

one imagines that the first time will be the last. The experience is understood to define the terms of one's relationship not only to the state but to society at large. This reality can be frustrating for those who strive to help ghetto youth "turn their lives around." James Forman Jr., the cofounder of the See Forever charter school for juvenile offenders in Washington, D.C., made this point when describing how random and degrading stops and searches of ghetto youth "tell kids that they are pariahs, that no matter how hard they study, they will remain potential suspects." One student complained to him, "We can be perfect, perfect, doing everything right and still they treat us like dogs. No, worse than dogs, because criminals are treated worse than dogs." Another student asked him pointedly, "How can you tell us we can be anything when they treat us like we're nothing?"⁵⁶

The process of marking black youth *as* black criminals is essential to the functioning of mass incarceration as a racial caste system. For the system to succeed—that is, for it to achieve the political goals described in chapter 1—black people must be labeled criminals before they are formally subject to control. The criminal label is essential, for forms of explicit racial exclusion are not only prohibited but widely condemned. Thus black youth must be made—labeled—criminals. This process of being made a criminal is, to a large extent, the process of "becoming" black. As Wideman explains, when "to be a man of color of a certain economic class and milieu is equivalent in the public eye to being a criminal," being processed by the criminal justice system is tantamount to being made black, and "doing time" behind bars is at the same time "marking race."⁵⁷ At its core, then, mass incarceration, like Jim Crow, is a "race-making institution." It serves to define the meaning and significance of race in America.

The Limits of the Analogy

Saying that mass incarceration is the New Jim Crow can leave a misimpression. The parallels between the two systems of control are striking, to say the least—in both, we find racial opportunism by politicians, legalized discrimination, political disenfranchisement, exclusion of blacks from juries, stigmatization, the closing of courthouse doors, racial segregation, and the symbolic production of race—yet there are important differences. Just as Jim Crow,

as a system of racial control, was dramatically different from slavery, mass incarceration is different from its predecessor. In fact, if one were to draft a list of the differences between slavery and Jim Crow, the list might well be longer than the list of similarities. The same goes for Jim Crow and mass incarceration. Each system of control has been unique—well adapted to the circumstances of its time. If we fail to appreciate the differences, we will be hindered in our ability to meet the challenges created by the current moment. At the same time, though, we must be careful not to assume that differences exist when they do not, or to exaggerate the ones that do. Some differences may appear on the surface to be major, but on close analysis they prove less significant.

An example of a difference that is less significant than it may initially appear is the “fact” that Jim Crow was explicitly race-based, whereas mass incarceration is not. This statement initially appears self-evident, but it is partially mistaken. Although it is common to think of Jim Crow as an explicitly race-based system, in fact a number of the key policies were officially colorblind. As previously noted, poll taxes, literacy tests, and felon disenfranchisement laws were all formally race-neutral practices that were employed in order to avoid the prohibition on race discrimination in voting contained in the Fifteenth Amendment. These laws operated to create an all-white electorate because they excluded African Americans from the franchise but were not generally applied to whites. Poll workers had the discretion to charge a poll tax or administer a literacy test, or not, and they exercised their discretion in a racially discriminatory manner. Laws that said nothing about race operated to discriminate because those charged with enforcement were granted tremendous discretion, and they exercised that discretion in a highly discriminatory manner.

The same is true in the drug war. Laws prohibiting the use and sale of drugs are facially race neutral, but they are enforced in a highly discriminatory fashion. The decision to wage the drug war primarily in black and brown communities rather than white ones and to target African Americans but not whites on freeways and train stations has had precisely the same effect as the literacy and poll taxes of an earlier era. A facially race-neutral system of laws has operated to create a racial caste system.

Other differences between Jim Crow and mass incarceration are actually more significant than they may initially appear. An example relates to the

role of racial stigma in our society. As discussed in chapter 4, during Jim Crow, racial stigma contributed to racial solidarity in the black community. Racial stigma today, however—that is, the stigma of black criminality—has turned the black community against itself, destroyed networks of mutual support, and created a silence about the new caste system among many of the people most affected by it.⁵⁸ The implications of this difference are profound. Racial stigma today makes collective action extremely difficult—sometimes impossible; whereas racial stigma during Jim Crow contained the seeds of revolt.

Described below are a number of the other important differences between Jim Crow and mass incarceration. Listing all of the differences here is impractical; so instead we will focus on a few of the major differences that are most frequently cited in defense of mass incarceration, including the absence of overt racial hostility, the inclusion of whites in the system of control, and African American support for some “get tough” policies and drug war tactics.

Absence of racial hostility. First, let’s consider the absence of overt racial hostility among politicians who support harsh drug laws and the law enforcement officials charged with enforcing them. The absence of overt racial hostility is a significant difference from Jim Crow, but it can be exaggerated. Mass incarceration, like Jim Crow, was born of racial opportunism—an effort by white elites to exploit the racial hostilities, resentments, and insecurities of poor and working-class whites. Moreover, racial hostility and racial violence have not altogether disappeared, given that complaints of racial slurs and brutality by the police and prison guards are fairly common. Some scholars and commentators have pointed out that the racial violence once associated with brutal slave masters or the Ku Klux Klan has been replaced, to some extent, by violence perpetrated by the state. Racial violence has been rationalized, legitimated, and channeled through our criminal justice system; it is expressed as police brutality, solitary confinement, and the discriminatory and arbitrary imposition of the death penalty.⁵⁹

But even granting that some African Americans may fear the police today as much as their grandparents feared the Klan (as a wallet can be mistaken for a gun) and that the penal system may be as brutal in many respects as Jim Crow (or slavery), the absence of racial hostility in the public discourse and the steep decline in vigilante racial violence is no small matter. It is also

significant that the “whites only” signs are gone and that children of all colors can drink from the same water fountains, swim in the same pools, and play on the same playgrounds. Black children today can even dream of being president of the United States.

Those who claim that mass incarceration is “just like” Jim Crow make a serious mistake. Things have changed. The fact that a clear majority of Americans were telling pollsters in the early 1980s—when the drug war was kicking off—that they opposed race discrimination in nearly all its forms should not be dismissed lightly.⁶⁰ Arguably some respondents may have been telling pollsters what they thought was appropriate rather than what they actually believed, but there is no reason to believe that most of them were lying. It is more likely that most Americans by the early 1980s had come to reject segregationist thinking and values, and not only did not want to be thought of as racist but did not want to *be* racist.

This difference in public attitudes has important implications for reform efforts. Claims that mass incarceration is analogous to Jim Crow will fall on deaf ears and alienate potential allies if advocates fail to make clear that the claim is *not* meant to suggest or imply that supporters of the current system are racist in the way Americans have come to understand that term. Race plays a major role—indeed, a defining role—in the current system, but not because of what is commonly understood as old-fashioned, hostile bigotry. This system of control depends far more on *racial indifference* (defined as a lack of compassion and caring about race and racial groups) than racial hostility—a feature it actually shares with its predecessors.

All racial caste systems, not just mass incarceration, have been supported by racial indifference. As noted earlier, many whites during the Jim Crow era sincerely believed that African Americans were intellectually and morally inferior. They meant blacks no harm but believed segregation was a sensible system for managing a society comprised of fundamentally different and unequal people. The sincerity of many people’s racial beliefs is what led Martin Luther King Jr. to declare, “Nothing in all the world is more dangerous than sincere ignorance and conscientious stupidity.” The notion that racial caste systems are necessarily predicated on a desire to harm other racial groups, and that racial hostility is the essence of racism, is fundamentally misguided. Even slavery does not conform to this limited understanding of racism and racial caste. Most plantation owners supported the institution of black

slavery not because of a sadistic desire to harm blacks but instead because they wanted to get rich, and black slavery was the most efficient means to that end. By and large, plantation owners were indifferent to the suffering caused by slavery; they were motivated by greed. Preoccupation with the role of racial hostility in earlier caste systems can blind us to the ways in which every caste system, including mass incarceration, has been supported by racial indifference—a lack of caring and compassion for people of other races.

White victims of racial caste. We now turn to another important difference between mass incarceration and Jim Crow: the direct harm to whites caused by the current caste system. Whites never had to sit at the back of the bus during Jim Crow, but today a white man may find himself in prison for a drug offense, sharing a cell with a black man. The direct harm caused to whites caused by mass incarceration seems to distinguish it from Jim Crow; yet, like many of the other differences, this one requires some qualification. Some whites were directly harmed by Jim Crow. For example, a white woman who fell in love with a black man and hoped to spend the rest of her life with him was directly harmed by anti-miscegenation laws. The laws were intended for her benefit—to protect her from the corrupting influence of the black man and the “tragedy” of mulatto children—but she was directly harmed nonetheless.

Still, it seems obvious that mass incarceration directly harms far more whites than Jim Crow ever did. For some, this fact alone may be reason enough to reject the analogy. An “interracial racial caste system” may seem like an oxymoron. What kind of racial caste system includes white people within its control? The answer: a racial caste system in the age of colorblindness.

If 100 percent of the people arrested and convicted for drug offenses were African American, the situation would provoke outrage among the majority of Americans who consider themselves nonracist and who know very well that Latinos, Asian Americans, and whites also commit drug crimes. We, as a nation, seem comfortable with 90 percent of the people arrested and convicted of drug offenses in some states being African American, but if the figure were 100 percent, the veil of colorblindness would be lost. We could no longer tell ourselves stories about why 90 percent might be a reasonable figure; nor could we continue to assume that good reasons exist for extreme racial disparities in the drug war, even if we are unable to think of such reasons ourselves. In short, the inclusion of some whites in the system of control is

essential to preserving the image of a colorblind criminal justice system and maintaining our self-image as fair and unbiased people. Because most Americans, including those within law enforcement, want to believe they are non-racist, the suffering in the drug war crosses the color line.

Of course, the fact that white people are harmed by the drug war does not mean they are the real targets, the designated enemy. The harm white people suffer in the drug war is much like the harm Iraqi civilians suffer in U.S. military actions targeting presumed terrorists or insurgents. In any war, a tremendous amount of collateral damage is inevitable. Black and brown people are the principal targets in this war; white people are collateral damage.

Saying that white people are collateral damage may sound callous, but it reflects a particular reality. Mass incarceration as we know it would not exist today but for the racialization of crime in the media and political discourse. The War on Drugs was declared as part of a political ploy to capitalize on white racial resentment against African Americans, and the Reagan administration used the emergence of crack and its related violence as an opportunity to build a racialized public consensus in support of an all-out war—a consensus that almost certainly would not have been formed if the primary users and dealers of crack had been white.

Economist Glenn Loury made this observation in his book *The Anatomy of Racial Inequality*. He noted that it is nearly impossible to imagine anything remotely similar to mass incarceration happening to young white men. Can we envision a system that would enforce drug laws almost exclusively among young white men and largely ignore drug crime among young black men? Can we imagine large majorities of young white men being rounded up for minor drug offenses, placed under the control of the criminal justice system, labeled felons, and then subjected to a lifetime of discrimination, scorn, and exclusion? Can we imagine this happening while most black men landed decent jobs or trotted off to college? No, we cannot. If such a thing occurred, “it would occasion a most profound reflection about what had gone wrong, not only with THEM, but with US.”⁶¹ It would never be dismissed with the thought that white men were simply reaping what they have sown. The criminalization of white men would disturb us to the core. So the critical questions are: “What disturbs us? What is dissonant? What seems anomalous? What is contrary to expectation?”⁶² Or more to the point: *Whom do we care about?*

An answer to the last question may be found by considering the drastically different manner that we, as a nation, responded to drunk driving

in the mid-1980s, as compared to crack cocaine. During the 1980s, at the same time crack was making headlines, a broad-based, grassroots movement was under way to address the widespread and sometimes fatal problem of drunk driving. Unlike the drug war, which was initiated by political elites long before ordinary people identified it as an issue of extraordinary concern, the movement to crack down on drunk drivers was a bottom-up movement, led most notably by mothers whose families were shattered by deaths caused by drunk driving.

Media coverage of the movement peaked in 1988, when a drunk driver traveling the wrong way on Interstate 71 in Kentucky caused a head-on collision with a school bus. Twenty-seven people died and dozens more were injured in the ensuing fire. The tragic accident, known as the Carrollton bus disaster, was one of the worst in U.S. history. In the aftermath, several parents of the victims became actively involved in Mothers Against Drunk Driving (MADD), and one became its national president. Throughout the 1980s, drunk driving was a regular topic in the media, and the term *designated driver* became part of the American lexicon.

At the close of the decade, drunk drivers were responsible for approximately 22,000 deaths annually, while overall alcohol-related deaths were close to 100,000 a year. By contrast, during the same time period, there were no prevalence statistics at all on crack, much less crack-related deaths. In fact, the number of deaths related to *all illegal drugs combined* was tiny compared to the number of deaths caused by drunk drivers. The total of all drug-related deaths due to AIDS, drug overdose, or the violence associated with the illegal drug trade, was estimated at 21,000 annually—less than the number of deaths directly caused by drunk drivers, and a small fraction of the number of alcohol-related deaths that occur every year.⁶³

In response to growing concern—fueled by advocacy groups such as MADD and by the media coverage of drunk-driving fatalities—most states adopted tougher laws to punish drunk driving. Numerous states now have some type of mandatory sentencing for this offense—typically two days in jail for a first offense and two to ten days for a second offense.⁶⁴ Possession of a tiny amount of crack cocaine, on the other hand, carries a mandatory minimum sentence of five years in federal prison.

The vastly different sentences afforded drunk drivers and drug offenders speaks volumes regarding who is viewed as disposable—someone to be

purged from the body politic—and who is not. Drunk drivers are predominantly white and male. White men comprised 78 percent of the arrests for this offense in 1990 when new mandatory minimums governing drunk driving were being adopted.⁶⁵ They are generally charged with misdemeanors and typically receive sentences involving fines, license suspension, and community service. Although drunk driving carries a far greater risk of violent death than the use or sale of illegal drugs, the societal response to drunk drivers has generally emphasized keeping the person functional and in society, while attempting to respond to the dangerous behavior through treatment and counseling.⁶⁶ People charged with drug offenses, though, are disproportionately poor people of color. They are typically charged with felonies and sentenced to prison.

Another clue that mass incarceration, as we know it, would not exist but for the race of the imagined enemy can be found in the history of drug-law enforcement in the United States. Yale historian David Musto and other scholars have documented a disturbing, though unsurprising pattern: punishment becomes more severe when drug use is associated with people of color but softens when it is associated with whites.⁶⁷ The history of marijuana policy is a good example. In the early 1900s, marijuana was perceived—rightly or wrongly—as a drug used by blacks and Mexican Americans, leading to the Boggs Act of the 1950s, penalizing first-time possession of marijuana with a sentence of two to five years in prison.⁶⁸ In the 1960s, though, when marijuana became associated with the white middle class and college kids, commissions were promptly created to study whether marijuana was really as harmful as once thought. By 1970, the Comprehensive Drug Abuse Prevention and Control Act differentiated marijuana from other narcotics and lowered federal penalties.⁶⁹ The same drug that had been considered fearsome twenty years earlier, when associated with African Americans and Latinos, was refashioned as a relatively harmless drug when associated with whites.

In view of the nation's treatment of predominately white drunk drivers and drug offenders, it is extremely difficult to imagine that our nation would have declared all-out war on drug offenders if the enemy had been defined in the public imagination as white. It was the conflation of blackness and crime in the media and political discourse that made the drug war and the sudden, massive expansion of our prison system possible. White drug

“criminals” are collateral damage in the War on Drugs because they have been harmed by a war declared with blacks in mind. While this circumstance is horribly unfortunate for them, it does create important opportunities for a multiracial, bottom-up resistance movement, one in which people of all races can claim a clear stake. For the first time in our nation’s history, it may become readily apparent to whites how they, too, can be harmed by anti-black racism—a fact that, until now, has been difficult for many to grasp.

Black support for “get tough” policies. Yet another notable difference between Jim Crow and mass incarceration is that many African Americans seem to support the current system of control, while most believe the same could not be said of Jim Crow. It is frequently argued in defense of mass incarceration that African Americans want more police and more prisons because crime is so bad in some ghetto communities. It is wrong, these defenders claim, for the tactics of mass incarceration—such as the concentration of law enforcement in poor communities of color, the stop-and-frisk programs that have proliferated nationwide, the eviction of drug offenders and their families from public housing, and the drug sweeps of ghetto neighborhoods—to be characterized as racially discriminatory, because those programs and policies have been adopted for the benefit of African American communities and are supported by many ghetto residents.⁷⁰ Ignoring rampant crime in ghetto communities would be racially discriminatory, they say; responding forcefully to it is not.

This argument, on the surface, seems relatively straightforward, but there are actually many layers to it, some of which are quite problematic. To begin with, the argument implies that African Americans prefer harsh criminal justice policies to other forms of governmental intervention, such as job creation, economic development, educational reform, and restorative justice programs, as the long-term solution to problems associated with crime. There is no evidence to support such a claim. To the contrary, surveys consistently show that African Americans are generally less supportive of harsh criminal justice policies than whites, even though blacks are far more likely to be victims of crime.⁷¹ This pattern is particularly remarkable in that less educated people tend to be more punitive and blacks on average are less educated than whites.⁷²

The notion that African Americans support “get tough” approaches to crime is further complicated by the fact that “crime” is not a generic category.

There are many different types of crime, and violent crime tends to provoke the most visceral and punitive response. Yet as we have seen in chapter 2, the drug war has not been aimed at rooting out the most violent drug traffickers, or so-called kingpins. The vast majority of those arrested for drug crimes are *not* charged with serious offenses, and most of the people in state prison on drug charges have no history of violence or significant selling activity. Those who are “kingpins” are often able to buy their freedom by forfeiting their assets, snitching on other dealers, or becoming paid government informants. Thus, to the extent that some African Americans support harsh policies aimed at violent offenders, they cannot be said to support the War on Drugs, which has been waged primarily against nonviolent, low-level offenders in poor communities of color.

The one thing that is clear from the survey data and ethnographic research is that African Americans in ghetto communities experience an intense “dual frustration” regarding crime and law enforcement. As Glenn Loury explained more than a decade ago, when violent crime rates were making headlines, “The young black men wreaking havoc in the ghetto are still ‘our youngsters’ in the eyes of many of the decent poor and working-class black people who sometimes are their victims.”⁷³ Throughout the black community, there is widespread awareness that black ghetto youth have few, if any, realistic options, and therefore dealing drugs can be an irresistible temptation. Suburban white youth may deal drugs to their friends and acquaintances as a form of recreation and extra cash, but for ghetto youth, drug sales—though rarely lucrative—are often a means of survival, a means of helping to feed and clothe themselves and their families. The fact that this “career” path leads almost inevitably to jail is often understood as an unfortunate fact of life, part of what it means to be poor and black in America.

Women, in particular, express complicated, conflicted views about crime, because they love their sons, husbands, and partners and understand their plight as current and future members of the racial undercaste. At the same time, though, they abhor gangs and the violence associated with inner-city life. One commentator explained, “African American women in poor neighborhoods are torn. They worry about their young sons getting involved in gang activity. They worry about their sons possibly selling or using drugs. They worry about their children getting caught in the crossfire of warring gangs. . . . These mothers want better crime and law enforcement. Yet, they

understand that increased levels of law enforcement potentially saddle their children with a felony conviction—a mark that can ensure economic and social marginalization.”⁷⁴

Given the dilemma facing poor black communities, it is inaccurate to say that black people “support” mass incarceration or “get tough” policies. The fact that some black people endorse harsh responses to crime is best understood as a form of *complicity* with mass incarceration—not support for it. This complicity is perfectly understandable, for the threat posed by crime—particularly violent crime—is real, not imagined. Although African Americans do not engage in drug crime at significantly higher rates than whites, black men do have much higher rates of violent crime, and violent crime is concentrated in ghetto communities. Studies have shown that joblessness—not race or black culture—explains the high rates of violent crime in poor black communities. When researchers have controlled for joblessness, differences in violent crime rates between young black and white men disappear.⁷⁵ Regardless, the reality for poor blacks trapped in ghettos remains the same: they must live in a state of perpetual insecurity and fear. It is perfectly understandable, then, that some African Americans would be complicit with the system of mass incarceration, even if they oppose, as a matter of social policy, the creation of racially isolated ghettos and the subsequent transfer of black youth from underfunded, crumbling schools to brand-new, high-tech prisons. In the era of mass incarceration, poor African Americans are not given the option of great schools, community investment, and job training. Instead, they are offered police and prisons. If the only choice that is offered blacks is rampant crime or more prisons, the predictable (and understandable) answer will be “more prisons.”

The predicament African Americans find themselves in today is not altogether different from the situation they faced during Jim Crow. Jim Crow, as oppressive as it was, offered a measure of security for blacks who were willing to play by its rules. Those who flouted the rules or resisted them risked the terror of the Klan. Cooperation with the Jim Crow system often seemed far more likely to increase or maintain one’s security than any alternative. That reality helps to explain why African American leaders such as Booker T. Washington urged blacks to focus on improving themselves rather than on challenging racial discrimination. It is also why the Civil Rights Movement initially met significant resistance among some African Americans in the

South. Civil rights advocates strenuously argued that it was the mentality and ideology that gave rise to Jim Crow that was the real source of the danger experienced by blacks. Of course they were right. But it is understandable why some blacks believed their immediate safety and security could best be protected by cooperation with the prevailing caste system. The fact that black people during Jim Crow were often complicit with the system of control did not mean they supported racial oppression.

Disagreements within the African American community about how best to respond to systems of control—and even disagreements about what is, and is not, discriminatory—have a long history. The notion that black people have always been united in opposition to American caste systems is sheer myth. Following slavery, for example, there were some African Americans who supported disenfranchisement because they believed that black people were not yet “ready” for the vote. Former slaves, it was argued, were too illiterate to exercise the vote responsibly, and were ill-prepared for the duties of public office. This sentiment could even be found among black politicians such as Isaiah T. Montgomery, who argued in 1890 that voting rights should be denied to black people because enfranchisement should only be extended to literate men. In the same vein, a fierce debate raged between Booker T. Washington and W.E.B. Du Bois about whether—and to what extent—racial bias and discrimination were responsible for the plight of the Negro and ought to be challenged. Du Bois praised and embraced Washington’s emphasis on “thrift, patience, and industrial training for the masses,” but sharply disagreed with his public acceptance of segregation, disenfranchisement, and legalized discrimination. In Du Bois’s view, Washington’s public statements arguing that poor education and bad choices were responsible for the plight of former slaves ignored the damage wrought by caste and threatened to rationalize the entire system. In Du Bois’s words:

[T]he distinct impression left by Mr. Washington’s propaganda is, first, that the South is justified in its present attitude toward the Negro because of the Negro’s degradation; second, that the prime cause of the Negro’s failure to rise more quickly is his wrong education in the past; and, thirdly, that his future rise depends primarily on his own efforts. Each of these propositions is a dangerous half-truth. . . . [Washington’s] doctrine has tended to make the whites, North and South, shift the

burden of the Negro problem to the Negro's shoulders and stand aside as critical and rather pessimistic spectators; when in fact the burden belongs to the nation, and the hands of none of us are clean if we bend not our energies to righting these great wrongs.⁷⁶

Today, a similar debate rages in black communities about the underlying causes of mass incarceration. While some argue that it is attributable primarily to racial bias and discrimination, others maintain that it is due to poor education, unraveling morals, and a lack of thrift and perseverance among the urban poor. Just as former slaves were viewed (even among some African Americans) as unworthy of full citizenship due to their lack of education and good morals, today similar arguments can be heard from black people across the political spectrum who believe that reform efforts should be focused on moral uplift and education for ghetto dwellers, rather than challenging the system of mass incarceration itself.

Scholars, activists, and community members who argue that moral uplift and education provide the best solution to black criminality and the phenomenon of mass incarceration have been influenced by what Evelyn Brooks Higginbotham has called the "politics of respectability"—a politics that was born in the nineteenth century and matured in the Jim Crow era.⁷⁷ This political strategy is predicated on the notion that the goal of racial equality can only be obtained if black people are able to successfully prove to whites that they are worthy of equal treatment, dignity, and respect. Supporters of the politics of respectability believe that African Americans, if they hope to be accepted by whites, must conduct themselves in a fashion that elicits respect and sympathy rather than fear and anger from other races. They must demonstrate through words and deeds their ability to live by and aspire to the same moral codes as the white middle class, even while they are being discriminated against wrongly.⁷⁸ The basic theory underlying this strategy is that white Americans will abandon discriminatory practices if and when it becomes apparent that black people aren't inferior after all.

The politics of respectability made sense to many black reformers during the Jim Crow era, since African Americans had no vote, could not change policy, and lived under the constant threat of the Klan. Back then, the only thing black people could control was their own behavior. Many believed they simply had no choice, no realistic option, but to cooperate with the caste system while conducting themselves in a such a dignified and respect-

able manner that it would eventually become obvious to whites that their bigotry was misplaced.

This strategy worked to some extent for a segment of the African American community, particularly those who had access to education and relative privilege. But a much larger segment—those who were uneducated and desperately poor—found themselves unable, as one historian put it, “to conform to the gender roles, public behavior, and economic activity deemed legitimate by bourgeois America but which the forces of Jim Crow sought to prevent black people from achieving.”⁷⁹ In many cases, the relatively privileged black elite turned against the black urban poor, condemning them and distancing themselves, while at the same time presenting themselves as legitimate spokespeople for the disadvantaged. It was a pattern that would repeat itself in cities throughout the United States, as black communities found themselves embroiled in deep conflict over goals and strategies pursued by the black elite. What happened in Atlanta in the wake of the New Deal is a case in point.

During Jim Crow, all black people in Atlanta were bound together by the racial caste system, but there was a significant group of African Americans who were well educated and had influence in the halls of power. Numerous black colleges were located in Atlanta, and the city was home to the South’s largest population of college-educated African Americans. Members of this relatively elite group believed they could prove their respectability to white Americans and often blamed less educated blacks for sabotaging their quest for racial equality, especially when they committed crimes or failed to conform to white, middle-class norms of dress, cleanliness, and behavior. In the view of these black elites, a “poverty complex” plagued the black poor, one that made them politically apathetic and content with broken-down, overcrowded, and dirty living conditions.⁸⁰ For decades, black elites engaged in private rescue efforts to make black communities tidy, clean, and respectable in a futile effort to gain white approval.⁸¹

Eventually, these rescue efforts gave way to black endorsement of harmful policies aimed at the urban poor. In the 1930s and early 1940s, President Franklin D. Roosevelt began to roll out the New Deal—a massive public works and investment program designed to lift the nation out of a severe depression. Almost immediately, black elites recognized the opportunity for the individual and collective advancement of Negroes who could present themselves favorably to whites. Some black Atlantans were brought from the

margins into the sphere of opportunity by New Deal programs, but most were left behind. As historian Karen Ferguson observes, “when [black reformers] had the opportunity to determine the recipients of New Deal largesse, they did not choose the ‘mudsills’ of the black working class but rather the more prosperous elements who were more able to be respectable according to the reformers’ vision.”⁸² Far from prioritizing the needs of the least advantaged, many black reformers began aggressively pursuing policy reforms that would benefit the black elite to the detriment of the poorest segments of the black community. Some of the most discriminatory federal programs of the New Deal era, including the slum-clearance program, received strong support from African American bureaucrats and reformers who presented themselves as speaking for the black community as a whole.⁸³

Although many poor African Americans rejected the philosophies, tactics, and strategies of the black elite, ultimately moral uplift ideology became the new common sense. Not just in Atlanta but in cities nationwide, the tensions and debates between black reformers struggling to improve and uplift the “slum dwellers” and those committed to challenging discrimination and Jim Crow directly played out over and over again. Black elites found they had much to gain by positioning themselves as “race managers,” and many poor African Americans became persuaded that perhaps their degraded status was, after all, their own fault.

Given this history, it should come as no surprise that today some black mayors, politicians, and lobbyists—as well as preachers, teachers, barbers, and ordinary folk—endorse “get tough” tactics and spend more time chastising the urban poor for their behavior than seeking meaningful policy solutions to the appalling conditions in which they are forced to live and raise their children. The fact that many African Americans endorse aspects of the current caste system and insist that the problems of the urban poor can be best explained by their behavior, culture, and attitude does not, in any meaningful way, distinguish mass incarceration from its predecessors. To the contrary, these attitudes and arguments have their roots in the struggles to end slavery and Jim Crow. Many African Americans today believe that uplift ideology worked in the past and ought to work again—forgetting that ultimately it took a major movement to end the last caste system, not simply good behavior. Many black people are confused—and the black community itself is

divided—about how best to understand and respond to mass incarceration. A seemingly colorblind system has emerged that locks millions of African Americans into a permanent undercaste, and it appears that those who are trapped within it could have avoided it simply by not committing crimes. Isn't the answer not to challenge the system but to try to avoid it? Shouldn't the focus be on improving ourselves, rather than challenging a biased system? Familiar questions are asked decades after the end of the old Jim Crow.

Once again, complicity with the prevailing system of control may seem like the only option. Parents and schoolteachers counsel black children that, if they ever hope to escape this system and avoid prison time, they must be on their best behavior, raise their arms and spread their legs for the police without complaint, stay in failing schools, pull up their pants, and refuse all forms of illegal work and moneymaking activity, even if jobs in the legal economy are impossible to find. Girls are told not to have children until they are married to a "good" black man who can help provide for a family with a legal job. They are told to wait and wait for Mr. Right even if that means, in a jobless ghetto, never having children at all.

When black youth find it difficult or impossible to live up to these standards—or when they fail, stumble, and make mistakes, as all humans do—shame and blame is heaped upon them. If only they had made different choices, they're told sternly, they wouldn't be sitting in a jail cell; they'd be graduating from college. Never mind that white children on the other side of town who made precisely the same choices—often for less compelling reasons—are in fact going to college.

The genius of the current caste system, and what most distinguishes it from its predecessors, is that it appears voluntary. People choose to commit crimes, and that's why they are locked up or locked out, we are told. This feature makes the politics of responsibility particularly tempting, as it appears the system can be avoided with good behavior. But herein lies the trap. All people make mistakes. All of us are sinners. All of us are criminals. All of us violate the law at some point in our lives. In fact, if the worst thing you have ever done is speed ten miles over the speed limit on the freeway, you have put yourself and others at more risk of harm than someone smoking marijuana in the privacy of his or her living room. Yet there are people in the United States serving life sentences for first-time drug offenses, something virtually unheard of anywhere else in the world.

The notion that a vast gulf exists between “criminals” and those of us who have never served time in prison is a fiction created by the racial ideology that birthed mass incarceration, namely that there is something fundamentally wrong and morally inferior about “them.” The reality, though, is that all of us have done wrong. As noted earlier, studies suggest that most Americans violate drug laws in their lifetime. Indeed, most of us break the law not once but repeatedly throughout our lives. Yet only some of us will be arrested, charged, convicted of a crime, branded a criminal or felon, and ushered into a permanent undercaste. Who becomes a social pariah and excommunicated from civil society and who trots off to college bears scant relationship to the morality of crimes committed. Who is more blameworthy: the young black kid who hustles on the street corner, selling weed to help his momma pay the rent? Or the college kid who deals drugs out of his dorm room so that he’ll have cash to finance his spring break? Who should we fear? The kid in the ’hood who joined a gang and now carries a gun for security, because his neighborhood is frightening and unsafe? Or the suburban high school student who has a drinking problem but keeps getting behind the wheel? Our racially biased system of mass incarceration exploits the fact that all people break the law and make mistakes at various points in their lives and with varying degrees of justification. Screwing up—failing to live by one’s highest ideals and values—is part of what makes us human.

Urging the urban poor—or anyone—to live up to their highest ideals and values is a good thing, as it demonstrates confidence in the ability of all people to stretch, grow, and evolve. Even in the most dire circumstances, we all have power and agency, the ability to choose what we think and how we respond to the circumstances of our lives. Moreover, we all have duties and responsibilities to each other, not the least of which is to do no harm. We ought never excuse violence or tolerate behavior that jeopardizes the safety and security of others. Just as all people—no matter who they are or what they have done—ought to be regarded as having basic human rights to work, housing, education, and food, residents of all communities have a basic human right to safety and security. The intuition underlying moral-uplift strategies is fundamentally sound: our communities will never thrive if we fail to respect ourselves and one another.

As a liberation strategy, however, the politics of responsibility is doomed

to fail—not because there is something especially wrong with those locked in ghettos or prisons today, but because there is nothing special about them. They are merely human. They will continue to make mistakes and break the law for reasons that may or may not be justified; and as long as they do so, this system of mass incarceration will continue to function well. Generations of black men will continue to be lost—rounded up for crimes that go ignored on the other side of town and ushered into a permanent second-class status. It may seem at first blush that cooperating with the system while urging good behavior is the only option available, but in reality it is not a liberation strategy at all.

Fork in the Road

Du Bois got it right a century ago: “the burden belongs to the nation, and the hands of none of us are clean if we bend not our energies to righting these great wrongs.” The reality is that, just a few decades after the collapse of one caste system, we constructed another. Our nation declared a war on people trapped in racially segregated ghettos—just at the moment their economies had collapsed—rather than providing community investment, quality education, and job training when work disappeared. Of course those communities are suffering from serious crime and dysfunction today. Did we expect otherwise? Did we think that, miraculously, they would thrive? And now, having waged this war for decades, we claim some blacks “support” mass incarceration, as though they would rather have their young men warehoused in prison than going off to college. As political theorist Tommie Shelby has observed, “Individuals are forced to make choices in an environment they did not choose. They would surely prefer to have a broader array of good opportunities. The question we should be asking—not instead of but in addition to questions about penal policy—is whether the denizens of the ghetto are entitled to a better set of options, and if so, whose responsibility it is to provide them.”⁸⁴

Clearly a much better set of options could be provided to African Americans—and poor people of all colors—today. As historian Lerone Bennett Jr. eloquently reminds us, “a nation is a choice.” We could choose to be a nation that extends care, compassion, and concern to those who are locked