

# Legacies and the Impact of Trans-Atlantic Enslavement on the Diaspora

by

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## Abstract

When we discuss the legacies and impact of trans-Atlantic enslavement on the Diaspora, we must consider several issues. Among these is the tendency of the word “legacy” to have a positive connotation for many – where the enslavement of African people may fail with regard to this criterion. More importantly, in this paper I would like to draw the reader’s attention to the fact that in many places, such as the United States, slavery has never been abolished by law, merely renamed. As such, it becomes difficult to discuss a legacy or aftermath of something that is still in progress. Therefore, we will take the United States as a case study of slavery changing names/forms yet remaining essentially the same in spirit and nature if not worse in terms of impact on African<sup>1</sup> people.

**Keywords:** neo-slavery, legacy, impact, enslaved, routes

On 28th July, 2014 as a panelist at the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Pan African Diaspora Coalition’s commemoration of the 20th Anniversary of the Slave Route Project, I was given the task of discussing and condensing the legacies and impact of trans-Atlantic enslavement on the Diaspora, more properly referred to as the *Maafa* ‘catastrophe’ or *Maangamizo* ‘destruction’. Given the 395 years (1619-2014) since the first enslaved Africans were recorded as being taken to the United States, I was given fifteen minutes; making for 2.27 seconds per year. This was quite a task, yet much ground was covered.

With regard to this topic, in my thinking, the first issue in need of attention is the terminology used in the context of the 20<sup>th</sup> anniversary commemoration. Primary among these terminological issues is the use of the term “Legacy”.

Although not exclusively so, the term “legacy” may tend to carry a positive connotation for many native speakers of English. When we think of legacy, we may think of the legacy of Ancient Kmt (Egypt) or the legacies of various prestigious African empires and the like. Indeed, when we look at the actual usage of English from the British National Corpus (a 100 million word collection of samples of written and spoken language from a wide range of sources, designed to represent a wide cross-section of British English, both spoken and written, from the late twentieth century) and the American National Corpus (a text corpus of American English containing 22 million words written and spoken data produced since 1990 which may at some point of time include a range of genres comparable to the British National Corpus), we see recurring instances of legacy as something positive as in:

1. The historic landmarks of England are a wonderful legacy that must be preserved for the future.
2. Preserving a Legacy: A Tribute to Houston's Blues Concert featuring
3. But he is leaving behind an enduring legacy of innovation.
4. A-listers who look up to her father to show their respect for his life and legacy as a humanitarian.
5. He's got to feel there's a legacy of importance that can be embodied.
6. I go out and train every day to leave a legacy and to compete at the highest level. (Consortium, 2007; Davies, 2008-)

Other positive uses include “Building a legacy to stand the test of time”. In this idea of building or bequeathing a legacy, we may consider the following:

The word legacy — used exclusively as a noun for nearly 500 years — expands the original meaning and now signifies a “gift” or “bequest” transmitted from one person (or one generation) to another. Used as a noun in this fashion, legacy carries a wholly positive meaning and represents an act of love, charity and care. Creating and preserving a legacy thus becomes the work of a lifetime, as it cannot be forged quickly and it certainly cannot be purchased. The great effort people put into “legacy building” testifies to its enormous importance. (Voss, 2012)

On the other hand, in the British National Corpus (BNC) we can find negative uses such as:

1. The legacy here was the musical incompetence of some soloists
2. This was partly due to the legacy of the bitterness over the 1990 budget [see p. 36969]
3. Behind the dramatic and sudden political, economic and social shifts sweeping through Middle Europe looms a grim legacy of 40 years of resource exploitation and environmental neglect.
4. Her father had been at pains to exclude all thought of his more immediate and darker legacy.
5. This “Red Scare” died down quickly, yet it left a legacy of suspicion about radicals and “foreign” agitators.
6. ...a programme to overcome the legacy of inequality and injustice created by Apartheid... (Consortium, 2007)

Thus, we can find both positive and negative usages of the word legacy. Again, from a technical denotative perspective, the definition of ‘legacy’ is simply “something transmitted by or received from an ancestor or predecessor or from the past” (Merriam-Webster, 2014) which is a pretty innocuous and neutral definition. However, “when we talk about wanting to ‘leave a legacy,’ it’s always with the implication that we want to leave behind some positive proof that we were here” (Certain, 2009). This may be the default sense felt by many native speakers of English.

As such, the *Maafa* may fail the test of carrying a positive connotation. However, the main connotation that I would like to draw the reader’s attention to is another aspect of defining the term “Legacy”. From *Collins Dictionary*, we find “A legacy of an event or period of history is something which is a direct result of it and which continues to exist after it is over.” (Collins, 2014).

This begs the question of when (and where) did the *Maafa* and enslavement of African people ever end? At what point was it actually over? If you find yourself at a loss for a specific date, that may be due to the fact that in many places, such as the United States, where my own African Ancestors on my mother’s side were enslaved, enslavement never ended – it was just renamed. As I write this, this may come as a surprise to many. Indeed, during the talk given at the Institute of African Studies, I asked the audience how many were aware of this fact and not a single hand was raised. Yet and still, when we look at the 13<sup>th</sup> amendment – which many are under the false impression ended slavery – we find the wording pregnant with meaning:

“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.” (Constitution, 1865)

The caveat in this wording was not lost on the writers of the amendment and this is the crux of the continuation of enslavement (rather than legacy of enslavement) that Africans in places such as the United States live with to this day. In short, as long as an African can be successfully criminalized – with or without any actual so-called “criminal activity” – he or she can and will be *legally* enslaved. As such, the venue of enslavement is simply transferred from open-air plantations to convict leasing corporations to state-owned chain gangs and privatized prisons. We will return to this point of privatized prisons later.

However, immediately following the passage of the 13<sup>th</sup> Amendment, the same white men who carefully crafted the wording set about the task of finding creative means of duly convicting African people to ensure that our enslavement would continue. In the words of one such fellow:

I think God intended the niggers to be slaves. Now since man has deranged God’s plan, I think the best we can do is keep ‘em as near to a state of bondage as possible. My theory is, feed ‘em well, clothe ‘em well, and then, if they don’t work; whip ‘em well.

-A Yazoo Delta planter, 1866 (Oshinsky, 1997:14)

And thus, this is exactly what the whites did: to keep Africans in a state of near or *actual* bondage. While many erroneously link the end of enslavement to December 6, 1865 with the passage of the 13<sup>th</sup> amendment to the constitution, “by 1875 Democratic legislatures were back in control and immediately set out to resolve what they considered to be two key problems: a shortage of labor, and the need to restore white supremacy” (Goldman, 1997). To do so, indeed,

Criminal statutes were enacted such as the “Pig Law” felony in which theft of a farm animal (hog, pig, cow, goat, kid) worth more than 1 dollar was punishable by up to five years in prison (grand larceny). Along with laws such as these, which were almost always aimed at the thousands of poor freedmen, was the “Leasing Act.” This statute allowed convicts to be leased out if their sentences were less than ten years. (Goldman, 1997)

The leasing act was again, free forced neo-slave labor intended to re-enslave erstwhile so-called “emancipated” Africans. Other such ludicrous laws were:

1. That a “farm worker” could not walk along railroad tracks
2. Black people could not speak loudly in the presence of white women
3. A “farm worker” could not sell produce after dark
4. Black people were not allowed to spit in public
5. Black people were not allowed to be drunk in public

6. Black people were not allowed to be in public unless they could produce proof of gainful employment (the insidious vagrancy/loitering laws)
7. Black people were charged with a felony for stealing a fence board of a value of 0.08
8. Black people were not allow to play dice (sold to them by the whites)
9. Black people were not allowed to argue in public
10. Black people were not allowed to be uppity or insolent towards their erstwhile white enslavers (Pollard, 2012)

While some, if not all of these laws sound ridiculous, they become a lot less humorous when one is forced to work for free in prison or is literally worked to death, not even for actually committing any of such offenses, but simply because a white man said that one did. Indeed, such laws, referred to as the “Black Codes” or, later, “Jim Crow Laws” were found throughout the south prior to and after the US Civil War and “heavily regulated what people could do. Blacks could not assemble, bear arms, become literate, speak freely, or testify against White people in Court” (Forte, 1997:579-80). This makes all that is required for the re-enslavement of an African the word of a white man with the whim and will for such re-enslavement to take place.

In the disparity between the lack of equal protection or, in this case, the disparity between arrest and prosecution under the law, we are reminded that

Laws are no stronger than their enforcers. The same people who pass those laws are the same people who are responsible for enforcing them. If the people who enforce the laws no longer decide to do so, laws are of no value and have no power. Ultimately, then, fairness rests not in laws but in the activities of people and in the attitude and consciousness of people. Therefore, if the people who are responsible for enforcing those laws change their attitudes then the treatment of those people whose freedom is protected by those so-called laws is changed as well. (Wilson, 1993:10-11)

Selective enforcement of laws was and still is the norm in places like the good ol’ USA. In the late 19<sup>th</sup> century, enforcement of such laws conspicuously tended to coincide with harvest time where whites desired free labor to pick cotton thus giving the impetus for the imaginary “crime wave” of misdemeanors-cum-felonies necessitating the mass arrest of Black people (Pollard, 2012).

Damning eyewitness accounts include:

The abuses of [our criminal justice] system have often been dwelt upon. It had the worst aspects of slavery without any of its redeeming features. The innocent, the guilty, and the depraved were herded together, children and adults, men and women, given into complete control of practically irresponsible men, whose sole object was to make the most money possible.

- Frank Sanborn, keynote address, in Ninth Atlanta Conference on Negro Crime (edited by W.E. B. Du Bois), 1904.

The convict's condition [following the Civil War] was much worse than slavery. The life of the enslaved was valuable to his master, but there was no financial loss if a convict died.

- L. G. Shivers, "A History of the Mississippi Penitentiary," 1930

The most profitable prison farming on record thus far is in the State of Mississippi which received in 1918 a net revenue of \$825,000. Given its total of 1,200 prisoners and subtracting invalids, cripples, or incompetents it made a profit over \$800 for each working prisoner.

- Proceedings of the Annual Congress of the American Prison Association, 1919

I have visited Parchman repeatedly and I have found that their cotton was very profitable but that profit was secured by reducing the men to a condition of abject slavery.

- Hastings Hart, reporting to the Russell Sage Foundation, 1929

On the whole, the conditions under which prisoners live in [Parchman], their occupation and routine of living, are closer by far to the methods of the large antebellum plantation worked by numbers of slaves than to those of the typical prison.

- David Cohn, *Where I Was Born and Raised*, 1935

Self-supporting prison systems must, in the end, become slave camps. Slavery is the partner of the lash. The wielder of the lash is brutalized along with the victim, and brutes will sometimes kill.

- Southern Regional Council, *The Delta Prisons: Punishment for Profit*, 1968 (Oshinsky, 1997)

Again to the point of selective enforcement, “Since whites were usually only charged and convicted for the most serious of crimes, their sentences entitled them to the relative safety of the state penitentiary[...],” entirely removing them from the convict leasing system as this renamed and rebranded phase of chattel enslavement was referred to (Goldman, 1997:1). Africans “convicted” of the most serious of crimes on the other hand “were being whipped and murdered for offenses more imagined than real. A suspected horse thief was beheaded, skinned, and nailed to the barn” (Oshinsky, 1997:25). Yet and still, for even the most minor offenses, Africans faced re-enslavement in the name of “convict leasing.”

According to Goldman:

As it developed in Mississippi, convict leasing successfully replaced racial bondage with a system of racial castes while at the same time fueling the economic development of the late 19th century “New South.” The use of convicts for everything from raising cotton, to building railroads, to extracting turpentine gum draining swamps spread rapidly. It solved the problem of high fixed labor costs, since minimal expenses for food, clothing, and shelter were necessary. Moreover, *there was always a ready supply of replacement labor*, so incentives against the mistreatment of convict workers were non-existent. (Goldman, 1997:1) (emphasis mine)

Beyond free labor, torture devices used during the period of chattel enslavement persisted at that time, including the lash and metal spurs riveted to the feet in order to prevent escape (Oshinsky, 1997:33). In a specific case in the autumn of 1876 in the laying of a railroad line in Florida, an eyewitness account attested that

Some were whipped to death; others, strung up by their thumbs, were left with hands “resembling the paws of certain apes.” By the time the job ended, the land alongside the tracks was dotted with graves. Forty-five of the seventy-two convicts did not return. And the survivors – the young men who reached Live Oak on that fall day in 1876 – were vermin covered, mostly naked, and wasted with disease. In Powell’s words, “The sun never shone upon a more abject picture of misery and dilapidation.” (Oshinsky, 1997:33)

Apart from appeals to the typically barbaric nature displayed by whites throughout space and time since emerging from the ice-age caves of Europe as the reason for this type of behavior, there were other more tangible economic reasons why the brutality and lack of protection were so pervasive. According to Oshinsky,

In terms of human misery [...] this system could hardly have been worse. The convict now found himself laboring for the profits of three separate parties: the sublessee, the lessee, and the state. There was no one to protect him from savage beatings, endless workdays, and murderous neglect. 'It is to be supposed that sub-lessees [take] convicts for the purpose of making money out of them,' wrote a prison doctor, 'so naturally, the less food and clothing used and the more labor derived from their bodies, the more money in the pockets of the sub-lessee.' If a convict died or escaped, his employer lost nothing. (Oshinsky, 1997:33)

In the case where a convict died or was murdered, his ridiculous misdemeanor turned felony became a *de facto death sentence* for something as silly as purportedly spitting on the ground with no further evidence required beyond the word of a white man. Not only was prosecution skewed, but also sentencing and punishments were disproportionate. According to Oshinsky,

In the 1880s, the annual mortality rate for Mississippi's convict population ranged from 9 to 16 percent. Blacks suffered far more than whites, who rarely left the penitentiary walls. In 1882, for example, 126 of 735 black state convicts perished, as opposed to 2 of 83 whites. Not a single leased convict ever lived long enough to serve a sentence of ten years or more. (Oshinsky, 1997:34)

Direct quotes from the perpetrators of convict leasing give a good perspective on the state of affairs from *de jure* slavery to *de facto* neo-slavery. In the words of a southern employer "Before the war we owned the negroes. If a man had a good nigger, he could afford to take care of him; if he was sick get a doctor. He might even put gold plugs in his teeth. But these convicts: we don't own 'em. One dies, get another" (Oshinsky, 1997:39).

This disparity did not only affect African adults, but also children as "Hundreds of black children were leased because the state penal code did not distinguish between adult and juvenile offenders. By 1880, at least one convict in four was an adolescent or a child – a percentage that did not diminish over time" (Oshinsky, 1997:34).



In terms of economics, in Alabama, in the year of 1874 when the convict leasing system was first instituted, the state earned \$14,000 (Pollard, 2012) (the equivalent of as much as \$284,363.30 in relative value). By 1890, convict leasing was a booming industry bringing in \$164,000 or the modern-day (2013) equivalent of \$4,188,698.97 (Friedman, 2014). In no uncertain terms, enslavement in its original form and its renamed form financed the industrial and technological development of America and Europe (Williams, 1944). In Alabama in particular, this development came in the extraction and processing of resources such as coal, iron, quarry stone etc. using free labor from oftentimes falsely-convicted Africans. In cases, such as that of one such African by the name Archie Ezekiel, daily quotas for coal mining were set at five tons while waist deep in water that convicts were forced to urinate in, defecate in and drink from (Pollard, 2012). Labor also included block making and the laying of railroad lines. One third (1/3) of those in the updated slavery known as convict leasing were younger than 16 years old while death rates were a whopping 30-40% per year. By 1890, over 19,000 Africans were ensnared in this vicious system with selective enforcement of laws. This along with imagined crimes made it such that Africans were three times as often to fall victim to the vicious “criminalization” of the entire African race for the purposes of convict leasing. In short, corporations were able to do whatever they wanted to African people whenever they wanted to do so while being aided and abetted by the state.

Throughout time the enslavement of Africans in the United States went under various different names from “slavery” to “convict leasing” to “debt peonage” to “chain gangs” to “sharecropping” and now, “privatized prison labor” as a part of the Prison Industrial Complex. In the early stages of the transition from the name “slavery” to renamed forms, from 1860-1942, over 800,000 that we know of through documentation were ensnared in convict leasing. Of these, over 9,000 are recorded as dying or being killed during their sentence. This is tantamount to a massive ritual human sacrifice fueling the growth of America in other ways (Patterson, 1998). Although those cold, hard numbers have meaning, they do not, however, include those who were not recorded or those whose lives were touched tangentially by the convict-leasing and other insidious related factors under neo-slavery (a counterpoint to the state of neo-colonialism currently taking place in Africa). For many who were not directly trapped in the convict leasing system, their families and lives were, indeed, affected. A case in point is the account of Mary Turner whose husband was a victim to convict leasing; the story is recounted in full here:

On 16 May 1918 in the evening, a white plantation owner by the name of Hampton Smith, a 31-year old who was known for his harsh and abusive nature with regard to his Black workers, was shot dead by a 19-year old Black man by the name of Sidney Johnson (Meyers, 2006). Smith was notorious as an especially cruel boss, which made it difficult for him to recruit workers on his plantation named Old Joyce Place. Therefore, in order to procure labor, Smith used convict labor under the well-established convict leasing system.

As such, Smith paid the \$30 fine levied against Sidney Johnson, who had been convicted of rolling dice, and conscripted him into forced labor on the Old Joyce Place plantation (Meyers, 2006). After suffering several severe beatings from Smith including an especially tortuous beating after he refused to work while ill, Johnson resolved his issues with Smith by taking justice into his own hands and shooting him (Meyers, 2006). Cruel Hampton Smith also had an association with Hayes and Mary Turner. Indeed, Hayes too had been charged and convicted of threatening Smith after Smith mercilessly beat his wife, Mary. Smith's death resulted in a solid week of criminal-minded and bloodthirsty murderous whites hunting down and killing any Black person they could find despite the fact that the actual killer of Smith was known. At the end of the ruthless and senseless carnage, 13 people were killed (Meyers, 2006). Hayes Turner was among those murdered by lynching having been illegally yanked from custody by the savage white lynch mob following his arrest on 18 May 1918 (White, 1918). In distress and anger, Hayes Turner's eight-month pregnant wife, Mary Turner publicly swore that her husband had nothing to do with Hampton Smith's killing at the hands of Sidney Johnson. Further, she spoke publicly against the vile and gruesome murder of her husband. She threatened to have all those who she could identify from the barbaric mob arrested and brought to justice.

The despicable white men and women of the heartless mob then set out to capture her and "teach her a lesson" (White, 1918). Despite her attempts to flee once she became aware of the heartless mob's plans, she was captured around noon on 19 May 1918 (Meyers, 2006; White, 1918). Several hundred white men, women and children forced Mary Turner to Folsom Bridge crossing at Little River which marked the county boundary (Bernstein, 2006). The heinous mob then set about its fiendish work of tying her ankles, hanging her upside down from a nearby tree, dousing her in gasoline and motor oil and then setting her on fire while still alive (White, 1918). Still in the throes of pain in the blazing flames, a prototypically sinister white man stepped out of the mob and slashed her abdomen open with a knife causing her still-alive baby to fall to the ground. The baby was able to manage but a single cry before her little head was crushed under a white man's filthy boot. Finally, reminiscent of recent cases of Sean Bell and Amadou Diallo, Mary Turner's body was pierced relentlessly with hundreds upon hundreds of bullets until the form of a human body was barely recognizable. Mary Turner's lifeless corpse was then buried beneath the tree, with nothing but a whiskey bottle from the drunken revelry to mark her grave and that of the baby who never got an opportunity to live due to the abhorrent, dreadful and despicable actions of the savage and barbaric white mob (Meyers, 2006).

Thus, it was not necessary for an African to be directly convicted in the convict leasing system to have lost one's life as a direct result of it. Such "numbers" and "statistics" remain yet uncounted in the retrospective of the effects and impact of convict leasing upon the African population.

## **New Versions of the Pig Law Felony**

As we have made connections at length to show that slavery never ended, but merely underwent “rebranding”, we now turn our attention to the transformations in the “look and feel” of slavery to bring us to current times. As mentioned, imagined laws like the “pig law” were instrumental in the neo-enslavement process. The new versions of the “pig law” are known as the War on Drugs, the War on Gangs and the War on Black People via stand-your-ground laws, driving-while-Black laws, stop-and-frisk laws, disorderly conduct laws, etc. Most notably, Michelle Alexander documents numerous incidents in the “War on Drugs” such as a October 2003 incident where police raided Stratford High School in Goose Creek, South Carolina where “Nearly all of the students searched and seized were students of color” (Alexander, 2013:38). Again, this ulterior selectivity in racial targeting is not a deviation, but the intentional norm when such selective law enforcement leads to re-enslavement and the profit that comes from it.

In this system of neo-slavery or “The New Jim Crow”, Alexander argues,

Today a criminal freed from prison has scarcely more rights, and arguably less respect, than a freed slave or a black person living “free” in Mississippi at the height of Jim Crow. Those released from prison on parole can be stopped and searched by the police for any reason—or no reason at all—and returned to prison for the most minor of infractions, such as failing to attend a meeting with a parole officer. Even when released from the system’s formal control, the stigma of criminality lingers. Police supervision, monitoring, and harassment are facts of life not only for all those labeled criminals, but for all those who “look like” criminals. Lynch mobs may be long gone, but the threat of police violence is ever present. A wrong move or sudden gesture could mean massive retaliation by the police. A wallet could be mistaken for a gun. The “whites only” signs may gone, but new signs have gone up—notices placed in job applications, rental agreements, loan applications, forms for welfare benefits, school applications, and petitions for licenses, informing the general public that “felons” are not wanted here. A criminal record today authorizes precisely the forms of discrimination we supposedly left behind—discrimination in employment, housing, education, public benefits, and jury service. Those labeled criminals can even be denied the right to vote.

The effect of being barred from most all means of gainful employment and sustenance upon bearing the label of criminal is such that, oftentimes, actual criminal behavior becomes the only means of survival for many. Thus, the vicious cycle is continued.

It must be kept in mind that the main variable in the selective enforcement of the law is race. Alexander notes that “Race plays a major role – indeed, a defining role – in the current [criminal justice] system” (Alexander, 2013:95).

Because race is such a foreign concept in my interactions with Ghanaians, I will attempt to draw a parallel with ethnicity in the sense that, oftentimes, the criminalization of the race may boil down to simply observing what Black people are doing and proclaiming that whatever their behavior may be is against the law. In other situations, it may be turning the other way when someone white actually breaks the law and “throwing the book” at an African who is merely suspected of doing so. In the Ghanaian context, this would be tantamount to declaring *banku* (eaten primarily by Ewe people) illegal and then only enforcing the law when an Ewe person – someone already cognitively associated with committing such “illegal acts” as eating *banku* – is accused. A Yorùbá proverb states *Eni tí a fẹ́ sun jẹ kì í fepo para lọ jókòò sídìí iná* ‘A person being eyed for barbecuing does not baste himself with oil and sit by the fire’ or, in other words, one should not facilitate one’s own undoing (Owomoyela, 2005:165-6). While most will avoid transgressions of even the most ridiculous laws as those found in the Jim Crow South or the neo-slavery North, nonetheless, once the psychological link is made between ethnic group/race and so-called “criminality” the rest is oftentimes simply a self-fulfilling prophecy.

Studies have shown that, in places like the US, “people are overwhelmed by the cognitive link between violence and black men” whether or not such links are justified (Anderson, 2009). Given the vast wealth at stake in terms of free labor and the role of slavery and neo-slavery in funding the establishment, maintenance and expansion of white world terror by means of domination, the fact that whites hold fast to such perceptions should come as no surprise. Further, the fact that many Africans could come to actually internalize such messages linking them to criminality should also come as no surprise given the fact that “both African Americans and whites are, for the most part, subjected to the same messages linking black men and crime” (Anderson, 2009). It is said that a dog that you want to kill anyway, you say it is mad. By the same token, Africans who you wanted to re-enslave anyway by means of the “justice” system, simply say they are all criminals as provided for by the 13<sup>th</sup> amendment. Those who internalize those messages of criminality will be easy pickings for re-enslavement and even those who go against those messages as law-abiding citizens it will become fodder as all are lumped into the same category of “criminal” for the continued exploitation of African people.

Evidence of ulterior selectivity is seen in crime statistics which show that in 1999 in the United States blacks were far more likely to be targeted by law enforcement for drug crimes, and received much stiffer penalties and sentences than whites (2000). In fact, a vindicating 2013 study done by the American Civil Liberties Union determined that:

A Black person is 3.73 times more likely to be arrested for marijuana possession than a white person, even though Blacks and whites use marijuana at similar rates. Such racial disparities in marijuana possession arrests exist in all regions of the country, in counties large and small, urban and rural, wealthy and poor, and with large and small Black populations. Indeed, in over 96% of counties with more than 30,000 people in which at least 2% of the residents are Black, Blacks are arrested at higher rates than whites for marijuana possession. (ACLU, 2013:17).

This means that for engaging in the exact same activity, a conscientious and intentional and/or subconscious *choice* is made by Law Enforcement using ulterior selectivity in deciding which laws to enforce and upon whom. In this same vein, the state of Iowa had the highest racial disparity wherein Black people in Iowa were arrested at a rate of 8.34 times higher than white people for marijuana possession (ACLU, 2013:18). In 1998 there were gaping racial disparities in terms of arrests, prosecutions, sentencing and deaths. Africans, who made up a mere 13% of regular drug users, nevertheless made up 35% of drug arrests, 55% of convictions, and 74% of all those sent to prison for drug possession crimes. (Burton-Rose, Pens, & Wright, 1998). On the whole, nationwide, Africans were sent to state prisons for drug offenses 13 times more often than white men (ACLU, 2013:18).

Given the fact that these disparities existed and continue to exist, the Anti-Drug Abuse Act of 1986 then became yet another tool of the perpetuation of racial disparities by giving stiffer sentences for drugs that Black people were known to use while giving lighter sentences for drugs typically used by whites. All of this must be taken into account before we even begin to ask where the drugs come from and how they make their way into African communities in the US which is an even more insidious story (Cockburn & Clair, 1998; Webb, 1999).

To draw the connection back to our original point, chattel enslavement was replaced by neo-enslavement by means of convict leasing with disparities in law enforcement intentionally used to ensure continued bondage of Africans for the profit of whites. So, if slavery never ended according to the 13<sup>th</sup> Amendment, what then is the modern day equivalent of convict leasing? In short, the name changed again and now neo-slavery is called privatized prisons and the Prison Industrial Complex.

### **Privatized Prisons as Slave Labor by Another Name**

Currently over 130,000 people are imprisoned in for-profit private prisons with no signs of that number going down in the near future (Snyder, 2013). As stated by James Hyman, former president of a major player in the Prison Industrial Complex “We do not believe we will see a decline in the need for detention beds particularly in an economy with rising unemployment among American workers” (Network, 2012). In other words, the re-enslavement of African people is big business which primarily serves to keep non-Africans (i.e. Americans) employed. In the U.S. in particular, which has approximately 25 percent of the global prison population despite only having 5 percent of the global population, these numbers take on an additional odious nature given that there are such huge racial disparities with regard to law-making and law enforcement, arrests, sentencing, convictions, etc. (Snyder, 2013).

According to Vicky Pelaez, who has also drawn the link between privatized prisons and neo-slavery:

At least 37 states have legalized the contracting of prison labor by private corporations that mount their operations inside state prisons. The list of such companies contains the cream of U.S. corporate society: IBM, Boeing, Motorola, Microsoft, AT&T, Wireless, Texas Instrument, Dell, Compaq, Honeywell, Hewlett-Packard, Nortel, Lucent Technologies, 3Com, Intel, Northern Telecom, TWA, Nordstrom's, Revlon, Macy's, Pierre Cardin, Target Stores, and many more (Pelaez, 2008).

As shown earlier in the boom in revenue in the case of the state of Alabama, there has been a similar economic boom due to the neo-slave labor generated in prisons. According to Pelaez, "between 1980 and 1994, profits went up from \$392 million to \$1.31 billion" with revenue currently estimated at over \$3 billion (Pelaez, 2008; Snyder, 2013). To put the degree of exploitation in perspective, inmates in state penitentiaries may generally expect to receive minimum wage for their labor but in private prisons, "they receive as little as 17 cents per hour for a maximum of six hours a day, the equivalent of \$20 per month" (Pelaez, 2008). To put this into a Ghanaian perspective, if a woman selling plantain chips on the side of the road sells one bag per hour, she has made more money in that one hour than the neo-slave labor in the so-called "land of opportunity" there in the United States. And, again, it is not necessary for a Black person to actually commit a crime; it is only necessary for a white man (usually in the form of a police officer, although not necessarily so) to say that he or she did.

## **Conditions in Private Prisons**

As the profiteering objectives of private prisons are the same as those of convict leasing, one may expect the conditions in which the prisoners are held to be similar and, indeed, the atrocities abound. The ACLU reports with regard to a privately-run prison called East Mississippi Correctional Facility (EMCF):

EMCF is a cesspool. Prisoners are underfed and routinely held in cells that are infested with rats and have no working toilets or lights. Although designated as a facility to care for prisoners with special needs and serious psychiatric disabilities, ECMF denies prisoners even the most rudimentary mental health care services. Many prisoners have attempted to commit suicide; some have succeeded. One prisoner is now legally blind after EMCF failed to provide his glaucoma medications and take him to a specialist, and another had part of his finger amputated after he was stabbed and developed gangrene (Eber, 2013).

According to *In the Public Interest*, a comprehensive resource center on privatization and responsible contracting:

Incarceration for profit has caused many problems, as private companies fail to make decisions in the best interest of the inmates or the communities in which the prisons are located. Private prison companies have employed unqualified guards, resorted to excessive violence and cruelty to control inmates, and provided substandard medical care, resulting in unnecessary deaths. Prison privatization has led to numerous lawsuits and litigation, fines, and increased need for federal oversight, at great cost to taxpayers, communities, inmates and their families (Interest, 2011).

In short, as long as the goals and objectives of enslavement are still in place, the results and conditions of enslavement remain in place. For us to put things in perspective and make a stronger link between enslavement and neo-enslavement, according to the 1860 US Census, the total number of enslaved Africans in the Lower South was 2,312,352 (47% of total population), the total number of enslaved Africans in the Upper South was 1,208,758 (29% of total population) while the total number of enslaved Africans in the Border States was 432,586 (13% of total population) (Library, 2014). In 1860, almost one-third of all southern white families were actively engaged in the enslavement of African people (Library, 2014).

In comparison, according to the US Bureau of Justice Statistics, non-Hispanic Blacks made up 39.4% of the total prison and jail population in 2009 comprising 841,000 black males and 64,800 black females out of a total of 2,096,300 males and 201,200 females (West, 2010). This is in spite of the fact that Black people comprise 13.6% of the population according to the US Census Bureau.

If Black people who happen to speak Spanish were included, the number would likely go up significantly. In short, there are more Black people working for the modern-day equivalent of a cabin for the enslaved and daily slop to eat while enduring shocking conditions than were enslaved in the Border States at the inception of the US Civil War. There are nearly as many Africans ensnared by neo-slavery as there were in the Upper South.

## **The New Routes of Enslavement: The School-to-Prison Pipeline**

As we are drawing analogies between the distant past, the more recent past and the present, the question may be posed as to if the Prison Industrial Complex is neo-enslavement, what, then, are the neo-enslavement routes? We have mentioned several such as the War on Drugs and War on Gangs but we have not yet come to a discussion of the main neo-enslavement route.

While in the past, during the Trans-Atlantic portion of the Maafa, routes stretched as far away as modern-day Mozambique, the more recent past had huge numbers of political prisoners who fought against white American injustice. Modern-day equivalents are much more close to home in what is commonly known as the School-to-Prison pipeline. The tools of the trade include disparities in diagnoses of recently-invented disorders such as Attention Deficit Hyperactivity Disorder (ADHD) and in-school-apartheid techniques such as so-called “Special Education” which overwhelmingly targets African students. In addition to these factors, US Education Secretary Arne Duncan wrote that “department data showed black students were three times as likely as whites to be suspended or expelled” (Jazeera, 2014). In Wake County, North Carolina, where the author of this paper attended Senior High School, 40 percent of black students caught with cellphones were suspended last year, compared with 17 percent of white students (Jazeera, 2014). All of this goes to the historical pattern of selective enforcement for the exact same supposed transgression. According to a recent damning report by Al Jazeera America,

Jason Langberg, the supervising attorney of Advocates for Children Services, a project of Legal Aid of North Carolina, investigated the racial lopsidedness in student suspensions in Wake County. In an analysis of discipline data, he found that black students in the county’s schools were suspended five times as often as their white peers. But he said there’s no evidence to suggest that black students act up more often or more severely than white students. And this disparity is found not just in Wake County. (Team, 2014).

Indeed, according to the New York Times, “Many of the nation’s largest districts had very different disciplinary rates for students of different races. In Los Angeles, for example, black students made up 9 percent of those enrolled, but 26 percent of those suspended; in Chicago, they made up 45 percent of the students, but 76 percent of the suspensions” (Lewin, 2012). Again, the disparity is found in the selective enforcement of laws and/or rules which, in and of themselves are oftentimes written with the catching of the Black population in mind. The parallels between the convict leasing system which did not discriminate on the basis of age and today’s neo-slavery are obvious. In another case in Cook County’s Bremen Community High School District 228, “all students referred to law enforcement were black — 65 — though blacks made up only about 38 percent of enrollment” (Rado, 2012). According to Assistant Superintendent Daniel Goggins “This is not only a problem for District 228. ... It is an epidemic across the country” (Rado, 2012). In another case, “Of four kids at Hinsdale South High School in Chicago caught smoking pot, the only one arrested was black” (Team, 2014). Again, we find selective enforcement based on race. To all this, we might add that harsher and disproportionate punishment when race is the variable, which it invariably is, is not limited to high schools either. It is most important for us to remember that such disparities are not happenstance.



Rather, they are a sure-fire means of ensuring that there is a ready source of profit in the neo-slavery system. According to Al Jazeera, “Minority students are more likely to be steered from graduation by harsh school punishments — suspensions, expulsions and even arrests — that leave them disaffected, more prone to drop out and entangled in the criminal justice system” (Team, 2014). But, of course, all of this is by design. Indeed, “Some of the biggest profits for private prisons come from detaining young people. Today, private prison companies operate more than 50 percent of all “youth correctional facilities” in the United States” (Snyder, 2013). In fact, such private prison companies are known to engage in the practice of bribing judges to sentence overwhelmingly Black youth to harsh terms for trivial offences so that they can be sent to such facilities for profit. In one incident termed “kids for cash” two judges President Judge Mark Ciavarella as well as Senior Judge Michael Conahan, were charged with accepting money from the builder of two private, for-profit juvenile facilities. They received upwards of \$1 million in exchange for conniving with Robert Mericle, the builder of the facilities. Over the course of years they imposed harsh sentences on juveniles brought before them for the expressed purpose of increasing the number of inmates in the juvenile detention centers. (Frank, 2009; Urbina, 2009).

Writing for the Wall Street Journal (ironically named for the place where enslaved Africans were sold) Thomas Frank notes that Ciavarella sentenced children to disproportionate stays at juvenile detention centers for offenses as trivial as mocking a principal on Myspace, trespassing in a vacant building, or shoplifting DVDs from Wal-Mart (Frank, 2009).

For his actions, a federal jury convened on 18 February 2011 and convicted Ciavarella on 12 of 39 counts. In his racketeering, prosecutors argued that Ciavarella used children “as pawns to enrich himself.” The jury found that Ciavarella and Michael Conahan had taken illegal bribes totaling nearly \$1 million from Robert Mericle and then hidden the money (McCoy, 2011).

What is surprising about the “kids for cash” so-called scandal is not that it happened, but rather that its revelation is surprising to anyone outside of those who know very little history. The other aspect which is surprising is that the judges even received a slap on the wrist for doing what their predecessors have done for decades in ensuring that the neo-slavery business remains a bustling one under whatever name it happens to be given in the current generation. Those who are clear on, not the legacy, but the continuation of neo-slavery in more insidious forms should, in sober reflection, see the parallels across time and space or the same waste in a different toilet.

In conclusion, we must revisit our notion of a legacy if it, indeed, denotes or connotes “something which continues to exist after the event is over.” For, indeed, we would not deign to suggest something is over simply because the perpetrators decided to give it a different name: from enslavement to convict leasing to chain gangs to sharecropping to privatized prisons. It should then be eminently clear that slavery by any other name is still slavery. Genocide by any other name is still genocide. And in this case, the two may, indeed, be one and the same.

## Genocide:

...any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

— UN Convention on the Prevention and Punishment of the Crime of Genocide, Article II (Gaeta, 2009)

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<sup>1</sup> For our purposes, in this paper, African and Black are treated as synonyms.