

The Racial Biases of Our Justice System Toward African American Communities

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The Racial Biases of Our Justice System Toward African American Communities

Abstract

The racial biases within the American criminal justice system have been a longstanding issue, disproportionately affecting African American communities. These communities have been severely affected by structural racism and racial injustice since the time of slavery for Blacks. They also continue to witness disparities because of economic “disadvantages” and racial “segregation” they are forced to experience in a “free” world. This paper looks at the history and the “inherent long-standing” trauma through the lens of a Netflix Documentary “13th” to look into the narrative that has and continues to plague African American communities. The paper also discusses the community initiative and potential solutions to look at holistic restoration from systemic injustice and structural racism. With the goal of debunking the underlying message in the documentary, the paper also discusses potential strategies to mitigate the effects of racial disparities and provide important solutions for the future on how to reduce racial inequities in the U.S. CJ system. Overall, the primer discusses race, racism, structural racism, injustice, and legal underrepresentation which has perpetuated trauma for African American communities for decades.

Introduction

Throughout the United States, people of color especially Blacks are likely to enter the justice system of the nation as compared to the general population. In the US, the justice system is designed to ensure justice is rightly served with the endorsement of appropriate state-designed laws and orders but several biases lead to inequities in the CJ system which can have a significant impact on marginalized people, especially the African American communities. The

system supposed to address that justice is fairly administered to all is compromised due to the significant bias, and racial prejudice, in the US CJ system. The disparities in the system reflect that people of color are more likely to be “charged, arrested, and sentenced” to longer prison times than Whites due to racial bias among law enforcement officers. These disparities occur due to several factors including systemic inequality within the CJ system, bias among prosecutors and judges, gender bias, lack of access or no access to legal representation, and racial segregation against the African American communities. The racial bias against American Blacks exists in the US CJ (criminal justice) system when the disparity presented is attributed to decisions or actions that are taken by Whites, a dominant group, and Blacks, a minority and marginalized group. This primer explores and addresses racial and ethnic disparities against the African American communities within our CJ system as well as the strategies to promote evenhanded law and order processes at every stage of the US justice system to overcome the systemic oppression against Blacks and generational trauma of African Americans. It also explores a powerful documentary, “13th” directed by Ava Duvernay which delves into the legacy of slavery within the US prison-industrial complex.

Analysis of “13th”

Mass incarceration is one of the biggest issues in the United States where 1 in every 4 individuals are incarcerated in the land of the free, especially among the Brown and Black communities. It is a shame that African American communities after the Civil War were put back into slavery with the arrest and sentences of mass numbers of Black American people in prison. Director Ava DuVernay examines the American “system of incarceration” where one out of every four Black American males would serve “prison time” in their lives. The economy of the

former Confederate States especially after the Civil War suffered due to the abolition of slavery but the loophole in the law allowed for the re-enslavement of emancipated slaves through trumped-up or minor charges. The documentary traces the cycle of oppression from slavery to “Jim Crow” to “Reagan’s War on Drugs”, “Nixon’s Presidential” campaign, and Bill Clinton’s “Three Strikes” laws as it features interviews with activists, politicians, and especially former prisoners in order to provide a comprehensive view of racial injustice and systemic racism.

Moreover, the current cash-for-prisoners model generates profits for incarceration firms and private bail. Significant racial disparities and ethnic inequities paint a picture of the injustice in the U.S. justice system and can be seen in both prisons and jails as the research found that African Americans are incarcerated “five times more” than Whites so the disparity between the White and Black imprisonment leads to a sentence enhancement for African American communities. Despite the grim subject matter, the Netflix documentary ends with a visual call to action which urges viewers to advocate for change as the “13th” is a thought-provoking exploration of racial bias, injustice, state violence, over-incarceration of African American communities, and the dire need for reform in the CJ system of the United States.

- **Historical Context and the Continuation of Slavery through Mass Incarceration**

This Netflix artifact provides a good insight into the prison industrial complex and the mistreatment of African American communities from the time of slavery up until this current era. The 13th amendment, ratified in 1865, to the US Constitution abolished slavery in and around the United States but it included a loophole “except as a punishment for crime” which allowed the penal system to exploit prisoners as forced laborers that effectively perpetuated a form of slavery in the United States. The documentary exposes how the justice system disproportionately targets African Americans as the film divides the history of racism against Blacks into three

stages which include Slavery (1664-1865), Jim Crow (1865-1965), and Racialized Hyperincarceration (1965 to present). The period of “Slavery” was the brutal era of enslavement, the second period “Jim Crow” was the period of racial segregation and discrimination against African Americans, and the third or current moment was marked by mass incarceration disproportionately affecting the African American communities. These periods of enslavement highlight the multi-generational continuity of systemic racism and slavery which persists in the culture, society, and economy of the United States, till now.

The Netflix documentary delves into the prison-industrial complex and the contemporary and historical links between racism, slavery, and mass incarceration. The film argues that the exemption in the 13th Amendment to the US Constitution has been used to perpetuate involuntary servitude in the form of penal labor within the criminal justice system. It also explores the suppression of African Americans through lynching, disenfranchisement, and Jim Crow laws which disproportionately affected African American communities (Festa, 2022). DuVernay contends that the legacy of slavery among people of color continued after the Civil War through criminalizing behavior as this approach was institutionalized in the legal or justice system. It was to institutionalize convict leasing in the legal system in order to create an incentive to criminalize more behavior (Scott, 2020). The documentary debunks a lot while also mending its way to the contemporary days of “Black Lives Matter”. Besides, the terrifying images or video clips of the endless Black people being shot by police or law enforcement officers asked the question if African Americans who tried to hold their grounds were ever truly free in a “free” land and if slavery was truly abolished as according to the amendment made into the U.S. Constitution.

The “13th Amendment” in the U.S. Constitution abolished slavery apparently but this seemingly “innocuous” clause allowed for the exploitation and discrimination against Black people through harsh laws and policies. Southern states “criminalized minor offenses, arresting them and forcing them to work when they could not pay fines” (Stierman, 2017). For instance, throughout the United States, racial inequities and disparities have been documented in the cities from routine police stops including Black Americans being searched, handcuffed, and arrested to long-term imprisonment. In addition, politicians’ declaration of a war on drugs disproportionately affected minority communities and how corporations profit from incarcerations. This controversial topic is discussed in the documentary “13th” with the themes of gender bias, racial bias, social bias, mass incarceration, the ineffectiveness of the prison system, the impact on the environment, and the impact on the education and social system. According to DuVernay’s message, the issue of mass incarceration of Black males and females in American society is inclined to refer to slavery for profit, and systemic racism as well as mass incarceration of Black people contributes to this economic goal. The documentary is a powerful examination of racial biases within our justice system and the urgent need for reform.

The tradition of enforcing slavery as punishment has its roots in Jim Crow laws as racial and social prejudice and bias are reflected in the Constitution of the United States in the form of the 13th Amendment (Vorenberg, 2001). It seems to be typical of U.S. society to shift the visions used in the eighteenth or nineteenth century regarding Black Americans that are closely based on social bias to the modern centuries, representing a significant portion of the Blacks as imprisoned population in the United States. From this narrative, DuVernay represents in her documentary how the idea of slavery and systemic racism is being shared in the United States from one generation to the other. The adverse effects of the mass incarceration of African American

communities on the environment and society show that under the community's impact, Black people residing in the United States can opt for the criminal path (Scott-Jones & Kamara, 2020). According to the Ecological Systems theory presented by Urie Bronfenbrenner, a person develops under the impact of their environment, society, culture, and other factors including family, friends, schools, neighbors, community, and mass media (Horowitz, 1980). Building on this theory, African Americans' choices can be developed under the impact of different environmental impacts such as under the media impact, Black Americans would be seen as potential criminals by their White counterparts.

- **The “Super Predator” Narrative and Its Significant Consequences**

The “Super Predator” narrative in the 1990s caused the “dehumanization of the body of color” and criminalization of “juvenile” behavior that had a profound impact on how judges and prosecutors viewed young offenders. The term “Super Predator” was emerged 35 years ago and coined by academic John J. Dilulio Jr., to describe a generation of youth who were supposedly violent and ruthless criminals, especially Black Americans who were inherently irredeemable, leading to widespread harsh and violent measures (Vindeogel, 2014). Unfortunately, one of the critical elements that are discovered in the documentary is the media's use of animalistic imagery such as “wolf pack” and “wilding” further dehumanizes young people of color and perpetuates harmful stereotypes among African Americans. This discourse of the “Super Predator” narrative not only normalized the incarceration of adolescents but also ingrained fear in the population as it fueled policies such as the War on Drugs, which affected Black American communities, resulting in the mass incarceration and destruction of countless Black lives. The Netflix documentary “13th” demonstrates this discourse and how public or political rhetoric and media portrayal reinforced the harmful stereotypes against people of color especially the African

American communities which created a cycle of punishment, stereotypes, and prejudice that continues to this day.

With slavery being abolished according to the thirteenth amendment in the U.S. Constitution, White or Caucasian counterparts still tried to find ways to shame African American communities for which Black people were seen and called “Super Predators” in order to degrade them and see them as lesser human beings or even animals. Whites took advantage of Black people through lynching and Jim Crow as these events happened during the time when politicians “declared a War on Drugs so African Americans were defenseless across the South” which led to their mass incarceration, “excluding them from the political system” of the United States (Rosino & Hughey, 2018). The Director of the documentary, “13th”, declares how Blacks were considered a threat by their White counterparts especially for White women which resulted in the lynching of African Americans by White mobs which allowed for the segregation and the domination of Blacks. The film states the message of an interviewee that “And very few people appreciate that the African Americans in those communities did not go there as immigrants looking for new economic opportunities. They went there as refugees from terror” (Netflix, 2020) which reflects that they were pushed away due to the depressed rural economy, fear of lynching or violence, racial injustice, and “absolute poverty” which refers to the “lack of basic necessities” such as food, shelter, and income for the African Americans.

Economic Interests and the Role of Private Prisons

The intersection of racial biases and economic interests within the justice system is a multifaceted and complex issue which reflects that Black Americans are always disproportionately impacted by incarceration, despite representing a smaller percentage of the

overall population of the United States. Till now, Black American offenders are “placed in private prison” cells in harsh conditions compared to their white counterparts, while Hispanic male and female offenders are less likely to be placed in private prisons which are operated by for-profit corporations and have become increasingly prevalent in the United States. The Netflix documentary “13th” explores the economic interests underpinning the prison industrial complex and underscores the need to dismantle these economic structures that have created financial incentives for maintaining high incarceration rates, prioritizing profit over justice and human dignity. The rise of private prisons has fostered the idea of companies making a profit from the exploitation of the construction of new facilities and prison labor.

In the documentary, DuVernay exhibits how the acts of slavery provide a compelling overview of how the contemporary prison system is “framed by the Black Lives Matter” movement and how the “13th Amendment” states that unless a person is “criminalized” or convicted, he is free. The director also exhibits how slavery and racial injustice have been maintained in legal approaches or practices since the American Civil War ended by enabling police and law enforcement officers to arrest and convict innocent freedmen as African Americans had to provide labor in the prisons for the state. The prison system as the thirteenth amendment describes “mass incarceration” as the “negative reaction” to the civil rights movement continues to be violent, ruthless, and racist and the amount of prisoners rises steeply and continues into today’s society. The Netflix film examines the prison-industrial complex and demonstrates that criminalization has been a constant feature of racism in order to show how much money and profit is being made by for-profit companies from such incarcerations of the African American communities in U.S. society. This clearly shows how unfair the justice system

of the United States is for minority communities like African American people and how systemic racism and injustice are still continuing factors in American society.

Extreme sentences for reliance on criminal histories and violent crimes contribute to racial disparities in imprisonment for minority communities, especially Black Americans as policies such as mandatory minimum sentences affect Black people (Hetey & Eberhardt, 2018). In addition, private prisons moderately increase sentence lengths but do not directly influence judges or prosecutors and enhance existing racial bias in the justice system. However, biased reactions, decisions, or actions by correctional officers in the CJ system can lead to racial disparities in “prison discipline”, including “disciplinary write-ups” that subsequently result in solitary confinement. The relationship between economic interests, private prisons, and racial bias is intricate as the broader impact of private prisons on racial disparities remains a critical concern. For instance, the federal government narrowed the “crack-cocaine sentencing disparity” in 2010 and “applied it retroactively” in the year 2018. This “commodification of human lives” aggravates the “cycle of incarceration” in order to make reform even more challenging (Kamalu et al., 2010). In the contemporary scenario, while reforms are underway, addressing systemic issues requires ongoing efforts to promote justice and equity within the legal and justice system.

The Disproportionate Impact of Racial Biases on African Americans and the American Legal System

In relation to African Americans, racial disparities within the American Justice System have been extensively documented as Blacks face a higher threshold of searches, arrests, and sentences than their White counterparts. For instance, racial bias persists in police stop decisions as Black drivers are disproportionately stopped, especially after sunset, face higher chances to be

arrested and convicted and once arrested, they experience longer prison sentences. Implicit racial bias exists at all levels including police officers, judges, prosecutors, public defenders, and parole boards (Hinton et al., 2018). Additionally, low-income communities of Blacks and people of color suffer from “overrepresentation” in the justice system. These disparities perpetuate systemic bias and inequities among people of color. African Americans and other people of color are still looked down on and they face disparities and hardships in legal representation based on the color of their skin. Regardless of the civilized individuals and revolutionized U.S. legal system and overall society, contemporary American society is still not where it should be because of the governments, biased political parties, and prejudiced White people, but as responsible citizens of the States, Americans need to make the necessary changes to live outside of the blinded bubble.

Between watching the Netflix documentary and revising the topics discussed in the class, I have realized how corrupt the legal or justice system of the United States is with the current situations going on with race and our judicial system when it comes to people of color, especially African American people. It is an alarming situation for the U.S. society and the overall justice system of the world that the color of someone’s skin affects how they should be viewed and treated in society and compromises the idea of the fairness of our systems today. In this regard, DuVernay in the documentary paints a great picture that does a great job of bringing awareness regarding how the legal, political, and judicial systems are run in the United States and how race plays a significant role in these systems. However, in today’s generation, we do not have the complexes and struggles that our ancestors witnessed in their times regarding race, wrongful deaths, and living in constant fear of violence, incarceration, or lynching in the hands of their counterparts. Black Americans still do not have enough freedom and rights when it comes to race

and fairness in legal representation. Thus, Americans have the need to make this decision to give equal rights and acknowledge different races inhabiting the United States to see what is really happening within and around the United States to make a change.

The “13th” provides compelling personal stories and statistics to illustrate the disproportionate impact of “mass incarceration” on Black people as they constitute a significant portion of the prison population of the United States. The racial injustice and inequity among Black Americans extend beyond the justice system as they are given harsher sentences than Whites for the same crime due to systemic racism. The biased policing practices in the American justice system affect educational attainment, economic opportunities, and overall quality of life for Black American communities. As the inhabitants of the planet Earth and being humans, everyone has the responsibility to ensure that individuals around them are treated with justice, equality, and fairness, regardless of their background or race. However, the systemic racism highlighted in the documentary “13th” demands an acknowledged effort to address and rectify the historical and ongoing oppression of Black Americans to dismantle the structured racism, working towards creating a more equitable and fair society.

Community Initiatives and Policy Reforms

The need to address and reduce racial “inequality” in the justice system, specifically focusing on African American communities, requires a multifaceted approach to increase diversity among law enforcement personnel, judges, prosecutors, and police. This is to combat generational trauma and systemic oppression. Firstly, implicit bias can be reduced by providing more equal opportunities for marginalized Black Americans in order to increase diversity within the justice system for minority communities. Secondly, allowing judges and prosecutors more

discretion can help eliminate mandatory minimum sentences and also help reduce the over-incarceration of Black Americans. Beyond the CJ system, policymakers should consider addressing environmental, economic, educational, and public health disparities and the punishment for petty crimes to recognize that systemic racism is interconnected with broader social injustices. In addition, minimizing and ending the profit motive in incarceration of the African American communities would be an essential step towards creating an equitable justice system in the United States. The third and most important step to creating a fairer justice system is abolishing private prisons. This would also be an essential initiative to reduce the over-incarceration of Black Americans.

Data on arrests, charges, convictions, and sentences should be collected while identifying patterns of bias to explore coordinated reforms across various stages of the justice system and to increase accountability and transparency within the U.S. CJ system (Stierman, 2017). Fourth, community-based programs, vocational training, reintegration support, and mental health services should be provided without any discrimination to break the cycle of systemic racism. This approach would provide reintegration and rehabilitation for formerly incarcerated individuals. It will also promote understanding as well as empathy to reduce racial bias and shift societal attitudes while challenging racial stereotypes. It is to ensure that law enforcers including police, judges, prosecutors, and law enforcement officers are held accountable for their actions. However, addressing and reducing systemic bias in the U.S. criminal justice system is a concern where much work has been done and there is still a need for the critical evaluation of all factors that contribute to the racial bias against people of color. The justice system and the stakeholders involved need to understand that addressing systemic bias requires a collaborative and sustained effort by all stakeholders involved in the justice system.

The other approach to address racial bias in the justice system of the United States is through the use of modern technology ranging from policing to sentencing for petty crimes that people of color commit. In order to hold police officers accountable for their actions, many law-enforcing organizations around the United States are developing AI systems and algorithms to eliminate bias in various stages of the justice process. For instance, AI and algorithms can be used to flag officers who have a history of excessive violence against African Americans or those who perpetuate biased behavior while engaging in racial profiling. Some companies are also developing algorithms for the courtrooms that judges can use to make objective decisions while setting bail but several factors such as the seriousness of the offense and the criminal history of the offenders might influence decision-making. Furthermore, public awareness campaigns are critical components to addressing disparities in the CJ system and making people aware of the racial bias African Americans suffer from to break the cycle of recidivism, a legal term that refers to the tendency of a convicted criminal to commit crimes even after having been punished. Lastly, the “restorative justice practices” that focus on “repairing harm” instead of punishing the offenders can also be effective in providing a more equitable, fair, and just approach to justice as well as reducing disparities in the CJ system of the United States.

Another potential solution to address and mitigate racial bias against the African American communities in the United States and its justice system is the use of “risk assessment tools” through the use of data and algorithms. These tools are used to determine the level of risk offenders pose to society and also the level of recidivism to predict the factors that perpetuate bias. However, several factors need to be considered before and while using these risk assessment tools as they are often built on the existing biases in the criminal justice system and reinforce systemic biases in the society, influenced by certain law enforcement practices and

factors that disproportionately target certain minority communities in the country, especially Black Americans in the United States. Another concern regarding the use of risk assessment tools for mitigating systemic bias in society is that these tools may not capture the full complexities of minority communities which often leads to underestimation of risk for some marginalized groups such as Black Americans which perpetuate biases in the society. For instance, a judge may use risk assessment tools to justify the denial of bail for a petty crime due to the biased or flawed algorithm used in the courtroom. For this to be mitigated, risk assessment tools should be subjected to oversight and transparency including regular audits of the data and algorithms used in such tools so that the notion that African Americans are predetermined to commit crimes can be overcome.

Conclusion & Solutions

Addressing and reducing racial bias and disparities in the justice system requires a multi-faceted approach to ensure that the legal system is fair and just. This includes increasing accountability, enhancing transparency, providing education and training, increasing diversity, and implementing restorative justice practices so that all members of the society are served justly and equally. The silver bullet solution to inequity and bias in the CJ system of the United States can be achieved by addressing the systemic factors that perpetuate bias and the individual-level interventions that promote equity and justice for all the stakeholders involved in the justice system.

The Netflix documentary, in this regard, offers a necessary and powerful critique of the prison industrial complex, the “Super Predator” narrative, and the systemic bias and discrimination against African American communities to call on individuals to recognize their

social responsibility to uphold the principles of justice, fairness, and equity in the justice system. So, it shows that the hidden racism that was embedded in the clause of the 13th Amendment can become real as the Amendment guarantees the right of criminal defendants to an impartial jury such as the film speaks about the prison system and criminal justice bias in U.S. society.

In order to dismantle structural bias and racism, every individual must become conscious of their social responsibility to combat the lack of equity for African Americans because the collective and collaborative effort is the way we can become a part of something bigger than ourselves to positively contribute to society. By acknowledging the historical and ongoing oppression, biases, injustices, and discrimination against African American communities and implementing meaningful reforms across the CJ system of the United States, we can work towards an equitable and fair society that ensures equality and justice for all. The question of being “completely free” in a free land stands out in the context that as human beings with equal rights, African Americans would ever be able to see all forms of segregation and racism dissolved to create a change in society as these modern people have it a lot smoother than their ancestors who were “enslaved” a decade or two ago.

As human beings and responsible citizens of the United States, our commitment to these ideals is not only a moral imperative but also a necessary step towards healing the deep traumas of racial injustice and the inclusive future of All African Americans. Therefore, it is a shared responsibility of us and all Americans irrespective of their race, gender, economic status, ethnicity, and background to put a stop to racial bias that has been part of the U.S. CJ system for decades. In a nutshell, the final message that I inferred from this video artifact is that change never comes from the governments, politicians, or systems, but it comes from the hearts of the

individuals who inhabit a society because people are the only ones who can create and bring change.

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