

RECONSTRUCTING SLAVE LABOR:  
PRISON SYSTEMS IN THE JIM CROW SOUTH

The Reconstruction Era began a revolutionary change in the United States and launched a significant chapter in American history, the start of the civil rights movement. The southern states were an agrarian economy and relied heavily on the use of slave labor for the production of cotton, rice and tobacco. Following the end of the Civil War and emancipation of slaves, many white southerners began to fear that the agricultural economy of the South would collapse. Former Confederate states revised their existing slave laws into Black Codes and Jim Crow laws, enforcing labor contracts and racial segregation. Should any freedman fail to adhere to any of these laws they would be imprisoned and subsequently hired-out to work off their crime of being Black. After the abolition of slavery and the passing of the Thirteenth Amendment, the Southern States began to develop new ways to recreate a slave society through the use of prisons and chain gangs.

The twelve years following the abolition of slavery, former slaves made great strides toward economic, social and political growth. Historian Eric Foner described the progress as, “the most radical development of the Reconstruction years, a massive experiment in interracial democracy without precedent in the history of this or any other country that abolished slavery in the nineteenth century.”<sup>1</sup> Though seemingly emancipated from the bondage of slavery, the transformation into free laborers and equal citizens for Blacks was neither linear nor without strife. A coalition of white industrialists, businessmen, merchants and planters known as Redeemers, sought to undo any promises of equality in the Reconstruction.<sup>2</sup> As W.E.B. Du Bois wrote, the “slave went free; stood a brief moment in the sun; then moved back again toward

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<sup>1</sup> Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper Collins Publishers Inc, 2015), 23.

<sup>2</sup> Eric Foner, *Forever Free: the Story of Emancipation and Reconstruction* (New York: Knopf, 2006), 201.

slavery.”<sup>3</sup> The efforts to keep Blacks subservient and racially inferior especially in the Post Bellum South, motivated southern whites to explore constitutional loopholes and profit in multiple capacities from the mass incarceration of black men, women and children.

Southern States were economically motivated to imprison Blacks to work plantations, railways, and mines. Slavery made the agricultural-based economy of the Antebellum South a powerful force in the cotton market. The loss of the Civil War, devastated the wealth of this cash crop and many others.<sup>4</sup> The Thirteenth Amendment made involuntary servitude a constitutional violation, with the exception of punishment for a crime. Exploiting this provision in the constitution came the birth of the convict leasing program through southern penal reform. Civil Rights advocate Jaron Browne observed that, “An extensive prison system was developed in the interest of maintaining the racial and economic relationship of slavery.”<sup>5</sup> With the aid of Redeemers and profiteering industrialists, a new way to continue economic growth from the bound backs of black Americans was developed.

The end of the Civil War and ensuing emancipation of slaves greatly affected the agricultural economy of the south. New systems of labor quickly began to take the place of slavery in the form of sharecropping, wherein plantation owners would enter into contracts with former slaves to continue working their farms for free rent and little pay. Sharecropping was primarily to the benefit of the white plantation owner and would keep the Black laborer indebted to their previous masters, leading to concerns of the freedom and independence they had hoped

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<sup>3</sup> W.E.B Du Bois and Mack H. Jones, *Black Reconstruction in America: Toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880* (New York; Routledge, 2017), 26.

<sup>4</sup> Sven Beckert, “Emancipation and Empire: Reconstructing the Worldwide Web of Cotton Production in the Age of the American Civil War,” *The American Historical Review* 109, no. 5 (December 2004): 1406, <https://www.jstor.org/stable/10.1086/530931>.

<sup>5</sup> Jaron Browne “Rooted in Slavery: Prison Labor Exploitation.” *Race, Poverty and the Environment* 14, no. 1 (2007): 43, <https://www.jstor.org/stable/41555136>.

to achieve after emancipation.<sup>6</sup> White plantation owners strongly upheld the belief that their farms would only be successful if they retained their free labor. Journalist and renowned author Douglas Blackmon explained that, “coercion and restraint remained the bedrock of success in the cotton economy-and the cornerstone of all wealth generated from it.”<sup>7</sup> The ambitions of former slaves to become equal members of society, and the economic desperation of Southern whites would lead to the Southern States to enact a series of laws to re-subjugate Blacks.

Black Codes and later Jim Crow laws, held Blacks under a legal microscope, requiring them to sign labor contracts or be imprisoned for vagrancy. Former slaves had the choice to work in often unfair and backbreaking labor for little pay or be leased out by Southern prisons for no pay and even worse conditions. Women and children were not exempt from the enumerating laws in Black Codes that kept them tied to their owners; they too were exploited through convict leasing programs. The terms convicts and Negroes were used interchangeably in several reports of the period.<sup>8</sup> Through this new system, white plantation owners paid an average \$25,000 a year to the state, in exchange for a laborer in the form of a prisoner, to live and work on their farms under their complete control.<sup>9</sup> The lucrative business once found in slave labor, created monetary incentives for states and counties to convict Black Americans, and caused a significant increase in the prison population following the Civil War. Unlike slavery, employers had only a relatively small investment in convict laborers, with very little reason to treat them well.

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<sup>6</sup> Ian D. Ochiltree, "A Just and Self-Respecting System: Black Independence, Sharecropping, and Paternalistic Relations in the American South and South Africa." *Agricultural History* 72, no. 2 (1998): 353, <http://www.jstor.org/stable/3744387>.

<sup>7</sup> Douglas A. Blackmon, *Slavery by Another Name: the Re-Enslavement of Black Americans from the Civil War to World War II* (London: Icon, 2012), 121.

<sup>8</sup> Cal M. Logue, "Racist Reporting During Reconstruction," *Journal of Black Studies* 9, no. 3 (March 1979): 335, <https://www.jstor.org/stable/2784304>.

<sup>9</sup> Browne, "Rooted in Slavery," 43.

Private companies and contractors also utilized convict leasing programs, by paying the state a fee for felony offenders to work in mines, railways and lumber yards and assumed total control over their lives, welfare and working bodies. Black convicts were often burdened with a fine for violation of Black Codes plus a thirty-day stint of hard labor. The inability to pay the array of fees and fines would lead to the thirty-day term being extended for the purposes of paying the debt the criminal now owed the State.<sup>10</sup> The fine to prison loop often allowed the companies leasing convicts to absolve themselves of concerns about workers' longevity. In an effort to prevent economic collapse, the South adapted to the new laws present in the Reconstruction and profited off the Jim Crow carceral regimes.

It wasn't until miners and other laborers began to complain that the competition of free labor was too great and often led to loss of job security or fair wages, that the convict leasing program was redesigned into the contract labor program. The contract labor program still generated revenue from prisoners, but from inside the prison rather than outside. Tennessee and Alabama prisons housed industrialized factories and sewing shops in tandem with female felons. Many women spent life sentences sewing and spinning for the state, making pillowcases, hosiery, roller towels and union suits.<sup>11</sup> As convict leasing was phased out, men were put to work in what could be described as the most brutal form of forced labor, Chain Gangs. For over one hundred years after the abolition of slavery, prisoners were shackled and worked alongside roads under the threat of gunpoint, whips, and torture, all resembling the chattel slavery that

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<sup>10</sup> Douglas A. Blackmon, *Slavery by Another Name: the Re-Enslavement of Black Americans from the Civil War to World War II* (London: Icon, 2012), 1.

<sup>11</sup> Amy L. Wood *Crime and Punishment in the Jim Crow South*. ed. by Natalie J. Ring. (Springfield, Illinois: University of Illinois Press, 2019.), 131.

preceded.<sup>12</sup> This new form of prison labor, more closely aligned with the idea that social control was an incentive to the mass incarceration of Black Americans.

Convict labor, debt peonage, and extrajudicial lynching ensured societal hierarchy for white citizens in the Post Bellum South. Christopher Adamson of York University described that the foundation of this need to maintain racial and social control, derived from fear. Adamson explained, “One way of accounting for the functional similarity between the two systems is to realize that both slaves and ex-slaves were ‘problem populations,’ and one of the paradoxes which characterize problem populations is that they represent both a potential threat to the existing system of government, and class rule, and a potential resource.”<sup>13</sup> Southern whites simply did not know how to live equally among their Black neighbors who they deemed racially inferior, and as Adamson surmised former slaves were, “both a threat to social relations and a useful resource, a dangerous population which stood in need of control but also a welcome source of manpower.”<sup>14</sup> Fear was a powerful force and motivating factor to keep Blacks acquiescent. As former slaves continued to progress through the process of building schools, churches, and social organizations, while also vigorously fighting for political participation, a broad coalition of Redeemers used informal and state-sponsored forms of violence and repression to suppress any gains made during Reconstruction.<sup>15</sup>

Lynching provided a sense of white unanimity and social control in a culture where demographics and power structures were under the threat of changing. Prior to abolition, slaves were publicly whipped or even murdered in order to evoke submission through fear and to

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<sup>12</sup> Browne, “Rooted in Slavery,” 44.

<sup>13</sup> Christopher R. Adamson, “Punishment after Slavery: Southern State Penal Systems, 1865-1890,” *Social Problems* 30, no. 5 (June 1983): 556, <https://www.jstor.org/stable/800272>.

<sup>14</sup> Adamson, “Punishment after Slavery,” 557.

<sup>15</sup> Kim Gilmore, “Slavery and Prison — Understanding the Connections.” *Social Justice* 27, no. 3 (2000): 198, <https://www.jstor.org/stable/29767242>.

suppress any thought or threat of insurrection. Historian Richard C. Wade described the lash law, "no other penalty carried the same meaning or so embodied the social relations of the peculiar institution. The lash in the white hand on the black back was a symbol of bondage recognized by both races."<sup>16</sup> Punishment as a public spectacle was not retired with slavery; instead terrorist groups like the Ku Klux Klan and other white supremacist carried on the tradition. Lynching's were not uncommon in the South; in fact Southern Newspapers reported at least [3,442] public lynching's from 1882 up to 1950.<sup>17</sup> A lynching was often celebrated and souvenirs or postcards quickly became a wide spread production, a display of racial domination. One such postcard depicts the horrific torture and murder of a Black man in Waco, Texas named Jesse Washington.<sup>18</sup> A proud bystander or possibly a participator in the lynching of Jesse Washington, signed the back of the postcard, "This is the barbecue we had last night..." the front of the postcard bearing visual evidence of the abhorrent crime committed by the lynch mob.<sup>19</sup> Lynching was typically reserved for the most heinous offenses: rebellion, arson, burglary, and assaulting a white woman, would certainly end in the death of the offender, whether that be extrajudicial or sentenced by the courts. Lynching only began to decline when separate but equal laws went into effect and legal segregation was enforced.<sup>20</sup> Black citizens walked a narrow line with very limited freedoms and several laws exclusive to their race, sustained on one side by the State and the other by white supremacy.

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<sup>16</sup> Richard C. Wade, *Slavery in the Cities: the South: 1820-1860*, (London: Oxford University Press, 1980), 186.

<sup>17</sup> James W. Clarke, "Without Fear or Shame: Lynching, Capital Punishment and the Subculture of Violence in the American South." *British Journal of Political Science* 28, no. 2 (April 1998): 271, <http://www.jstor.org/stable/194307>.

<sup>18</sup> James SoRelle, "The Waco Horror: The Lynching of Jesse Washington," *The Southwestern Historical Quarterly* 86, no. 4 (April 1983): 517-536, <https://www.jstor.org/stable/30236945>.

<sup>19</sup> Lynching of Jesse Washington. postcard, <https://jstor.org/stable/10.2307/community.13902249>.

<sup>20</sup> Clarke, "Without Fear or Shame," 283.

In a revival of slavery, convicts were often auctioned off like livestock further enabling white supremacy. Slaves were typically sold and separated from their families as a punishment for insubordination. The convict-leasing program adapted this manipulative tactic of control. One report in *The Washington Bee* examined Florida's practice of public auctions where convicts were sold to the highest bidder for up to four years of forced labor for minor offenses, like stealing eggs.<sup>21</sup> An article in *The Evening Times*, explained that it was necessary for convicts to work so that they could learn to be working members of society.<sup>22</sup> Contemporary slavery through imprisonment continued the ideology that Blacks were less than human and did so with more deception and sophistication than it's historical counterpart.

Mass incarceration aided in the ambitions of ex-confederate States to strip newly freed slaves of any strident political discourse. Those who had fought for the Confederacy during the Civil War had engaged in an act of treason and were denied the right to vote subsequent of levying war on the United States. Following the passing of the Thirteenth Amendment in 1865, which freed slaves, the Fourteenth Amendment was passed in 1868, giving Blacks the right to vote. Many southern whites held a lot of resentment toward any person who they deemed racially inferior to them to have rights that they did not. An 1867 article published in *The Daily Courier* argued that the "white voters are either disfranchised or voiceless" and because of this, "The white race of the soil have been treated as aliens and strangers in their own land"<sup>23</sup> The resentment of whites toward Blacks for being disenfranchised led to the mass incarceration of Black citizens as a means to stifle sociopolitical progress.

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<sup>21</sup> "The Colored Race in America," *The Washington Bee*, May 20, 1899, <https://www.loc.gov/item/sn84025891/1899-05-20/ed-1/>.

<sup>22</sup> "The Labor of Convicts" *The Evening Times*, December 4, 1899. <https://www.loc.gov/item/sn84024441/1899-12-04/ed-1/>.

<sup>23</sup> Cal M. Logue, "Racist Reporting During Reconstruction," *Journal of Black Studies* 9, no. 3 (March 1979): 337, <https://www.jstor.org/stable/2784304>.

Southern States ratified their laws to include a clause that would prohibit convicts from voting, also known as felony disenfranchisement. Though the Fifteenth Amendment was written to be free of any oppression based on race, Southern States quickly sought out opportunities to create escape clauses rejecting all aspects of egalitarianism. November 29, 1902, Ohio's state constitution was amended in Article IV section 4, "The legislature shall have full power to exclude from the privilege of voting... any person convicted of bribery, perjury, or otherwise infamous crime."<sup>24</sup> The State of Louisiana followed suit and specifically targeted former slaves by making a change to their state laws; barred from voting are those "under interdiction" or "under conviction of any crime punishable with hard labor."<sup>25</sup> Accusing, convicting and sentencing Black citizens could all be done in less than a day in a southern courtroom, further preventing black citizenship and equality as promised under the Fourteenth and Fifteenth Amendments. According to Douglas Blackmon, in his book "*Slavery by Another Name*," the choices made by Southern white supremacists after abolition, "explained more about the current state of American life, black and white, than the antebellum slavery that preceded."<sup>26</sup> While the Federal Constitution progressively made steps toward equal rights regardless of race, the Southern States were politically motivated to keep Black citizens incarcerated and away from the ballot boxes.

Though the South was certainly regarded as being progressive; the attempts to adapt rather than change were far more prevalent. Swiftly redesigning slavery into indentured servitude through sharecropping or by incarcerating black citizens for trivial offenses kept the Southern States afloat economically. Efforts to keep newly freed slaves from accessing their right to vote

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<sup>24</sup> Ohio Const. art IV, §4

<sup>25</sup> Louisiana Const. title II, art XII

<sup>26</sup> Douglas A. Blackmon, *Slavery by Another Name: the Re-Enslavement of Black Americans from the Civil War to World War II* (London: Icon, 2012), 402.

through violence and terroristic attacks allowed racist politics to stand and laws preventing Blacks from reaching equal citizenship to stay in place. Ostensibly developed as a social solution, forced labor through convict leasing programs in Southern prison systems was simply a devious plot to keep Blacks racially inferior. Even when attempts were made to prevent the Southern states from oppressing their Black citizens, they replaced slave laws with Black codes, lynching with segregation, convict leasing with brutal chain gangs and chattel slavery with the reformed Southern prison system.

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