendment, he argued that the police almost always has an excuse to stop vehicles. Allowing the police to use minor traffic

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breaches as a pretext for drug investigation would permit the police to investigate anyone for drugs, even if there was no sign of drug activity; which is what the Fourth Amendment was based on to protect.

Additionally, a study in New Jersey and Maryland in the 1990s showed that racial profiling is in fact a way for the police to determine who to stop and search. In New Jersey data showed that although only 15 percent of drivers were minorities, 42 percent of the stops were conducted towards them, and 73 percent of all arrests were black (Harris, 2002). Another statistic released by The New York Police Department in 2007, showed that in the previous year officers stopped 508,540 people, and most of those stopped were racial minorities (Mena, 2020). These are all clear examples of the unjust of the criminal justice system by targeting people of colour and trying to incarcerate them.

### **Into the system**

Once offenders are convicted into the criminal justice system, even after they serve their time in prisons it is impossible for them to escape the system. As Alexander (2020) debates in her book, as long as the system is targeting a massive number of African Americans, arresting them, and labelling them, the length of the sentence does not matter. Being labelled as an offender immediately grants a permanent second-class status. The minute they are released, “the system of mass incarceration is based on the prison label, not prison time” (Alexander, 2020). Thousands of people from disadvantaged areas are incarcerated every year without a legal representation, and those who meet with public lawyers for drug offenses usually spend around 5 minutes to discuss the case, get familiar with the options they have. Around 80 percent of criminal defendants are unable to hire a lawyer (Alexander, 2020). In fact, the majority of people from disadvantaged areas (who cannot afford lawyers or legal representation) are people of colour. Poverty particularly across people of colour in the USA is widespread. According to a recent statistic, “the highest poverty rate by race is found among Native Americans (25.4%), with Blacks (20.8%), and Hispanics (17.6%)” (poverty USA, 2018).

### **Out of the prison but not out of the system**

Even after offenders serve their time, they are still facing other punishments, which Alexander refers to as placement in a second-class citizenship, where African Americans face similar rules to the ones were applied in the Jim Crow era. In 1988 the congress amended the drug policy that

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included civil penalties, for drug offenders. The Anti-Drug Abuse Act now gives the right to evict any tenant who is related to any form of drug offences. The government can also cut all federal benefits, like student loans for any drug offenders (Alexander, 2020). As long as someone is labelled a felon, they are denied all welfare state, like public housing, food stamps, education opportunity, and many other public benefits. Alexander (2020) argues that this is a racial caste system, that was just merely redesigned. Indeed it has been proven with statistics that the majority of people who are suffering from mass incarceration and are labelled as felons under the criminal justice system are people of colour (Alexander, 2020). Additionally, those are the same people who are denied the welfare state once they are labelled felons. This shows the unescapable racial caste system Alexander was arguing about, where the whole system does not protect race targeting, people of colour are more targeted to be searched and criminalised, they have not any legal representation or protection, and eventually after they serve their time they are classified as a second-class citizens with fewer rights to welfare state.

### **Conclusion**

In conclusion, this essay has discussed how the criminal justice system is discriminating against people of colour by mass incarcerating them. This essay approached this issue by highlighting some factors that generated the way the USA criminal justice system view people of colour. I discussed Wacquant's theory of the four peculiar institutions, its history, and it is linked to mass incarceration. I then discussed Michelle Alexander's debates on the war on drugs and how it is mostly targeting people of colour to mass incarcerate them.

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