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Systemic Racism and Criminal Justice in America

Systemic racism or institutional racism is when racism is so ingrained into a culture that it is considered normal, or is overlooked. In America, our criminal justice system is inextricably linked to systemic racism. America only makes up 5% percent of the world's population and has 25% of the world's prisoners (American Psychological Association). According to the Pew Research Center, “In 2017, Blacks represented 12% of the U.S. adult population but 33% of the sentenced prison population. Whites accounted for 64% of adults but 30% of prisoners.” To understand why our criminal justice system contributes so much to systemic racism in America we have to look to the history of slavery and policing.

In colonial America, policing was a part time, privately funded program. There was also a night watch that was purely volunteer based. This system didn't work for a number of reasons. Watchmen would drink on the job; the job was used as punishment; and they would often let their friends escape justice. Eventually cities got so large that the effectiveness of the night watch diminished. The first full time police force was created in the 1840s. Their main focus was to prevent crime and to help with other public service. However in the south, where 90% of black people lived, their main focus was to sustain slavery. They would track down slaves who ran away and enforce segregation. When the thirteenth amendment was ratified in December 1865, slavery was abolished except as punishment for a crime. Black people started getting incarcerated in mass because of the exceptions to slavery in the amendment. The combination of

corrupt, racist police and a loophole in the thirteenth amendment essentially allowed for the continuation of slavery. In 1871, the Virginia Supreme Court stated that an incarcerated person was a “slave of the state” (“History of Prisoner’s Rights”).

The convict leasing system was also introduced around this time. Black men, sometimes women and children, could be convicted for very minor crimes. Different states had rules about what could get Black people arrested. Black people could get arrested for something as simple as being unemployed. The convict leasing system allowed states to lease prisoners to plantations and mines. In South Carolina during this time, 95% of convicts were black. However, southern jails were primarily for white prisoners. Black prisoners were sent to cotton fields, coal mines, sawmills and railroad camps (Hinton and Cook,p. 268). This put Black people right back in the situation that they started in.

During the reconstruction era (1863-1867) Black people started to get important jobs in government. In 1868 the 14th amendment was passed:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This amendment gave Black people the same protection as white people under law. Two years later the 15th amendment passed, giving Black men the right to vote. White people were unhappy with the passing of laws that protected Black people. Jim Crow laws started to show up all around the country instead of being mainly in the south. These laws began in 1877 and lasted

until 1968. They were meant to marginalize Black people and keep them separated from white people. The laws denied their right to vote, have a job, and get an education. When these laws were introduced in the 1870s, everything in the criminal justice system was set up against Black people. The judges and police were former confederate soldiers, which meant Black people received harsh punishment. All these laws against Black people meant it was easier to put them in prison. After the Civil War, the prison community was predominantly Black, instead of mainly made up of immigrants. A lot of the time Black people went to prison on false charges. The prisons had horrible living situations; people often died before their sentences were finished. Since the prisons were so small, diseases were spread quickly. Inmate abuse was common, which also led to higher death counts.

There was also a lot of violence against Black people at this time. Black schools were vandalized and Black people were commonly lynched. Police often did not arrest the people who killed Black people. Arthur F. Raper, an American sociologist, estimated "at least one-half of the lynchings are carried out with police officers participating, and that in nine-tenths of the others the officers either condone or wink at the mob action." In December 1865, the same month that the thirteenth amendment was ratified, the Ku Klux Klan was founded in Tennessee by a group of confederate veterans. The amount of violence in the south drove many Black families to move to larger cities, where they still faced police brutality and inequity. White people who lived in these cities felt threatened by the Black families moving in and demanded more laws against Black people. Industrialization was growing as well which meant more jobs were available. The labor movement started and created unions and strikes. Between 1880 and 1900, New York had 5,090 strikes. The men who benefited from the bad working conditions viewed these strikes as

riots. Since the police often answered to these men, they would break up the strikes either with violence or mass arrests.

Before World War II, Black people worked as farmers, factory workers, and at other low paying jobs. During the 1940s plenty of war related work popped up, yet Black people didn't get any higher paying work. Black people were also discouraged from joining the army. A Black labour worker named A. Philip Randolph tried to persuade Franklin D. Roosevelt to end employment discrimination. Roosevelt wasn't concerned with civil rights issues at the time; he was focused on the war. After being dismissed, Randolph threatened to organize a march in Washington D.C. with potentially 100,000 people. Roosevelt recognized how that would make him look, so he signed Executive Order 8802 on June 25th, 1941, and the march was called off. The executive order made it so there could be no discrimination in employment based on ethnicity.

A catalyst for the civil rights movement was the murder of Emmett Till. Emmett Till was a 14-year-old Black boy who in the summer of 1955 visited his great uncle and cousins in Mississippi. He had grown up in Chicago, where the way Black people were treated was very different from in the south. In the south Black people were expected to always be very respectful towards white people. If they were just a little disrespectful they would often be met with violence. While Till was visiting his family, he went to a grocery store to buy bubble gum. A white woman named Caroline Bryant was working behind the counter. She alleged that Till had grabbed her around the waist and made sexual remarks towards her. Over 50 years later, Carolyn admitted that she made up the story and lied under oath. Carolyn told her husband about the alleged sexual advances. Four days later her husband, Roy Bryant, and his half brother

kidnapped Till in the middle of the night. They beat him, gouged out an eye, shot and killed him, then tied his body to a large fan and dumped him in a river.

Emmett Till's funeral was largely part of the reason why his death became so important to the movement. His mother, Mamie Bradley, decided to hold an open casket funeral. A magazine published pictures of her with her son's corpse which created a large reaction from the public. Over 100,000 people went to Till's funeral in Chicago. Roy Bryant and his brother, JW Milam, were indicted for the crime only after the story came into the public eye. Women and Black people couldn't serve on juries at that time, so Bryant and Miralem were tried before an all male, all white jury. The jury talked only for 36 minutes, then acquitted Bryant and Milam. Many Americans didn't understand how much racism was ingrained into American culture. Emmett Till's murder made a lot of people realize how racist the country was. Emmett's mother explained that "people really didn't know that things this horrible could take place, and the fact that it happened to a child, that made all the difference in the world. "

The civil rights movement continued in 1955 when Rosa Parks refused to give up her seat on a public bus. Later when she recounted that day she said: "I thought of Emmett Till, and when the bus driver ordered me to move to the back, I just couldn't move." The Montgomery bus boycott in Alabama was when Black people refused to ride city buses to protest segregated seating. These protests lasted a little over a year; December 5, 1955 to December 20, 1956. The news of the protests spread around Montgomery and Black people started to be more involved with these protests. Black ministers and churches announced the boycott on December 4. Black people were the main group of people who rode the buses in Montgomery. Around 40,000 Black bus riders boycotted the segregated seating.

On the first day of these protests, Black leaders met and formed the Montgomery Improvement Association. Martin Luther King, Jr. became the president of this association and they decided to continue the bus boycott until the city leaders met their demands. At first the Montgomery Improvement Association didn't demand changing the segregation laws, but wanted respect, and a first come first serve policy. The way the bus seating worked was if a Black person got onto the bus before a white person, they could sit in the front of the bus. But if a white person came onto the bus and wanted to sit in the front, the white person could make them sit in the back of the bus. Eventually on June 5, 1956 the federal court in Montgomery ruled that the segregated bus seating violated the 14th amendment.

After the city ended segregated seating, Black people were met with violence. Black churches and homes of Black leaders were bombed, but a bomb at Martin Luther King's home was diffused. The police arrested seven people involved with the bombings and they were all members of the Ku Klux Klan. After the arrests the bus related violence mostly came to an end. The Montgomery bus boycott was one of many mass protests for civil rights in America. These protests made Martin Luther King the face of the movement, and started his non-violent approach to protests.

All Americans had the right to vote in the 1950s, but southern states made it almost impossible for Black people. As a condition of voting, some states made people of color take literacy tests that were confusing and difficult to pass. The Eisenhower administration saw the rise of civil rights issues, and they wanted to show support for the movement. They also wanted to try to ease the amount of racial tension in the south. On September 9, 1957, President Eisenhower signed the Civil Rights Act of 1957. It was the first time since reconstruction that Congress passed a civil rights bill. The Civil Rights Act authorized prosecution for anyone who

denied the right to vote to any American. The bill ultimately had little impact on Black voters, but the bill established the United States Department of Justice Civil Rights Division and the United States Commission on Civil Rights.

The March on Washington of August 28, 1963 brought together different civil rights groups, religions, and labor unions. 250,000 people went to the protest in Washington D.C. They were protesting for civil, economic, and political rights for Black people. It was one of the biggest protests in American history. 1963 was the 100th anniversary of the Emancipation Proclamation. One of the points made by protesters was that a lot of promises of emancipation had not been fulfilled. The march started at the Washington Monument and ended at the Lincoln Memorial. This protest was where Martin Luther King, Jr. gave his "I have a dream" speech.

Before the March on Washington, President John F. Kennedy had tried to send a civil rights bill through Congress. The bill was stalled in the judiciary committee because of southern senators. After Kennedy was assassinated later that year, President Lyndon B. Johnson prioritized passing the bill. The Civil Rights Act of 1964 created the Equal Employment Opportunity Commission to enforce fair hiring. It also ended segregation in jobs, housing, and education. There was a lot of pushback to this bill from white people. Tensions were rising as more Black people were beaten and killed.

Even though the Civil Rights Act banned voter suppression based on race, Black people's right to vote was being blocked in Alabama. They organized three marches from Selma to Montgomery to protest their right to vote being taken away from them. Groups like the Dallas County Voters League (DCVL), and the Student Nonviolent Coordinating Committee (SNCC) helped lead the protests. The first march was on February 18, 1965 to protest the arrest of James Orange. As they were marching, the Alabama police attacked the protesters. Jimmy Lee Jackson

was shot by police and died eight days later. After his death they planned a march from Selma to Montgomery to speak with the governor about Jackson's death. Governor Wallace ordered state troopers to do whatever they needed to stop the march.

Around 600 people went to the march on Sunday, March 7. The march started peacefully, but when they arrived at Edmund Pettus Bridge they were met with extreme violence from police. The police used whips, nightsticks, and tear gas and injured over 60 people. Videos from this day were shown on television, which made a lot more people care about the protests. The last march was on March 21. After the event on March 7, over 2,000 people participated in the march. Martin Luther King, Jr. led the people over Edmund Pettus Bridge, where they were met with police once more. This time, the police stepped aside and let them through. A few days later on March 15, President Lyndon B. Johnson went on television to publicly support the Selma protests. He later in congress called for federal voting rights legislation that would protect Black people from anything that would keep them from voting. Congress passed the Voting Rights Act of 1965, guaranteeing their right to vote. The act banned the requirement of literacy tests before voting.

In 1968 the Democratic National Convention was held in Chicago to select the Democratic candidates. One of the biggest issues at the conventions was the Vietnam War. Before the convention, members of the Youth International Party began organizing protests. The mayor of Chicago, Richard Daley, denied all protest permits but allowed one in Grant Park. Almost 15,000 people attended the rally on August 28th. Police used teargas and batons against protesters, and protesters retaliated by throwing bottles and rocks at them. Instead of airing the convention, TV networks aired the violent rally. After four days of protesting, over 600 people were arrested, and almost 1,000 people went to the hospital.

On March 20, 1969, a jury indicted eight of the protesters with different federal crimes and eight police officers with civil rights violations. The eight protesters were indicted under the Civil Rights Act of 1968, which made it a federal crime to cross state lines intending to start a riot. Their trial began on September 24, 1969. One of the men, Bobby Seale, was the only Black man on trial. He shouted insults and accusations at the judge, and the judge gave an order to bound and gag Seale. He sat like that in court for a few days. This was a blatant act of racism, as the other men on trial also insulted the judge during court, but Judge Hoffman didn't bind and gag any of them. One of the men on trial received one year in prison for protesting the way Seale was treated. Judge Hoffman decided to try Seale separately from the other seven men. He was sentenced to 48 months in prison, but the charges were eventually dismissed.

Injustices in the criminal justice system are not new. Black people are often given harsher prison sentences than white people. According to a study done by ABC, black people from 250 jurisdictions are 10 times more likely to be arrested than white people. A report from the United States Sentencing Commission said that Black men who commit the same crimes as white men receive sentences 20% longer than white men. Black adults are 5.9 times more likely to be incarcerated than white people. In 2001, one out of three black children would go to prison at some point in their life, while one in seventeen white children would go to prison. Slavery isn't currently explicitly said to be punishment for a crime, but we have forms of it that have been normalized. Angola prison in Louisiana makes their prisoners work in fields and most of the prisoners are Black men. They threaten them with solitary confinement if they don't work in the fields. Angola even used to be a plantation.

Throughout history there have been both politicians and ordinary citizens concerned about the role of racism in our criminal justice system, and many have made efforts towards

progress. Amendments to the constitution, executive orders from presidents, protests and new laws have made incremental progress toward equality. However, our country remains afflicted with the effects of slavery and systemic racism in our criminal justice system. We need look no further than the ongoing Black Lives Matter movement and increasing death toll of Black people at the hands of white police officers for evidence that our country has not yet done enough to end the effects of slavery and root out racism.

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