

## **A Failed Just-is System**

By Michael Griffin

I am Black, and I am scared. I am scared because we live in a nation that prompts us to empathize with the struggling and *poor* citizens of Africa but turns a blind eye to its Black citizens in the African diaspora who have been dehumanized and systematically oppressed since 1619, when the White Lion brought them ashore to Jamestown, Virginia (*A Look Back: The First Slave Ship in the U.S.*, 2019, para. 1). I am scared because we live in a nation built off the welted backs of Black slaves but will not address the disproportionate rates at which the descendants of these slaves are murdered, disenfranchised, and discriminated against. I am scared because just like Trayvon Martin, Breonna Taylor, Eric Garner, Michael Brown, George Floyd, and many more, my life can be taken away instantaneously because my Black skin makes me a target.

It is essential to provide the National Equity Project's (n.d.) definition of systemic oppression, as it will give a foundational understanding to all readers of the great lengths the nation has gone to prohibit an entire racial group from accessing opportunities that would make them equal to their white counterparts; systemic oppression "is the intentional disadvantaging of groups of people based on their identity while advantaging members of the dominant group (gender, race, class, sexual orientation, language, etc.)" (para. 8). In the case of Black people in the African diaspora, systemic oppression ranges from unequal opportunities to obtain housing to being falsely convicted and extensively sentenced because Black people fit the description.

America's justice system is one of the biggest culprits of the systemic oppression of Black people in the African diaspora as it allows, justifies, and politicizes the inequality Black

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people have faced since they were brought to America. Almost 403 years later, every Black person still experiences the byproducts of slavery. For example, the abolishment of the 13<sup>th</sup> Amendment, which according to the Constitute Project (n.d.), states, “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction” (Constitute Project, n.d., Amendment XIII). Ironically, instead of slavery, today in America, we see the extensive mass incarceration of Black individuals for non-violent crimes such as drug distribution. The U.S. justice system needs to undergo foundational reconstruction to address the policies and practices in place that put minorities at a disadvantage for equal opportunities in the *land of free*.

To properly address the systemic racism within America’s justice system, it is important to understand the history in which it was built. According to the National Association for the Advancement of Colored People (NAACP) (n.d.), the origins of modern-day policing have been traced back to Slave patrols, which originated in North and South Carolina as early as the 1700s. The Slave patrol was a group of white citizens with a few goals in place: “establish a system of terror and squash slave uprising with the capacity to pursue, apprehend, and return runaway slaves to their owners” (para. 1). This practice was similar to herding cattle and instilled the *less than human* narrative all Black people in the African diaspora faced. After more than 200 years of slave labor, the 13<sup>th</sup> Amendment was ratified into the U.S. Constitution *abolishing* slavery in 1869. Black people in the African diaspora rejoiced at the thought of being free; however, that was only the beginning of their falsified freedoms. Unfortunately, there are no statistics to show the drastic increase in the U.S. prison population between 1850 to 1870 because the information

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was “secured by means of a special schedule for ‘social statistics’ which were completed by assistant U.S. marshals for each town or civil subdivision” (Cahalan, 1986, p. 1). However, one could imagine the amount of backlash that was brought onto the newly freed slaves: ranging from heinous hate crimes to the beginning of Black Codes. Black people in the African diaspora began to experience a new era of hatred and dehumanization. In mentioning this, it is also important to note that according to Bryan Stevenson (2019), “the provisional governor of South Carolina declared in 1865 that they [Black people] had to be ‘restrained for theft, idleness, vagrancy, and crime’” (para. 6). Therefore, not only were Black people in the African diaspora suffering from the post-traumatic stress disorder associated with slavery, but now they were about to undergo one of the most historic and agonizing examples of social genocide: Black Codes and the inauguration of systemic oppression, accompanied by the laissez-faire attitudes of their white counterparts. The implementation of Black Codes along with other discriminatory practices of America’s justice system led to the social marginalization of Black people, which evolved into the many social injustices we see today: racial profiling, mass incarceration, the difference in sentencing, police brutality, prejudiced practices, all leading to the uprising of white supremacy.

### **Mass Incarceration**

Some may argue that after the abolishment of slavery that racism ended. If that were to be true today, then Black people in the African diaspora would not be “3.23 times more likely than white Americans to be killed by police” (Jahn & Schwartz, 2020, para. 1). Black people make up around 13% of the population in a nation with about 329.5 million people, yet Black people are five times more likely to be stopped without just cause in comparison to white people.

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Mass incarceration of Black and brown bodies in a nation that is majority white is the epitome of racial disparities. Mass incarceration is more than just a reflection of the racially-biased justice system; it also allows for the dehumanization of anyone who has been convicted of a crime.

According to the NAACP (n.d.), “In 34 states, people who are on parole or probation cannot vote again. In 12 states, a felony conviction means never voting again” (NAACP, n.d., effects of incarceration). The 15<sup>th</sup> Amendment, which was ratified to give all people the equal opportunity to vote, excluded Black people in the African diaspora along with women. States would allow white supremacists like the Ku Klux Klan to intimidate Black people to prevent them from voting, as well as requiring Black people to pass literacy tests and pay poll taxes, even though they were poor and were prohibited from receiving any form of education. Today, we see Black people being arrested at a disproportionate rate compared to any other racial group, resulting in the loss of their 15<sup>th</sup> Amendment; the justice system continuously justifies the dehumanization of Black and brown bodies by allowing this to happen.

Mass incarceration not only results in a percentage of the Black population being stripped of their human rights, but it also leads to other physiological and life-threatening issues. For example, the conditions that prisoners must live in are inhumane: their cells are 6 feet by 8 feet concrete rectangles with a singular window. Not only can this kind of isolation result in a number of mental illnesses, but it also does not allow their body to receive any sunlight, which is essential for vitamin D synthesis for proper bone maintenance. In addition, the NAACP (n.d.) stated, “inmates are five times more likely to be infected by HIV than the general population” (Effects of Incarceration). Although a vast number of Black inmates are incarcerated for distribution charges, they must now endure the potential health endangerments of prison, not to

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mention the racially motivated maltreatment inflicted by correctional officers. Mass incarceration plays a vital role in the systemic racism that runs rampant in our justice system; however, most injustices happen outside the barbed wire fences.

### **Difference in Sentencing**

Sentencing is a crucial part of the judicial process in America—unless the offender is white. This may seem like an extremist statement; however, it is a statistical fact that has been proven repeatedly that people in the African diaspora are targeted by this process; it is almost a guarantee that if a Black person and a white person were to commit the same crime, the Black suspect would get a longer sentence. Take for instance the 2014 study done by the University of Michigan, which “found that all other factors being equal, Black offenders were 75 percent more likely to face charges carrying a mandatory minimum sentence than a white offender who committed the same crime” (Ingraham, 2017, para. 7). There could be several reasons behind why the same crime could result in different sentences, but when there is a major gap between the two sentences, it becomes harder for the opposing position to argue. For example, Chase Legleitner, a white suspect, and Lamar Lloyd, a Black suspect, both men were arrested for armed robbery; however, where the two cases differ are the sentences. Both Lamar and Chase appeared in front of the same Circuit Court Judge, Sherwood Bauer Jr, but for some reason, Lamar was sentenced to 24 more years (Sherman, 2020). Now, it is important to note that there were some deciding factors between the two cases; there was no reasonable explanation as to why Lamar is facing two extra decades when no one was physically injured. Lamar is one of many examples of our justice system’s careless attitude towards Black suspects, not to mention how many Black

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people are wrongfully convicted and, in some cases, wrongfully put onto death row. These injustices do not only happen once a person is in the custody of law enforcement; at every level, the justice system plays a role in the oppression and disenfranchisement of Black people in the African diaspora.

In the discussion of the difference in sentencing, it is important to also cover the difference in police responses to political gatherings of both Black and white groups. In 2020, news and media outlets were constantly showing the aggressive behaviors and actions of the Black Lives Matter protests, with the headlines labeling demonstrators as “violent”, “out of control”, “criminals”, and “wild animals”. Although the violent protests made up a small number compared to the countless peaceful protests occurring across the nation, the Trump administration ordered an extreme response, consisting of federal agency law enforcement, the National Guard, and non-identifiable enforcers. This response occurred across the nation; and according to Szabo et al. (2020), protestors were met with tear gas, rubber bullets, and other “less lethal projectiles”, resulting in injuries varying from broken noses, fractured facial bones, brain injuries, blindness, and gashes, to “at least 20 people having suffered severe eye injuries, including seven people who lost an eye” (para. 9). The media portrays Black people in the African diaspora to be violent, resulting in a need for control, further exposing them to higher rates of police brutality and unjust death, which are supported by a justice system that believes their actions immediately justify the punishments brought onto them. In white America, these disparities are almost non-existent.

On January 6, 2021, thousands of armed pro-Trump extremists rioted at the Capitol building in Washington, D.C. resulting in more than 100 injuries to law enforcement officers,

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destruction of property, and the death of a Capitol police force officer (History, 2022). This riot was provoked by at the time President Trump, encouraging supporters to fight in hopes of turning over the 2020 U.S. Presidential election. These rioters were not harmed in the way the Black Lives Matter protesters suffered, yet they breached a government building and committed a handful of atrocities. The media did not paint the extremists of this event to be savages, but instead, they were congratulated by former President Trump; he said in a tweet, “These are the things and events that happen when a sacred landslide election victory is so unceremoniously & viciously stripped away from great patriots who have been badly & unfairly treated for so long. Go home with love & in peace. Remember this day forever!” (as cited in Chason & Schmidt, 2021). These are two groups that both believe in a cause, one fighting social injustices and the other combatting political propaganda, one majority Black and the other white, and two completely different responses by a nation that prides itself on equality.

### **Racial profiling**

The patrol officer level of the justice system is where Black people most directly experience the effects of stereotypes and inequality in America. Almost every Black person in the African diaspora could support this argument; from the time Black children are able to comprehend, they are taught how to behave in society because the public does not understand that they may not be dangerous. This is the sad reality of most Black children; once they are able to drive, they are taught how to react in the event they get pulled over: hands where they can be seen, remain calm, speak clearly, ask permission before moving, follow instructions, and never talk back. Racial profiling dates back to pre-slavery times when European Colonizers saw

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Africans as barbaric, uneducated, and inferior *creatures*. Today, in the 21<sup>st</sup> century, it is embedded in the policing system for officers to patrol low-income neighborhoods, as they are alleged to be where the most crime and violence occurs. Police are trained to assess situations based on their own judgment, but what is not taken into consideration is that since the beginning of time, Black people in the African diaspora have been made out to be violent criminals, resulting in officers perceiving Black individuals to be *suspicious*. This has happened in many cases across the nation, one of the most influential being the case of 17-year-old Trayvon Martin. According to CNN (2022), on February 26, 2012, George Zimmerman, a neighborhood watcher in Florida, called 911 and reported a *suspicious person*. Zimmerman was instructed to stay inside his vehicle and not to approach this said *suspicious* person because the police were on their way; however, Zimmerman ignored the instructions and left his car, a few moments later, and it was reported that gunshots were heard. Zimmerman gunned down the person he assumed to be *suspicious*; it was 17-year-old Trayvon Martin who was talking to his girlfriend on the phone on the way back to his residence from the store. Zimmerman was never found guilty of the unjustifiable murder of the unarmed 17-year-old. Trayvon Martin is one of the many Black and brown bodies that the law has overlooked and have yet to get justice. There may be speculation on whether this case is as unjust as claimed to be, but why? Is it because society deems the fate of every Black person to be unjustifiably murdered because they are not acting accordingly? Or is it because it is easier to blame the victim than to address the racial issue that runs rampant in America's justice system?

In 2020, America's streets were flooded with protestors after the unjust killing of George Floyd, but following was a case that bought an entire nation to the realization that reform needs

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to happen within our justice system: the murder of Breonna Taylor, a Black woman whose house was wrongfully raided by the Louisville police department. The following describes this incident, as reported by Richard Oppel et al. (2021):

Ms. Taylor and her boyfriend, Kenneth Walker, had been in bed, but got up when they heard a loud banging at the door. Mr. Walker said he and Ms. Taylor both called out, asking who was at the door. Mr. Walker later told the police he feared it was Ms. Taylor's ex-boyfriend trying to break in. After the police broke the door off its hinges, Mr. Walker fired his gun once, striking Sgt. Jonathan Mattingly in a thigh. The police responded by firing several shots, striking Ms. Taylor five times. Mr. Hankison shot 10 rounds blindly into the apartment. (para. 11)

Additionally, in the report it was stated that Ms. Taylor did not receive any medical attention for more than 20 minutes after she had been shot (para. 15). What is the excuse now? Breonna Taylor was not a criminal, she was not a thief, she was not *suspicious*; she was in the comfort of her home where she was shot at and murdered. None of the involved officers were ever charged for the unjust murder of this Black woman because we live among a system that sees Black and brown bodies as expendable.

In the words of David Embrick (2015), "In every era, whites have found ways to control minorities: through slavery, through Jim Crow laws, and now increasingly through state agencies. What do you do when police are given a free pass to murder brown and Black bodies" (p. 841). What are the solutions when the agencies that protect, kill? What is the solution when our voice is stripped and ignored by society? What is expected after an entire racial group has been dehumanized and undermined since the beginning of their civilization? Who is to blame

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when another Black body is unjustly killed in their home? Who do you confide in when the law decides you deserve to be sentenced at the expense of your skin and not your crime? Who is left after a system was put in place to oppress and disenfranchise an entire body of people? These are the questions no one can answer because it has been justified and promoted throughout all of America's history. Black people in the African diaspora are the foundation of America, yet their quality of life has been altered and abused at the expense of white supremacy. The systemic oppression of Black people has been the longest invisible and ongoing genocide in history. The only way to combat such a heinous crime is to reconstruct the racist and discriminatory foundation of America, which is embedded at the root of every system: health care, housing, law enforcement, and most importantly the government. Every person who believes in equality among all people needs to continue to educate themselves in order to properly address the social injustices many Black people face today. No more blood shall be drawn at the hands of a broken nation because in unison, we say, "one nation under God, indivisible, with liberty and justice for all."

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