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Exclusionary Spillage: A Reckoning of Belonging and Mass Incarceration

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Exclusionary Spillage: A Reckoning of Belonging and Mass Incarceration

Senior Project Submitted to
The Division of the Social Studies
of Bard College

by
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Annandale-on-Hudson, New York

May 2022

Dedication

I dedicate this thesis to everyone who has been affected by the criminal justice system. To those who are currently incarcerated; to those actively afflicted by the collateral consequences of punishment. I hope that in my work (and what is yet to come), I can honor your journeys, stories, and lives. You are the rainwater and I am the seed.

Lastly, and most importantly, this project is for my parents. Por sus sacrificios he podido cumplir mis sueños más grandes y mis logros son nuestros para compartir. Los amo y quiero.

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To Eileen and Vinny: Thank you for your generosity and help throughout these four years. I can't believe it's all over, know that I wouldn't have made it this far without your support.

I would also like to thank my friends, those who read my work and helped me make edits, those who motivated me to keep going when I complained about how much work I had to complete and I had yet not started. Your words of encouragement got me this far, and this thesis couldn't be something I am so proud of, without you all—my community. Thank you for holding and making space for me < 3

Finally, I would like to unashamedly thank myself. I never imagined I would have the confidence to trust myself and my capabilities, yet here I am. This is one of my best works as of yet, and it is only the beginning.

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“To borrow words from Angela Davis, freedom is a constant struggle. In this case, the struggle is about making a world in which everyone belongs, even the people you're afraid of. The problem of mass incarceration is really a problem of citizenship. This is because citizenship isn't just about whether or not someone has a set of legal rights. Citizenship is something each of us practices in exchanges and between people at every level, because citizenship is about belonging.” — Reuben Jonathan Miller, *Halfway Home: Race, Punishment, and the Afterlife of*

Mass Incarceration

Preface

One day in February 2013, my father left for work in the middle of the night, only to not return the next day. This, though strange, was not out of the ordinary. On previous occasions, a time or two, my dad would be home a day or two later than anticipated (except he would always call home). The life of freelance construction contractors is often like this—well, at least that of my father’s. When four days passed, and still there was no word from my dad, an intense amount of worry and anguish consumed my family’s apartment.

When a week went by, and we still had no word from my dad, our worry became fear. “Something must have happened. This is so unlike your dad,” my mom would say. That was until another day in February, weeks apart from the last time my dad was home, we received a letter in the mail. The letter was from my dad. In his letter, he detailed his arrest and the fact that the New York Police Department had called U.S. Immigration and Customs Enforcement (ICE), who now had him under custody. From that day on, my family and I would unravel the years of my young adolescent life consumed by the haunting figure of the prison, punishment, and the phantom of deportation. For a long time, this experience was one that I kept concealed. It was neatly tucked away within the confine of my mind. It was something that once had happened to my family and I. Something we overcame when after four years without my dad, we finally reunited in the apartment I had seen him last. I think it is odd that as much as I repressed this painful experience, time and time again, it has found me. Not once could I have imagined that such an experience would find and lead me here— my senior undergraduate thesis.

In this thesis, I unpacked this experience through the lens of the American exclusionary foundation, which I contend manifests itself through a societal crisis and phenomenon regarded

as mass incarceration. Mass incarceration is not necessarily about the United States' positionality as the world's number one incarcerator—it is about the lives of people and their families who are uprooted and forever marked by the criminal justice system and the prison. Granted that as much as mass incarceration is a problem of politics and policy, it is a problem of human exclusion. It is about disappearing people from society and relegating them inside a cage, holding the adage “out of sight, out of mind” true. Punishment does not begin and end in prison. Punishment follows the formerly incarcerated, as they are denied housing, public welfare benefits, jobs that pay a living wage, and enfranchisement. Therefore, I contend that confronting mass incarceration is less about the United States' record of housing the highest number of incarcerated people; and more about how we come to grapple with membership and belonging.

Born from the experiences of my father and my curiosity about the scholarship of citizenship, membership, and belonging, this thesis argues mass incarceration is not coincidental. Mass incarceration has not emerged out of thin air. It is instead the metamorphosis of the exclusionary foundation and racial order that has not only realized what we regard today as the United States but also the world at large. Beginning first by providing a historical analysis of the United States' exclusionary foundation and ending with a call invoking the politics of *Reckoning*: a critique of how the exclusionary and racialized foundation of American Citizenship upholds a racial caste system that relegates groups of people (like the formerly incarcerated) outside the confines of membership and belonging. I argue that *reckoning* will allow us to not only challenge our currently exclusionary foundation but to utterly transform it. Furthermore, I dive into the practice of *AfroPresentism* — a philosophical view that the present is the only ‘time’ that exists and that the past and the future do not; and what it might look like to change things in our

present. What it means to transform society, imagine and build it anew, now, instead of waiting for the fleeting possibility that is; sometime in the near future. Though much of this work can be reduced to being simply aspirational, I challenge you, the reader, to not take these words at face value and instead commit yourself to having hope and faith that there is a glimpse on the horizon. That a true reconstruction, a true transformation of our social order as we know it, is possible. To check-in with yourself and question: How far are you willing to go to expand your imaginations of what is possible? Are you truly committed to *reckoning* with America as well as *reckoning* with yourself?

Chapter 1 From the Racial Contract, to Republican Freedom: Uncovering the Racially Exclusionary Foundation of American Citizenship

“White supremacy is the unnamed political system that has made the modern world what it is today.”

- Charles W. Mills

Introduction

According to *The Prison Policy Initiative*, there were approximately five-million formerly incarcerated people living in the United States as of 2017. As of 2021, criminal record statistics indicate that one in every three U.S. adults has a criminal record. Around 10% (7.7 million) of the 77 million Americans, who have a criminal record, have been incarcerated at least once in their lifetime. A more devastating statistic, 5.17 million Americans were forbidden from casting their votes in the 2020 presidential election because they are enlisted as ‘felons.’

I have opted to begin this chapter with this grueling data to highlight that punishment through incarceration as it stands in the United States is a social ill that demands a reckoning. Per the 5.17 million Americans denied access to the ballot in the 2020 presidential election, it seems that punishment is unending and does not end once the gates of the prison have been closed behind you.¹ Punishment by incarceration, as Reuben Miller, a scholar at the University of Chicago, contends has an “afterlife.”² An afterlife in which Miller, whose work explores the criminal justice system’s lingering effects on formerly incarcerated people and their families, insists infringes on the citizenship rights of the formerly incarcerated. An afterlife who renders the problem of mass incarceration a problem of citizenship; a problem of political membership and belonging.³

To be aware of this reality is to understand the way the formerly incarcerated come to belong in society, after they have ‘served their sentence.’ It is to contend with the afterlife of

¹ Miller, Reuben Jonathan. "Halfway Home: Race, Punishment, and the Afterlife of Mass Incarceration." Introduction. *Halfway Home: Race, Punishment, and the Afterlife of Mass Incarceration*. New York: Little, Brown, 2021. Print.

² "Halfway Home: Race, Punishment, and the Afterlife of Mass Incarceration." Introduction.

³ "Halfway Home: Race, Punishment, and the Afterlife of Mass Incarceration." Introduction.

incarceration, which renders redemption obsolete and leaves the formerly incarcerated marked and reduced by the grievances of their past.

Understanding the way people can be relegated to the outskirts of society demands that we pause and take a step back, uncovering what the title of this chapter intends to explore: *The Racially Exclusionary Foundation of American Citizenship*. Citizenship, as we know it, is a concept and legal process that has not emerged out of thin air. It has a long history not only within the social fabric of this country but the world at large. In order to clearly understand why contemporary scholars of mass incarceration believe that the problem of mass incarceration is a problem of citizenship, we must examine the foundational ideals behind our contemporary notions of belonging and membership in the United States.

Citizenship is the legal status from which rights and protections are granted. More concretely, it is about belonging, and having political membership in a polity or state, that grants a set of rights (i.e. civil rights, liberties, and protections). In the United States, these rights and protections are often assumed to be egalitarian and universal. These rights are egalitarian and universal in the sense that everyone, despite differences of sex, gender, races, and creed, have equal rights and protections. It is, in other words, an assumption of homogeneity among citizens of the state. Citizenship, therefore, is viewed through a lens of universality, which entails that every American is equal by virtue of being a citizen of the United States. That the laws and rules which govern American citizenship are universal in their application—“whatever the social or group differences among citizens, whatever their inequalities of wealth, status, and power in the

everyday activities of civil society, citizenship gives everyone the same status as peers in the political public.”⁴

However, thinking of citizenship in the United States in this way is to create an idyllic representation of the enduring history of the country. It is to disavow the bloody *Trail of Tears* and the dispossession of the Native American, and it is to ignore the inherent history which makes American political development inextricable from the institution of slavery sustained by the kidnapping of native Africans. From the onset of what we regard today as the United States, citizenship has been a paradox whose rhetoric of equality has contrasted with practical exclusions and distinctions. Citizenship and race have operated interchangeably. Race drew lines of differentiation among people (the Natives and the white colonist, the white colonist and the African slave), and citizenship reinforced these distinctions. Ultimately, race was the classifying agent of difference and citizenship, the medium through which people were distinguished from one another across the color line.

Punishment by incarceration functions in a similar way. Incarceration in the United States is not a universal affliction— it is differentiated. So much so that it is not rare among the nation's marginalized populations.⁵ It is a normalized point of transition into adulthood.⁶ In a country where Black Americans have long been regarded with suspicion and fear, it is clear that the assumption of Black criminality is deeply embedded in the collective consciousness of the country and its white citizens. Punishment through incarceration is not accidental, when roughly at any given time:

⁴ Young, Iris Marion. 1989. "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship". *Ethics*. 99 (2): Page 258

⁵ Pager, Devah. 2007. *Marked : Race, Crime, and Finding Work in an Era of Mass Incarceration*. Chicago: University of Chicago Press, Page 3

⁶ Pager, Devah. 2007. *Marked*, Page 3

“12 percent of all young black men between the ages of twenty-five and twenty-nine are behind bars, compared to less than 2 percent of white men in the same age group; roughly a third are under criminal justice supervision.”⁷

Mass incarceration, as I hope to make clear, is not only the consequence of punishment, it is a racialized phenomenon. Punishment through incarceration is not accidental— it is a deliberate act that entails the denial of rights. A denial of rights, situated around the exclusionary foundation of American citizenship, where the subordination of groups of people informed the rights and protection of others.

⁷ Pager, Devah. 2007. *Marked*, Page 3

The Social Contract vs. Racial Contract

To begin this necessary reckoning, we must first divert our attention to the *Racial Contract*—a concept advanced by Charles W. Mills, whose incisive criticism of liberalism and race both foreshadowed and framed contemporary debates about white supremacy and structural racism, where citizenship is described as inextricable from white supremacy.⁸ Granted that as an “unnamed political system,”⁹ “white supremacy is what has made the modern world what it is today.”¹⁰ In relation to the United States, it is important to note that the *Social Contract* is ingrained in the country’s *Declaration of Independence*. The founding fathers declared that every citizen (all men) was equal in the view of the government: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”¹¹ This statement is consistent with the guiding theory of the *social contract* which explicitly states that people live together under an agreement that establishes an organized government which bestows them with rights and protections.

Nevertheless, as it is implicit in its name, the concept of the *Racial Contract* draws from what Enlightenment philosophers and theorists describe as the *Social Contract*: an agreement among the members of a society to cooperate for social benefits. However, this conceptual guarantee of equality among all people, was neither benevolent nor all-encompassing in its application. The *Social Contract* also sustained that non-white people were subhuman savages

⁸Mills, Charles W. 2022. *The Racial Contract* (version Twenty-fifth anniversary edition.) Twenty-fifth anniversary ed. Ithaca New York: Cornell University Press.

⁹Mills, *The Racial Contract*, Page 1

¹⁰Mills, *The Racial Contract*, Page 7

¹¹Thomas Jefferson, et al, July 4, Copy of Declaration of Independence. -07-04, 1776. Manuscript/Mixed Material. <https://www.loc.gov/item/mtjbib000159>

unfit for living in a civilized society. Failing to meet its contextualized ideals of equality among all people, the *Social Contract* has been successful in laying out the foundation of most modern societies— racial exploitation, that has led to an agreement “between just the people who count, the people who are people (we the white people).”¹² In its argument that the Social Contract, as an agreement among white people has not only created a white supremacist society where non-white people are inferior and for that reason deserving of a subhuman status, exploitation, and exclusion from belonging and membership in society. The *Racial Contract contends* that citizenship thrives in a binary of subordination, “the persons and the sub persons, the citizen and non citizen.”¹³ Furthermore, citizenship is what Mills describes as a “a methodological claim based on a contract between whites.¹⁴” It is moreover “a particular power structure of formal and informal rule,”¹⁵ where “materially whites and blacks constitute two nations, the white nation being constituted by the American Racial Contract in a relationship of structured racial exploitation with the black(and, of course historically also the red) nation.”¹⁶

It follows that the *Social Contract*, though universal in its welcoming discourse alluding to “all” people coming together under a sovereign government, has been racialized since its conception. Making evident that the concept of race (and racism by default) was instrumental in the imaginary of who Western philosophical thinkers (e.g. Hobbes, Hume, Kant, Locke, Mill, and Rousseau) regarded and imagined as deserving of humanity and Democracy. The *Racial Contract* is thus the means through which Mills draws our attention to how the idea of race,

¹² Mills, *The Racial Contract*, Page 3

¹³ Mills, *The Racial Contract*, Page 51

¹⁴ Mills, *The Racial Contract*, Page 7

¹⁵ Mills, *The Racial Contract*, Page 3

¹⁶ Mills, *The Racial Contract*, Page 109

racism, and white supremacy, as a power structure, has allowed white people to reign supreme through their subordination and exclusion of those deemed non-white from the realms of belonging and membership. In this way, Mills deconstructs the domain of white political theory by showing that Black people and people of color were never meant to be included as equal citizens by the notions of belonging and membership.

Purposely erased from the configuration of who is a citizen, those rendered nonwhite are racialized subjects whose subjugation, dispossession, bondage, and exclusion reinforce the boundaries and ideals of white supremacy. It is through a racialized subject (the Black Americanin this case) that white supremacy is given its power. The subjectivity of the racial subject is what denotes that as long as these subjects are excluded there will be merits of inclusion for those deemed white. Therefore, American citizenship, as Mills contends, is foundationally racially exclusionary and white-only by default. Insofar as the *Racial Contract* perpetuates inequality through the power structure of white supremacy, citizenship is not simply a means of exclusion—it is how ideals of white supremacy and racial inequality have been upheld.

Republican Freedom

The present-day borders of the United States are the result of neither luck nor accident. Territorial expansion began almost as soon as English settlers arrived on American soil and continued into the closing of the frontier in 1890 and the subsequent annexation of American-specific territories in 1898. The long process of American territorial expansion was justified by the mid-nineteenth century ideology (or national vision) known as *Manifest Destiny*—a rationale for continued expansion. Predating ideals of *Manifest Destiny* were notations of *Republican Freedom*, which like *Manifest Destiny*, established rationality for continual continental expansion. Similar to Mills' *Racial Contract*, *Republican Freedom*, a form of freedom grounded in ownership of land and domination of those deemed unfree, has been fundamental in delineating notions of citizenship in the United States. Championed not only by the state and its political actors but also its people, *Republican Freedom* is a looking glass into a deep-seated sense of superiority, which has functioned as a rallying call for territorial expansion under the guise of white supremacy and racial domination.

According to Aziz Rana, historically, *Republican Freedom* is a relic of *Republicanism*: a political movement, which took place in the United Kingdom during the 17th century.¹⁷ As a political movement, *Republican Freedom* was how Britons sought to replace the United Kingdom's monarchy with a republic. Supporters of the movement (*Republicans*), believed that there were alternative forms of governance to a monarchy, such as an elected head of state. However, at the heart of *Republicanism* was the belief that to be truly free, one had to be free

¹⁷ Aziz Rana, *The Two Faces of American Freedom*, (Cambridge, MA: Harvard University Press, 2010)

from domination and had to enforce self-rule. Where self-rule entailed that one had control over all of the important decisions in one's life, politically and economically.

Adhering to these beliefs, when British colonists ‘migrated’ to what today we know of as the United States, they brought these *Republican* ideals to the developing settler-colonial state.¹⁸ In the United States, ideals of *Republicanism*, and *Republican Freedom* dedicated who was either worthy or unworthy of citizenship. Notions of *Republican Freedom* therefore upheld the bounds of membership and belonging. Premised on land ownership, where freedom from domination (independence from arbitrary power, that one had self-rule) *Republicanism* epitomized that those who owned land, by virtue of being economically independent, were endowed with a sense of sovereignty which those who were non-landowners and lacked economic independence were denied. Consequently citizenship, in the United States, meant full and direct participation in a political system upheld by the ownership of land and by default people, either through a lifetime of bondage as was the case of the enslaved Black African or through contractual servitude in the case of indebted white colonists regarded as indentured servants.

Foundationally, American Citizenship, as influenced by notions of *Republicanism*, is premised on subordination. The exclusion and subjection of some for the liberty and belonging of others. It is, therefore, a narrative consistent with the origins of the United States as an "expanding settler colony."¹⁹ One that presupposes that belonging and membership has only been afforded to “we the white people.”²⁰ That is to say— an American, and therefore an American citizen, is someone who is white, landowning, and in some cases in ownership of others.

¹⁸ Aziz Rana, *The Two Faces of American Freedom*

¹⁹ Aziz Rana, *The Two Faces of American Freedom*

²⁰ Mills, *The Racial Contract*, Page 3

Someone who adhered to a form of arbitrary sovereignty that allowed him to make claims over the American landscape with little to no regard for the land's original inhabitants. Exercising a form of continuous self-rule materialized by relentless westward expansion and *Manifest Destiny*— who joined direct political participation with economic independence and the subordination and dispossession of marginalized groups, especially Black slaves, Native Americans, and women.

To further illustrate that Citizenship in the United States context is highly influenced by *Republican notions of freedom*, Rana draws attention to the exclusion of Black slaves and Native Americans, as a means of denoting that American citizenship is premised on the racial subjection and exclusion of those deemed as others. In saying that as “African slaves replaced indentured English servants on the plantations, newly freed whites began to enjoy greater prosperity, access to land, and social standing vis-a-vis landed elites,”²¹ Rana shows that American citizenship was racially codified and dependent on land ownership and that it was not egalitarian and universal. A reality which rendered that American citizenship despite its redefinitions and redemptions, was primarily contextualized as synonymous with racial subjugation. It was furthermore, influenced by notions of membership marked by a fundamental divide between free Anglo subjects and imperial subjects. It follows that American participatory citizenship is unattainable if a ‘designated’ group of people is not subjugated and excluded.

Similarly, Cristina Beltran, author of the book *Cruelty as Citizenship*, that examines the intersection of Latinx politics and political theory, asserts that *Republican freedom* had not only defined American citizenship as racially exclusionary, but also how “practices of domination,

²¹Aziz Rana, *The Two Faces of American Freedom*, page 47

racial performance, and displacement [have] worked together to produce the white citizen.”²²

Insofar as whiteness, is what she describes as a “political color” of sorts has been useful in distinguishing the free from the unfree, the equal from the inferior, the citizen from the slave.²³

For Beltran, whiteness is ultimately what made possible colonization and the dispossession of natives. Further, citing the concept of *White Democracy*— “a political ruled in the interest of a white citizenry and characterized by simultaneous relations of equality and privilege: equality among whites, who are privileged in relation to those who are not white,”²⁴ Beltran makes evident that *republican freedom* is how white supremacy has assumed the status of a white democracy, where whites citizens are consenting members within the participatory practice of racial violence, domination, and exclusion that render whiteness not only superior but worthy of self-governance and thus political participation.

In that sense, *Republican Freedom* established exclusionary social practices and structures with the direct and explicit intention of sustaining whites-only democratic citizenship in which membership and belonging was realized on the basis of the denials of rights of those deemed nonwhite, either racially, economically, or both. American citizenship is undeniably the result of a continuous exhortation of white racial power. Granted that the political development of the U.S. rested upon settler colonization invested in territorial expansion and the enlarging of its borders. It, therefore, attested that racial domination realized the membership and inclusion of some over others even if that meant violently dispossessing and “removing” Indigenous peoples and terrorizing enslaved Black Africans. In other words, “practices of domination, racial

²²Beltrán Cristina. 2020. *Cruelty As Citizenship : How Migrant Suffering Sustains White Democracy*. Forerunners: Ideas First. Minneapolis, MN: University of Minnesota Press. Page 20

²³Beltrán, *Cruelty As Citizenship*, Page 20

²⁴Beltrán, *Cruelty As Citizenship*, Page 13

performance, and displacement [have worked] together to produce the [ideal citizen, which happens to be imagined as a] white citizen.”²⁵

The concept of race, therefore “shaped the boundaries of American membership, creating the economic and social conditions for U.S. assertions and enactments of freedom, democracy, and republican value.”²⁶ *Republican Freedom* makes evident that ideas of citizenship in the United States have benefited from a miscalculated egalitarian and universalized portrayal, as its membership has been upheld and drawn upon on the bondage and subjugation of groups of people for the benefit of a select few. As Beltran explains, *Republicanism* more broadly afforded white citizens access to the key components of constitutional liberalism defined by the rule of law and characterized by civil and political rights. Republicanism epitomized a “symbiotic relationship with white supremacy in which the value of liberal citizenship was made manifest through the denial of rights and equal equality to nonwhite populations.”²⁷ In that sense, American citizenship as informed by *Republican* notions of freedom ensured that the white citizens had the legal right to deny equal rights to those deemed non-white.

Insofar as American conceptions of freedom and democracy have historically been constituted by white supremacy, the political project of whiteness in the United States as sustained by Beltran and Raza makes evident that the racially exclusionary nature of American citizenship continues to live on.

²⁵ Beltrán, *Cruelty As Citizenship*, Page 17

²⁶ Beltrán, *Cruelty As Citizenship*, Page 18

²⁷ Beltrán, *Cruelty As Citizenship*, Page 19

Recognition

In efforts of challenging the racialized nature of American Citizenship, the process of *Recognition*— an act of acknowledgment carried out by the state, has been suggested as a viable remedy. As it relates to the concept of citizenship, *recognition* speaks not only to the existence of individuals or a group of people but also their legality. That this individual or a respective group of people belong within the boundaries of our community, state, or polity, and for this reason, they are not only seen but are bestowed civil rights and liberties that would be otherwise denied. However, the act of being ‘seen’ is “at best provisionally, and subject to constant revision under the pressure of changing circumstances.”²⁸ There is nothing definite or obsolete that sustains one’s recognition as a citizen, especially when a respective group has been historically excluded from the perimeters of belonging.

In his book, *Bound by Recognition*, Patchen Markel, contends that though *recognition* by proxy of the state has been prescribed as a remedy for the ills of subordination, it is insufficient in its attempts of confronting and challenging injustice in relations to identity and difference in political society. *Recognition*, as contextualized by Markel, is bound to “disappoint, and even to stifle.”²⁹ This is the case, because despite its intention to promote and uphold equality and justice, *Recognition*, in more ways than one, reinforces the ills of subordination and difference that it attempts to serve as a remedy for.

²⁸ Patchen Markell. (2003). *Bound by Recognition* (Course Book.). Princeton University Press. Page, 94

²⁹ “Bound by Recognition.” Project MUSE. Accessed December 7, 2021 <https://muse.jhu.edu/book/29826>.

When groups of people have been historically excluded from the bounds of society, their constant state of agitation for civil and political rights is by and large always spearheaded by a desire of being finally recognized as equal members in their respective polity or states. This has been the case in numerous civil and human rights struggles, as was the Women's Suffrage Movement and the Civil Rights Movement of the 1960s in the United States. Though being recognized implies an extension of democratic rights, and protections, to be recognized after being in a state of constant agitation, making claims as to why you belong, comes at a price. One that rests on constant surveillance, where the state aims to make sure that their act of *recognition* is justified and valid. Where ultimately, the recently recognized group is forced to adhere to a series of implied rules premised on their assimilation and shredding of their identities as a means of adhering to a dominant culture and identity. It is furthermore, a forced assimilation, that is premised on the ideals of *white democracy*, which Beltrán speaks about, where “successes among individual white citizens is read as proof of the system's fairness.”³⁰ That is, *recognition* within *white democracy* entails that like the white citizen one is “protected by individual rights and the rule of law [and therefore, allowed to] deny those same protections to those deemed nonwhite.”³¹

This reality is what Markell argues occurs because the “pursuit of recognition itself may be implicated in the formation and maintenance of unjust relations of social power.”³²

Recognition does not embrace or celebrate difference but rather suppresses it. A suppression that

³⁰ Beltrán Cristina. *Cruelty As Citizenship*, Page 18

³¹ Beltrán Cristina. *Cruelty As Citizenship*, Page 16

³² Markell, *Bound by Recognition*. Princeton University Press Page 112

is by no means “accidental,” but rather deliberate. Granted “recognition is inherently tied to the maintenance of social relations of subordination.”

An example of subordination by *recognition*, would be what Markell referred to as the question of *Jewish Emancipation*.³³ In their seeking of recognition by the German State during the last decades of the eighteenth century, Jews pursued a series of measures tasked with bringing to an end various restrictions that excluded them from the mainstream of social and political life in German society. A pursuit of *recognition*, which they did not imagine would amount to a state of submission and subservience under the guise of the state's domination and protection. On one hand, Jewish recognition by the German state implied “the institutions of the state must maintain a vigilant surveillance of the Jews to be sure that they are conforming to the terms of their emancipation.”³⁴ Surveillance, consistent with their *recognition*, functioned paradoxically. As much as their *recognition* meant assimilation, their difference, that is their Jewish identity, was the mechanism which the state used to determine if the Jew was adhering or not to the bounds of their emancipation. Dependent on their surveillance, the *recognition* of the Jewish people was realized on account of their difference which made them hyper-visible and reinstated their exclusion from the realms of belonging and membership. Further, making evident that Jewish people were recognized as Jews first and foremost. A process that is similar to the “afterlife” of punishment that hunts the lives of the formerly incarcerated through a presumption of ongoing criminality.

³³ Markell, *Bound by Recognition*. Princeton University Press Page 127

³⁴ Markell, *Bound by Recognition*. Princeton University Press Page 146

Nevertheless, as shown in the question of *Jewish Emancipation*, recognition by the state is insufficient, as it replicates the same societal ills it intended to solve and address. By default, recognition is a treatment of the symptoms that rises when the grounds of membership and inclusion are foundationally and inherently exclusionary. It is the creation of a solution sustained by images of equality that inevitability is bound to function not as a deconstruction of citizenship's inherent foundational exclusion but as an amplifier and extension thereof. Though recognition is specifically a force for good, in that it entails the inclusion of everyone in political society, inclusion is reliant on the assumption that inclusion in citizenship has transcended particularity and difference which is inadequate. Because citizenship, as is the case in the United States, has functioned as a segregator of sorts, drawing boundaries between the haves and the have nots, the extension of equal citizenship rights to those once excluded, through acts of recognition, fails to ensure these same citizens are no longer treated as second-class citizens.

Though compelling, the demand for inclusion and participation of everyone in political society through a process of recognition is counterproductive, as it assumes that citizenship transcends particularity and difference, an uttermost assumption that falsely conceals "sameness" as equality. In other words, recognition, as an ideal, constructs universality in terms of laws and rules that are blind to individual and group differences, a constructed assumption, which in contemporary times has proven unproductive, given that the principle of equal rights has not translated into social justice and equality for all citizens. A principal who Iris Young, also opposed in her work, *Polity and Group Difference: A Critique of the Ideal of Universal Citizenship*, where she contended that in neglecting to acknowledge that some people are

privileged, “differences in capacities, cultures, values and styles exist among groups,”³⁵ reveals that universal citizenship's strict adherence to the principle of equal treatment does not eliminate oppression and disadvantage, but rather perpetuates their existence.

Thus, it follows that the universality of citizenship will only lead to more systematic subordination, oppression, and exclusion given that its blindness to individual and group differences as obvious, does not eliminate existing group differences, but rather reproduces the same oppression and exclusion in question.

³⁵ Young, Iris Marion. 1989. "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship". *Ethics*. 99 (2): Page 258

The Necessary Reckoning

Understanding the *Racial Contract*, *Republican freedom*, and acts of *Recognition* is fundamental in the uncovering of American citizenship as racially exclusionary. Because race in the United States has been socially constructed on conceptions of racial difference and inequality, it is ultimately the prevailing view of citizenship and American national identity.

In our efforts to undertake how mass incarceration has become a problem of citizenship, we must reckon with American history and how interconnected the mundane concept of citizenship is to the oppression and exclusionary practices marginalized groups continue to face. It is odd how often when thinking of societal injustice and the oppression of a group of people, we assume that systematic flaws lie in politics and laws exclusively, and in doing so, we fail to realize and uncover that systems of oppression transcend politics and laws and are often, as is the case here, political programs we don't think much of. Since its inception, the concept of citizenship has been substantive in the successful othering of Black Americans, insofar, as to be an American and a citizen thereof, not so long ago meant being a white man, of European ancestry, who also happened to be a landowner. It seems safe to assume then, that this characterization of the American citizen as a white landowning male, not only excludes Black Americans (poor whites and women) but also normalizes and justifies their enslavement, and prolong oppression. That is, when individuals, or a group of people, as is the case here, are excluded from the realms of citizenship, what rights do they have? What claims can they make?

The oppression and exclusion that citizenship as a political program produces has yet to be eliminated from society, and it is greatly affecting the livelihoods of thousands of people throughout the United States. Considering that:

“The 2.3 million people who are incarcerated, 40% are black, 84% are poor, and have no income at all. The 2626 people who have been exonerated since 1989 spent an average of 9 years in prison for crimes they did not commit. Nearly half of them are black, and almost all of them are poor. It is clear to anyone paying attention that the legal system does not administer anything resembling justice but instead manages the nation's problem population.”³⁶

Punishment through incarceration as a phenomenon emerges out of various historical systems of control: slavery, *Black Codes*, and *Jim Crow Laws*, which were enacted to restrict and curtail the civil rights of Black Americans. The delineation of American citizenship as racially exclusionary is what allows the denial of civil rights to the formerly incarcerated and it is what has made the United States the worlds' leading incarcerator today.

The fact that “an entire class of people is presumed guilty of some unspecified crime long before they break the law”³⁷ finds its roots in the operating assumption of the *Racial Contract* and *Republican Freedom*, where the white citizen has been presumed superior and worthy of belonging and membership and those deemed racialized subordinate subjects and like the Black African Slave are assumed, criminal and inferiors. The concept of citizenship is therefore inseparable from exclusionary practices and oppression. Making forms of 'inclusion' such that of (*recognition*) by proxy, destined to a cycle of constant replication, where inherent exclusionary foundational practices of citizenship are reinstated.

³⁶ “Halfway Home: Race, Punishment, and the Afterlife of Mass Incarceration.” Introduction.

³⁷ “Halfway Home: Race, Punishment, and the Afterlife of Mass Incarceration.” Introduction.

In reading this chapter, it is of uttermost importance that the concept of the *Racial Contract* is understood as the necessary stepping stone in what we regard as *Republican freedom*. In laying out the foundation of most modern societies— racial exploitation, that has led to an agreement “between just the people who count, the people who are people (we the white people).”³⁸ The racial contract is what allowed notions like that of *Republican freedom* to emerge, insofar as republican freedom as met adhering to a white supremacist society where non-white people are inferior and for that reason deserving of a subhuman status, exploitation, and exclusion from belonging and membership in society. That is to say, that belonging and membership in the United States have always depended on the imposition of tyranny and the unfreedom of others.

Whereas secondary concepts like *White democracy* make evident that because American conceptions of freedom and democracy have historically been constituted by white supremacy, the political project of whiteness in the United States continues to live on. This is so as “in the United States the wide-ranging desire for civic freedom has been enmeshed in a democratic politics shaped by the politics of white supremacy.”³⁹ The act of *recognition*, though contextualized as a possible solution, succumbs to the act of replication, or creating and reinstating the same ills of exclusion and subordination it intends to rid society of. Since “Racism [has been] an unacknowledged aspect of America’s attachment to the values of equality and

³⁸ Mills, *The Racial Contract*, Page 7

³⁹ Beltrán, *Cruelty As Citizenship*, Page 42

Republicanism.”⁴⁰ Being recognized as participatory members with these specific ideas of liberties requires that you shed your difference and adhere to the ideals of the white citizen.

As a result, addressing the consequences of the racially exclusionary practices of citizenship demands, not band-aid fixes that masquerade systemic grievances, we must address the foundational failure of the illness. As long as the only way through continues to be direct confrontation, addressing mass incarceration demands a reckoning of what got us here, therefore uncovering the racially exclusionary foundation of American citizenship.

⁴⁰ Beltrán Cristina. *Cruelty As Citizenship*, Page 38

*Chapter 2 American Reckoning: How America Remembers, And
Misremembers Its Foundational Past*

*“At some point it is no longer a question of whether we can learn
this history but whether we have the collective will to reckon with it.”*

— Clint Smith

Reckoning: The Politics of Recognition and Acknowledgement

If someone asked: would you rather be recognized or acknowledged? What would you be inclined to respond? Is there even a difference between the two other than a simplistic definition? The politics of *Recognition and Acknowledgement* are not the same thing — though often, the *Politics of Recognition* is misunderstood and therefore allowed to masquerade as its adversary—the *Politics of Acknowledgement*.

Seemingly the *Politics of Recognition* implies being seen and recognized by the state. It is a simple, I see you, and you see me exchange. This exchange, however, is not one between a citizen and their corresponding nation state. In the United States, this exchange exists between political pawns, political subjects, and a government that seeks to salvage its image as the world watches silently. Usually, without skipping a beat, the *Politics of Recognition* implodes following vast demonstrations, protests, and unrest, where a group of people (mainly minority groups) demand to be seen and recognized by the state. Granted that the United States is 'forced' to bend the knee— finally perceiving its citizens (who it views as pawns) as a means of belonging within the narrative and image it has cultivated for itself and the world—the *American ideal*. A narrative that positions the United States as a country that champions rights, freedom, and privileges, that have successfully centered it as a beacon of democracy in the international realm. In other words, perversely, the *Politics of Recognition* grants the United States a remarkable ability— that of reconstituting its own tactics of oppression from the ashes of social movements.

These tactics not only involve the *Politics of Recognition* but necessitate it. Illusionary and a play on optics, these tactics function by giving a grand impression that those on the outskirts of society have finally been seen by the state. That their pleas have been heard and that

their protests and demonstrations have amounted to something profound. This false sense of accountability, in turn, allows the United States to transmit the impression that this time around the country will get “things right” and live up to its ideals— the *American Ideal*: where the principles of individual freedom and liberty will give rise to a different outcome addressing, therefore, the country’s past failures. Needless to say, as convincing as this process convinced us it is, it is in no way transformative. It is simply, at best, a provisional request to be included. It does not demand change; it is a plea—asking that individuals or groups of people be welcomed in society with a complete disregard of the state's exclusionary and oppressive foundations or mode of operation. A plea that the United States does not recognize as a problem, it views it as a leak. In seeking to be recognized by the state, people (who are reduced to pawns) alert the state of a flaw in its mode of operation. Once ‘alerted,’ the state's response masquerades as an effective address to the people. When in reality, what occurs is a covering, a quick fix to the problem that has been newly re-exposed; it is tending to a wound that once reopened demands to be patched away once again.

In regards to citizenship, this uncovered wound that the *Politics of Recognition* attempts to fix functions primarily as a hidden societal order. A societal order, which like citizenship, functions on the basis of a racial hierarchy, where some are excluded or included as the political system of white supremacy dictates. This wound, as much as it represents a fracture in this deep-rooted social order, is also a looking glass into the exclusionary foundation of American citizenship, that as previously discussed has to function along the lines of an ideology of equality and inclusion—the so-called *American Creed*—and a “deep and common desire to exclude and reject large groups of human beings have marked every stage in the history of American

citizenship.”⁴¹ Furthermore, in seeking to be recognized, indirectly, individuals are seeking to become participants within a societal order, a system that will utilize their inclusion to validate the exclusion and the denial rights of others. It follows that when we ask to be included, we need to be cognizant in what we seek to be included in. Because inclusion does not translate to change, we are seeking membership in a societal order that does not want to change, but instead is in need of more participants that will keep its legacy alive and not seek to destroy it.

That is why Audre Lorde said “for the master's tools will never dismantle the master's house. They may allow us temporarily to beat him at his own game, but they will never enable us to bring about genuine change.”⁴² We must therefore question what does it mean to seek recognition and therefore inclusion in an exclusionary system? It means that we enter into a limited societal order, wherein seeking to change the state’s exclusionary ways, we succumb to recreate the same exclusionary conditions we sought to fix and eliminate. That is to paraphrase Audre Lorde, “What does it mean when the tools of a racist patriarchy are used to examine the fruits of that same patriarchy? It means that only the narrowest perimeters of change are possible and allowable.”⁴³ These implications are also echoed in Martin Luther King Jr’s, provocation, “I fear I may have integrated my people into a burning house.”⁴⁴ As Dr. King came to experience, integration certainly did not serve Black Americans well. Arguably Black Americans were utilized as pawns, whose integration into the parameters of American Democracy perpetrated more exclusion and disenfranchisement. Therefore, advocacy for inclusion vis a vis the *Politics*

⁴¹ Glenn, Evelyn. “Citizenship and Inequality: Historical and Global Perspectives.” *Social Problems* 47, no. 1 (2000): 1–20. <https://doi.org/10.2307/3097149>.

⁴² Lorde, Audre. *The Master's Tools Will Never Dismantle The Master's House Comments at "The Personal and the Political" Panel (Second Sex Conference, October 29, 1979) Page 99*

⁴³ Lorde, Audre. *The Master's Tools Will Never Dismantle The Master's House*, Page 98

⁴⁴ Dr. Martin Luther King Jr: ‘I fear I am integrating my people into a burning house’ 1967

of Recognition ends up being advocacy for a brutal and oppressive institution. This 'inclusion,' as I hope to make clear, does nothing to transform these institutions, structures, or the exclusionary foundations of American citizenship. On the contrary, it allows us to uphold our current social order that is racially dependent and exclusionary. To be recognized means at its root, a willingness to join this exclusionary order— a societal order founded on exclusion.

As I have discussed, the *Politics of Recognition*, utilizes the power of optics, of being seen, to make placeholders out of minority groups and individuals who seek to be seen. It places the burden of advancing change on the shoulders of the people and not institutions. More sinisterly, those seeking to be recognized become puppet-like at the hands of the state who happens to hold the puppeteering strings. Narratives of representation, equality, and inclusion, are used to prescribe equal recognition as a remedy for the ills of subordination. Which is why often we become victims of these progressive optics. We think that *recognition* is a *Reckoning*— a revolutionary and transformative change that altered society in a truly profound way. Except, when you think about it, you must ask yourself; who is doing the recognizing? Unfortunately, it is still that unchanged, exclusionary, and oppressive state that did everything and even a bit more to misrecognize you, to exclude you, to be blind to your existence, pleads, and needs. You then realize that being included and recognized means nothing. Being 'seen' is short of a transformative reckoning because the state continues to thrive on its exclusionary and oppressive policies. *Recognition* occurs so the state can belong within a societal order it has created, where it fits in. To support its illusion, not changing, not transformative. Therefore, what does it mean to be recognized if the state does not change? If the state admits you only to exclude others?

It goes without question; there exists an unacknowledged relationship between citizenship and the *Politics of Recognition*. A relationship where inclusion, membership, and belonging operates paradoxically alongside the *Politics of Recognition*. As we now know *recognition* does not solely mean to be seen, it means that you are willing to be welcomed as a citizen in a state with the understanding that your successful inclusion involves the exclusion of others. It is a similar relationship—to that of *Republican Freedom* (discussed earlier). Where inclusion and *recognition* premised that white settlers agreed to displace, murder, and enslave Natives Americana and Black Native African respectively. Granted, that doing so, and doing so successfully, meant they would be bestowed with the “privilege of being an American Citizen.”. It is as Patchen Markell contends:

“[Recognition] is unable to apprehend the complicity of the establishment and perpetuation of the inequalities of power and status that it presumably seeks to redress.⁴⁵”

It follows, therefore, that recognition ignores the establishment and perpetuation of the inequalities of power and status that it presumably seeks to redress. The use of the *Politics of Recognition* as a paradox for well-meaning inclusiveness and a transformative change in society (what I call a reckoning) is not new. It is a mechanism the state has engineered to confuse us and allow us to falsely equate being seen and recognition with the *Politics of Acknowledgement*. Moreover, *Recognition* — is foremost a cognitive process that relies on the individual citizen and disregards the role of the state, government, and systems of subordination and exclusion. Ultimately, as Markell concludes, “[the] pursuit of recognition is the failure of acknowledgment; and in this instance, the failure of acknowledgment finds a structure of subordination.”⁴⁶

⁴⁵ Vázquez-Arroyo, Antonio Y. “Re-Cognizing Recognition: A Commentary on Patchen Markell’s “Bound by Recognition.” *Polity* 38, no. 1 (2006): 4–12. <http://www.jstor.org/stable/3877085>. Page: 6

⁴⁶ “Re-Cognizing Recognition: A Commentary on Patchen Markell’s “Bound by Recognition.” Page: 6

In response to the failures of the *Politics of Recognition*, Patchen Markell refers to The *Politics of Acknowledgment*. A politics that entails more broadly the process of cumulative realization; where we come to see how the state has made us puppets in its exclusionary and oppressive puppet show. This realization simultaneously leads to another, and that is: being now aware of our positionality in society—how can we as a collective shift the burden from ourselves (the individuals) and make the state and its political and governmental actors grapple with their own instruments of exclusion and oppression? Undeniably there is a ‘modesty of acknowledgment’⁴⁷ that allows it to be flexible and adaptable to the experiences of groups of people who have found themselves historically, outside the boundaries of membership and belonging. Simply, Markell’s *Politics of Acknowledgement* is built on change that could be tangible, changes that we might make every day, in every interaction, who could powerfully reshape the ways we think about, look at, and talk to each other.

In this way, the *Politics of Acknowledgement* does not reinscribe state power, instead, it treats the state with suspicion and keeps it at arm’s length. However, the *Politics of Acknowledgment*, as imagined by Markell, does not exist without limitations. One of these limitations is the politics’ function as an independent process that occurs first internally to garner awareness, which can lead to individuals’ desire to create and maintain a false sense of personal sovereignty, even if at the expense of the sovereign agency of others.⁴⁸ This false sense of sovereignty fosters inequality and allows those with socially strong positions to – both through interpersonal interactions and state channels contributed to the oppression and exclusion of those who are more vulnerable and unable to combat the overburdened power of the state. More

⁴⁷ “Re-Cognizing Recognition: A Commentary on Patchen Markell’s “Bound by Recognition.” Page: 8

⁴⁸ “Re-Cognizing Recognition: A Commentary on Patchen Markell’s “Bound by Recognition.” Page: 8

concretely, this false sense of 'personal sovereignty' decenters the role of the state, and successfully absolves it from wrongdoing. Institutional and systemic problems, as is the exclusionary foundation of American Citizenship, become about individual people, giving rise to a game of tag between manufactured ill-conceived individual problems and the creation of individual solutions.

Conscious of the vulnerabilities of the *Politics of Acknowledgement*, Markell reinforces our belief in the politic by explaining that in looking inwards, individuals come to acknowledge their own “practical limits in the face of an unpredictable and contingent future.”⁴⁹ A process that “involves coming to terms with, rather than vainly attempting to overcome, the risk of conflict, hostility, and alienation.”⁵⁰ In acknowledging that we can be vulnerable to and victims of not only our fragility but of the shifting boundaries of citizenship, membership, and belonging, is what Markell emphasizes will ameliorate the injustices associated with exclusion. Obliterating the injustices associated with exclusion also requires that people voluntarily cede the personal power that defines and enriches their lives. An ask that is at best aspirational and unimaginable. It's at best idyllic to assume that those in power will willingly give up their power. Martin Luther King makes note of this when he said, “freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed.”⁵¹ If Dr. King's proclamation is true, Markell's articulation of acknowledgment as it stands is more than limiting; it is a fallacy that will never be materialized.

However, beyond what Markell categorizes as *The Politics of Acknowledgement*, I contend that there exists a *Politic of Reckoning*, that we can utilize to transform our societal

⁴⁹ Markell, *Bound by Recognition*, Page: 38

⁵⁰ Markell, *Bound by Recognition*, Page: 38

⁵¹ Martin Luther King, Jr., *Birmingham Jail*, 1963

order more effectively. What I refer to as *Reckoning* is an acknowledgment that “ [though] not everything that is faced can be changed, nothing can be changed until it is faced.”⁵² *Reckoning* involves not an elaborate masquerading with superficial fixes that terminate in the making of systemic issues into individual problems requiring individual solutions. The *Politics of Reckoning* holds the power of reinventing society, and our institutions anew. It is similar to the practice of abolition which indicates that institutions can be abolished and built anew. That is a reimagination dependent on undoing the foundation of American citizenship to reverse its exclusionary practices and tactics. By reimagining, we commit ourselves to the creation of not only transformative change, but we compromise simultaneously to the redefinition of our value in human rights. A redefinition where perhaps we get close to making effective demand for reparations for individuals, and communities, that have endured intentional and systemic and economic oppression. These transformative changes will necessitate shifts in power, incentives, and accountability. Moreover, *Reckoning* is not a noun, but a verb, an action—that though tasked with the previous ideals, is not confined to a static and narrow definition but is an evolving and malleable practice. Even further, *Reckoning* is a critique of how the exclusionary and racialized foundation of American Citizenship upholds a racial caste system that relegates groups of people (like the formerly incarcerated) outside the confines of membership and belonging.⁵³ This critique is grounded in the politics of acknowledgment because it necessitates that we acknowledge the legacy of slavery, segregation, and the imposition of second-class citizenship on Black Americans and other people of color continue to permeate the social fabric of this nation.

⁵² James Baldwin, “As Much Truth As One Can Bear” in “The New York Times Book Review” 1962

⁵³ “Halfway Home: Race, Punishment, and the Afterlife of Mass Incarceration.” Introduction.

Accordingly, the *Politic of Reckoning* rejects a selective remembrance of the country's past, where good bits are chosen, and the bad is discarded. In other words, where the past is remembered as something done—a finished project. American exclusionary citizenship is not a problem between good and bad actors, it is a symptom of the country's exclusionary foundation. Therefore, we must not continue to disseminate half-truths that result in half solutions but reckon with what the United States is in its entirety to fully transcend the boundary of exclusionary citizenship. In many ways, that is why, *The Politics of Acknowledgement* is instrumental to *reckoning* because it acknowledges that if we account for the past (and the cost, those who are excluded from belonging bare each day continuously on the basis of their exclusion) we can create a pathway to repair.

A state of repair that requires a rewriting of the concept of citizenship, and by doing so, we set a precedent that our inclusion and systems of powers need not be permanent and absolute but have the malleability and flexibility to change. A rewriting that essentially refers to the act of dismantling the exclusionary foundation of American citizenship. Creating a form of citizenship that is more inclusive and responsive to the needs of its citizenry, reliant not on a racial societal order, but on the building of institutions that are more receptive to the voices and needs of the people. It would be about forging a “ ‘common cause’ with those others identified as outside the structures, to define and seek a world in which we can all flourish. It is learning how to take our differences and make them strengths.”⁵⁴ Needless to say, this re-writing is essential, because, without it, it matters quite little if we attempt to change things within our current system and

⁵⁴“Meaning of ‘the Master's Tools Will Never Dismantle the Master's House.’ - Audre Lorde.” Activist School. Accessed May 1, 2022. <https://www.activistgraduateschool.org/on-the-masters-tools>.

institution — if that means simply building on top of an exclusionary foundation. Regardless of the challenges ahead, an overhaul of how we conceive of belonging and membership is needed to facilitate the lasting inclusion of marginalized groups (such as the formerly incarcerated) in society.

Consequently, *reckoning* allows us to contend with an important reality: punishment through incarceration is not accidental— it is a deliberate act that entails the denial of rights. Though the *Politics of Acknowledgment* is not perfect, *reckoning* allows us to see things in a much more nuanced and profound way. It allows us to understand that punishment by incarceration and the denial of rights it entails does not just happen to some over others—but rather reinforced the nexus of citizenship, creating both equality and inequality. Equality in the sense that those considered citizens are not presumed to have equal standing but have access to rights and privileges as permissible by the status. Meanwhile, inequality is materialized in the drawing of distinctions that create the category of “non-citizens,” who are not entitled and thus denied rights and the ‘privilege’ of belonging. In light of this contention between equality/inequality, American citizenship exists as a site of continual contestation that “has always required [some sorts of] struggle both to achieve and maintain.”⁵⁵ These tensions that lay at the heart of American citizenship [resurface time and time again] and [is why therefore that they seek to be] re-articulated in new ways, [time and time again].”⁵⁶ This level of reckoning is unlike any we could make under the politics of recognition which forces one to appeal to our exclusionary state and by default the exclusionary foundation of American citizenship

⁵⁵“Citizenship and Inequality: Historical and Global Perspectives.” *Social Problems* 47, Page 1

⁵⁶“Citizenship and Inequality: Historical and Global Perspectives.” *Social Problems* 47, Page 1

A grasp, therefore, that the story of how we got here; in terms of contemporary mass incarceration and the political and social exclusion the formerly incarcerated face once the doors of the prisons have closed behind them, is currently incomplete. *Reckoning* with the racialized disenfranchised status of the formerly incarcerated is a step in the direction of understanding—that the exclusionary foundations of American Citizenship are not a forgotten relic of the past; but a phenomenon with contemporary ramifications and spillage. It is the case that a successful acknowledgment—reckoning with our reality— represents not a binding of our (present) ourselves to the United State's past, but rather a chance of successfully transforming the societal order directly and not seemingly.

Why Is Reckoning Imperative ? Consider John McWhorter

When we fail to acknowledge our past, we are bound to repeat and replicate the mistakes of our fathers. That is why reckoning is imperative. When we skim through history, constructing our own narratives and stray away from historical facts, we dismiss the experiences of others and help the exclusionary foundation of the state, and mechanisms like citizenship configure and continue to operate on an exclusionary basis.

Of this, the arguments of linguists and Professor John McWhorter are an example. On October 2019, McWhorter opened up *The Hannah Arendt Conference* (which during that year focused on Racism and Antisemitism) by seeking to answer the following question: “What is Racism?” Racism: the belief in the superiority of one race over another in its most simplistic understanding, McWhorter reminds us, exists not without complexities. In American politics, racism is a black and white affair that revolves around black and white relations. McWhorter points to this romanticized depiction of racism in American Politics as the main culprit behind our inability to believe that “unequal outcomes do not stem from unequal opportunity due to race.”⁵⁷ McWhorter argues that the word “racism” is used as an oversimplification for certain issues, such as failing inner-city schools. Racism, as McWhorter explains, has nothing to do with the failure of the students of color who predominantly attend inner-city schools, rather, ill-trained teachers are to blame. To believe that racism is at play in the failure of inner-city schools is an oversimplification, which stems from a victimhood that Black Americans have adopted. Victimhood that resulted from a classic post-colonial inferiority complex, a sense of personal

⁵⁷ McWhorter, *The Hannah Arendt Conference, Bard College* “What Is Racism?” 2019

inadequacy to seeing imaginary obstacles to their success supposedly planted by white Americans.

To support his argument of Black victimology, Professor McWhorter argues Black Americans choose to wear the victim's mantle and fail to realize they have trapped themselves in their own stories of hurt and unfairness. Black Americans, as McWhorter puts it, believe that whites' inability to grasp the unmistakable reality of oppression is itself proof of racism. Simultaneously, he argues that some Black leaders make use of the ideology of victimhood for political advantage. In other words, it is easier for Black politicians to ensure that racism itself remains the biggest obstacle to Black progress in today's America. The Democratic and Republican parties behave similarly. Democrats blame Republicans for mass incarceration citing Richard Nixon as the man behind the War on Drugs and the ultimate force that has shaped the current state of our prison system. Meanwhile, Republicans point to Bill Clinton and his 'superpredator' rhetoric as a devastating harm to Black communities, of which they have yet to recover. Needless to say, both parties are involved in race relations only as far as attributing blame to one another goes. McWhorter points to the finger-pointing between the parties and the lack of comprehensive policy and legislation as the reason why black communities remain impoverished and not the common narrative of racism, adding validity to his claim "unequal outcomes do not stem from unequal opportunity due to race."⁵⁸

McWhorter's narrative, however, is not absolute. Elizabeth Hinton, author of *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America*, contends that Nixon implied that "changing demographics threatened the safety of the ordinary

⁵⁸ McWhorter, *The Hannah Arendt Conference, Bard College* "What Is Racism?" 2019

American.”⁵⁹ Despite not resorting to “explicitly racist imagery,” the Nixon campaign evoked fear of neighborhood change, urging the electorate to vote “as their whole world depended on it.”

⁶⁰ Rhetoric undoubtedly developed in efforts to cater towards white conservatives in direct opposition to the racial equality *Civil Rights* legislation momentarily represented. In other words, “Nixon appealed to Americans who feared the consequences of the great changes they had witnessed during the social movements of the 1960s.”⁶¹ Capitalizing on the fear of Black racial progress materialized by the Civil Rights Act of 1964, subsequent progressive legislation, and the Black activism that rendered it possible, Nixon set out to devise a system that covertly proposed that the true heart of the crime problem was the “issue” of the Black-urbanite. “You have to face the fact that the whole problem is really the blacks... The key is to devise a system that recognizes this while not appearing to.”⁶² Ultimately, this system fueled by racist intent increased not only the policing and punishment of criminality racialized as Black but exacerbated the rise of the carceral state and what is considered modernly as mass incarceration.

Hinton’s explanation of how our current crisis of mass incarceration emerged as the result of a rise in punitive crime policy motivated by a fear of Black racial progress— also speaks to how citizenship works in the United States. How citizenship finds ways, time and time again, to exclude those it never meant to include from its onset. In that, McWhorter's failure to acknowledge and engage with this reality positions him and his argument as one that seeks to be recognized within the state’s exclusionary apparatus. His argument and narrative support and

⁵⁹ Hinton, Elizabeth Kai. 2016. *From the War on Poverty to the War on Crime : The Making of Mass Incarceration in America*. Cambridge, Massachusetts: Harvard University Press. Page, 139

⁶⁰ Hinton, *From the War on Poverty to the War on Crime*, 139

⁶¹ Hinton, *From the War on Poverty to the War on Crime*, 139

⁶² Hinton, *From the War on Poverty to the War on Crime*, 142

upholds the exclusionary foundation of American Citizenship as it stands. McWhorter dissolves citizenship from its exclusionary foundation. Furthermore, it reduces the modern exclusion of minority groups like the formerly incarcerated, as one that is an individual act and failure and not a consequence of the state's exclusion.

Nevertheless, the narrative that Black Americans are drenched in a world of victimhood is not new. Professor McWhorter isn't the first and definitely won't be the last to suggest racism has been eradicated and thus is a relic of the past. At the same time, I am not the first nor the last person to challenge this narrative. Although slavery was 400 years ago, its "legacy" remains entrenched in our society. As Michelle Alexander best explains in *The New Jim Crow*, slavery was a caste system, dictating how one's life would turn out based on the circumstances of birth. In the era of mass incarceration, being born black and male dictates the likelihood of ending up in prison. Subsequently, after the demise of slavery, it was no coincidence that the nation saw its first prison boom—made up primarily of former slaves. It was a new system designed to exert similar control and repression of blacks.⁶³ A reference to slavery by Black Americans is not a sign of victimhood. It is a mere reflection of their reality. After all, slavery represents the evolution of a political and economic system built on racial exploitation, the theft of Black labor, and the demonization and dehumanization of Black people.

While the argument that racism is often used as an oversimplification is a valid one, it is hard to agree with McWhorter's argument that racism has nothing to do with unequal opportunities and unequal outcomes, all of which shaped the lives of Black Americans.

⁶³ Waldman, Michael, Jeremy Travis, Ames Grawert, and Hernandez D. Stroud. "The History of Mass Incarceration." Brennan Center for Justice, April 5, 2022. <https://www.brennancenter.org/our-work/analysis-opinion/history-mass-incarceration>.

According to McWhorter, the large-scale migration of white people into the suburbs, commonly known as *White Flight*, is not to blame for the failing inner schools of today. However, how can it not be? It is too much of a coincidence that the ‘redlined’ areas on the maps became self-fulfilling prophecies, as “hazardous” neighborhoods were starved of investment and deteriorated further in ways that most likely also fed white flight and rising racial segregation. Today, three out of four Black Americans live in inner cities, meaning children are condemned to disadvantaged educational careers based on their zip codes. Each year per-pupil funding in New York City schools is cut, even as operating costs have continued to increase. This lack of funding is what incentivizes underperforming schools to hire new and inexperienced teachers. To say failing inner-city schools are a symptom of racism is not an oversimplification—it is an ugly truth.

McWhorter's argument that "unequal outcomes do not stem from unequal opportunity due to race" only works as long as we ignore that racism creates unequal opportunities and thus yields unequal outcomes. Failing to acknowledge that racism is more than a personal ideology, and is in fact, a system upheld by various people and cemented by the states and political actors— McWhorter misconstrued the architecture of American racism as an unfortunate accident, instead of a system that was intentionally devised to acquire and keep power. Moreover, while individual choices are damaging, racist ideas in policy have a wide-spread impact by threatening the equity of our systems and the fairness of our institutions.

By reducing racism to a personal choice that one chooses to be a victim of, McWhorter fails to reckon, invoking neither the *Politics of Recognition* (as a masquerading attempt) nor the *Politics of Acknowledgement*. Had the professor invoked the *Politics of Acknowledgement*, it

would be evident that solutions to racial inequality (and racism) require an assessment of what creates inequality in the first place, rather than accommodating or legitimizing authority. Grounded in the *Politics of Acknowledgment*, it would be evident that to truly contend with ‘racism,’ we must be committed to making unbiased choices and being anti-racist in all aspects of our lives. To be an anti-racist, as to contend with racism through the *Politics of Acknowledgment* is, therefore, a “radical choice in the face of history, requiring a radical reorientation of our consciousness.”⁶⁴

Facing the exclusionary foundation of American citizenship requires that we commit to understanding our past to incite real change and move forward. Adhering to a *Politics of Acknowledgement* allows us to start doing that necessary work at an individual and interpersonal level—becoming actively conscious of our rights and privileges and our role in a system of belonging and membership that is forever in flux.⁶⁵ Reckoning through the *Politics of Acknowledgement* allows us to see that the denial of citizenship rights as they affect the formerly incarcerated is not an isolated phenomenon but a problem that involves everyone, and thus oneself. We all have a role to play in stopping it. The denial of civil rights as they affect the formerly incarcerated is everyone’s problem—including mine, and I’m going to do something about it.”⁶⁶ This realization can only occur upon the acknowledgment that the intentional exclusion of the formerly incarcerated exists today as a direct result of American citizenship

⁶⁴ “Being Antiracist.” National Museum of African American History and Culture, December 16, 2021. <https://nmaahc.si.edu/learn/talking-about-race/topics/being-antiracist>.

⁶⁵ Young, Iris Marion. 1989. "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship". *Ethics*. 99 (2): Page 258

⁶⁶ “Big Brains Podcast: Why Life after Incarceration Is Just Another Prison.” Why Life After Incarceration Is Just Another Prison: Big Brains Podcast | University of Chicago News. Accessed May 1, 2022. <https://news.uchicago.edu/big-brains-podcast-why-life-after-incarceration-just-another-prison>.

exclusionary foundation: the historical and contemporary policies, practices, and norms that create and maintain a white America where some are afforded membership and belonging, whereas others are not. By acknowledging this, we can challenge harmful narratives— that is to achieve true reckoning, a true opportunity at changing things fundamentally and radically.

While I agree with Professor McWhorter's assumption that Democrats and Republicans engaged too frequently in attributing blame for the consequences of institutionalized racism on one another. It is hard to agree with the claim that somehow political blame-shifting is responsible for Black victimhood or that Black Americans exercise some type of victimhood. As a result, McWhorter's argument that “unequal outcomes do not stem from unequal opportunity due to race,” only works as long as we fail to reckon, ignore and misrecognize that racism creates unequal opportunities, and thus yields unequal outcomes.

A False Reckoning: Invoking the Politics of Recognition: An Anecdote

During the spring of 2020, on May 25th to be exact, George Floyd, was murdered at the hands of Minneapolis police officers. In the days, following the rapid of distribution of the video footage that would bring into evidence George Floyd's murder by Darnella Frazier, a 17 year old Black girl, a wave of civil unrest erupted through the United States.⁶⁷ Two months and 12 days before Floyd's death, Breonna Taylor, was brutally shot and killed by police in her own home. The Louisville Metro Police Department (LMPD) in their failed execution of a *No-knock Warrant*: a warrant issued by a judge that allows law enforcement to enter a property without immediate prior notification of the residents, such as by knocking or ringing a doorbell— fired 32 shots, with at least eight bullets hitting Breonna and killing her while she slept.⁶⁸ Taylor's home was never searched, and the two people suspected of selling drugs, neither of whom was Taylor or her boyfriend Kenneth Walker (who was also shot by police but survived his injury) were found in the home.

Following the vast purification of Taylor's and Floyd's death, the United States witnessed an uproar, as protests spread throughout the country from coast to coast. Polls estimated that at the heights of these protests between 15 million and 26 million people participated at some point in demonstrations making them the largest protests in United States history.⁶⁹ Such a large

⁶⁷ Hernandez, Joe. "Read This Powerful Statement from Darnella Frazier, Who Filmed George Floyd's Murder." NPR. NPR, May 26, 2021. <https://www.npr.org/2021/05/26/1000475344/read-this-powerful-statement-from-darnella-frazier-who-filmed-george-floyds-murd>.

⁶⁸ Ansman, Chris. "Louisville Metro Police Department - Louisville, KY." LMPD. Accessed May 1, 2022. <https://www.lmpd.com/index.php?name=News&file=article&sid=63>.

⁶⁹ "Black Lives Matter May Be the Largest Movement in U.S. History." The Carr Center for Human Rights - Harvard Kennedy School, July 3, 2020. <https://carrcenter.hks.harvard.edu/news/black-lives-matter-may-be-largest-movement-us-history>.

number of people participating in this civil unrest precipitated what many scholars have referred to as a '*National American Cultural Reckoning*' on topics of racial injustice. So much so, that as of June 2020, the United States was considered the international epicenter of '*Racial Justice Reckoning*.' A reckoning that since the summer of 2020, has not ceased to be referenced and endlessly recalled in various conversations from police violence and brutality to discrimination. As it is, tradition, highly-publicized killings of Black Americans sparked outrage, and a national movement, the United States government, and other important political actors could clinch on to allude to a superficial eradication of racism and its evils.

Please note the importance of this anecdote. This anecdote is important because it is an example of how the United States, at best, tried to come to terms (through the *Politics of Recognition*) with its history of racial injustice and the reality of police brutality. At best, in the sense that finally, questions about adequate police training, the effectiveness of police cameras, rampant police violence, and the murders of marginalized groups and people at the hands of police appeared to make an entrance into the political mainstream and the imagination of many Americans. Conversations entitling abolishing the police, punishment, and prisons versus what can we do to 'reform' said intuition forced the United States into a tug war of sorts, resulting in two sides of the same coin fighting relentlessly against one another. Achieving marginally, nothing substantive (at least) in the end and leaving the same vulnerable groups they attempted to safeguard and brainstorm solutions for unprotected and voiceless.

In an attempt to reckon vis a vis the *Politics of Recognition* the United States had failed. Its attempt at *reckoning* functioned only superficially as any potential for real change caved to the illusion of diversity, equality, and inclusion. Today, as during the time before Geroge Floyd

and Breonna Taylor were murdered, the United States has an unacknowledged and unaccounted racist past. The connections between slavery and modern-day mass incarceration are not invisible, yet an address to mass incarceration has not only been stagnant but has also been derailed. Invoking the powers of the *Politics of Recognition*, the country went from painting pavements with ‘Black Lives Matter signs,’ police officers kneeling during protests, to passing the *George Floyd Police Act* that increased police budgets and the number of police officers nationwide —instead of listening to various pleas from the population urging for defunding the police.

It follows that, appealing to the *Politics of Recognition* in the aftermath of Summer 2020, resulted in purely symbolic remedies, and catapulted us into a state of perpetual suspense, knocking on doors that have no reason to open, with a message that need not be heard. While the *George Floyd Justice in Policing Act of 2021* addresses a wide range of policies and issues regarding policing practices and law enforcement accountability. Such as an attempt to increase accountability for law enforcement misconduct, restricting the use of certain policing practices, enhancing transparency and data collection, and establishing better practices and training requirements. Even goes a step further by also banning federal law enforcement from using chokeholds like the one that ended Floyd’s life, and from using no-knock warrants in drug cases — like the wrongly executed resulting in Taylor’s murdered in March of 2020. The bill ultimately falls short, as most of its provisions make changes only at the federal level — the federal government has very little control over how state and local governments choose to police their populations. Making evident that Floyd’s and Taylor’s lives would have not been saved by

the provisions of this bill—unveiling the bill as a symbolic reorganization of the state's oppressive and exclusionary mode of operation and governance.

Though I must note, not many people agree with me. The ‘recognition’ that the state-sanctioned murder of Ahmaud, Breonna and Floyd garnered is on the contrary not contextualized as a simple reaction by many people. They disagree with me and truly believe the *Politics of Recognition* has worked in their favor (though, they don’t necessarily cite the politics of recognition). They conceive that Summer 2020 did not culminate in the materialization of individualistic crusades or protests. For them, it is not as simple as rage directed at one particular incident. Instead, they believe that the protests that emerged and the response of the government that followed, such as the passage of the George Floyd Justice in Policing Act of 2021, successfully emerged from a long history of Black Americans being subjected to the brutality of a racist state and unequal institutions. The passage of this bill is a chance to finally no longer be denied access to the trappings of the American dream, to being historically and continuously excluded from the promise of American citizenship, and from being exploited by a system that consistently plunders and takes from Black people and Black communities. Yet, I wonder how narratives like these come to fruition when at their most basic demonstration, the history of Black protest seeks to make clear that the state is illegitimate, that the social contract that governs our lives has historically failed Black people and continues to fail them. Ironically, in adhering to these narratives, those who find themselves in disagreement with me, reduced Black protests to the status of a tool, which the state utilizes to advance the guise and direction of the *Politics of Recognition*. When in reality, Black protests stand in full contraction of the politics’ principles. Black protests are a beacon of hope, a chance at true democracy for all people with

the complete understanding that the safeguards that we envision as American democracy have failed Black people.

In the end, appealing to the *Politics of Recognition* resulted in more cameras, more training, more money spent on policing. A result, that reduces the United States' reckoning to a reconfiguration made up of empty words and promises, and buzzwords used in news clippings and reports to garner attention with no real results. For nearly two decades, law enforcement agencies have explored and implemented the use of body cameras as a tool to help hold officers accountable — yet, since their first inception studies have indicated that the presence of body-worn cameras has minimal effect as a deterrent. For example, a 2017 study in Washington, D.C., that examined more than 2,000 officers also found body cameras had a negligible effect on officer behavior. “These results suggest that we should recalibrate our expectations of [body cameras’] ability to induce large-scale behavioral changes in policing,” the paper stated.”⁷⁰ The *Politics of Recognition*, in this case, retracted to utilize the same tools that have proven to be ill-effective because they sustained the illusion that the government is listening to its citizens. Giving police officers cameras, on one hand, seems to single clear evidence and accountability, but simply, it is the *Politics of Recognition* working to yet again to absolve the state from its failure and complicity in the killing of its citizens, and thereby reduces police violence to the mistake of a few “bad apples” and bad actors. In this way, the *Politics of Recognition* allows the United States to evade a true state of accountability or acknowledgment, it allows it to remain untouched. After all, training cannot reach very far without a more fundamental reimagining of

⁷⁰ Norwood, Candice. “Body Cameras Are Seen as Key to Police Reform. but Do They Increase Accountability?” PBS. Public Broadcasting Service, June 25, 2020. <https://www.pbs.org/newshour/politics/body-cameras-are-seen-as-key-to-police-reform-but-do-they-increase-accountability>.

the role of the police. Policing in this country evolved from slave patrols. It has never been a neutral institution, and the *Politics of Recognition*, quite ironically, fails to overhaul this foundation.

Even so, some will note the trial of Derek Michael Chauvin and his sentencing as a win and a sign of justice for George Flyod and his family. However, Chauvin's trial and sentencing is an exception to the rule. Equating justice and a truthful address of this country's racial relationships should not lie in the fleeting possibility that is the prosecution of murderous cops and agents of the state. It is not a solution. Chauvin was prosecuted and sentenced, but the same cannot be said about the police officer who carried out the no-knock warrant that killed Breonna Taylor and of Kim Pottern the former Minnesota police officer (recently sentenced to two years in prison) who 'mistakenly' drew a gun instead of a Taser and fatally shot Daunte Wright. Police brutality and the murder of innocent Black Americans at the head of agents of the state, are then, in turn, reduced to an individual problem involving individual bad actors that "do not represent" the institution presently or throughout history. An institutional and foundational failure is effectively rewritten, as one that is individual, one that is circumstantial, one that is particular to an "isolated case," a product of particular time and space, and not a real magnification of the nation's long and violent history.

Failing to materialize, *the Politics of Recognition* enables the United States to participate in seemingly progressive politics while also allowing a sort of reconfiguration that evades accountability and the substantive *reckoning* necessary to "transcend the conflictual and potentially unjust dynamics of recognition."⁷¹ This inability to transcend dynamics of recognition

⁷¹ Malloy, Tamar. "Tamar Malloy, Reconciving Recognition: Towards a Cumulative Politics of Recognition - Philpapers." *Journal of Political Philosophy*, January 1, 1970. <https://philpapers.org/rec/MALRRT>.

is worthy of more attention because, since Summer 2020, public conversations have moved from let's all try and understand and talk about systemic racism to let's never mention systemic racism. When protests were at their highest, instead of seeking to protect their citizens, state governments mobilized to criminalize them, making protests a crime and a felony which would increase the prison population in the United States and obstruct thousands from voting and participating civilly. It is extremely telling that in the wake of unrest following George Floyd's murder, several states (most notably, the state of Florida) raced to introduce laws to hold protesters criminally and civilly responsible for property damages that occur during protests.

The *Politics of Recognition* have not metamorphosed to a meaningful reckoning, but rather in *Backlash*—a severing of mobilization and in an attempt to make people afraid of asserting their rights, and toward addressing systemic racism and police misconduct. These laws were yet another avenue state actors were willing to take, to yet again, deprive Black people of not only of their First Amendment rights but of their civil rights by imputing criminality to them. If reckoning was something the government was considering and seriously interested in, state governments would end the route of a no-knock warrant, granted that their success rates are low — and they are dangerous to both enforcers and their suspects, instead of reducing political progress and the address of civil unrest to painted pavements.

I know—you might be wondering what this has to do with citizenship and the formerly incarcerated, but simply the answer is everything. Summer 2020 was the country's attempt at *reckoning* with its national history of police violence, as it relates to what has been designated relics of the past; the War on Crime, Poverty, and Drugs, the institution of slavery, and the Jim Crow Era legislation. All that was never adequately confronted when political actors attempted

to remedy their societal spillage by putting kink folks in high places, by implementing reformist practices that have not produced positive and redundant outcomes since they were conceived as probable solutions. *Reckoning* with police violence should be an investment we as a society uptake not only when the murder of individuals is graphically depicted in videos, but through a comprised understanding that these societal ills have emerged not out of thin air—but rather have a long track record. One that, in many cases, is imprinted in the social fabric, legal precedent, and laws of this country.

In the end, the United States appeared to be responsive to the different pleas and appeals marginalized and excluded groups made during summer 2020 (mainly marginalized groups who are disproportionately affected by police violence and brutality) by apparently ‘including’ them in the decision-making process— when they invoked the *Politics of Recognition*. While their appeals and demands were not outrightly dismissed, the states instead of reckoning as its citizens demanded, rendered those seeking accountability on part of the state powerless, forcing them to come to terms with a cruel reality—the extension of rights they had witnessed was simply a piece-meal and self-serving to the state itself.

Why Must We Reckon?

Coming to terms with the aftermath of Summer 2020, and the failure of the politics of recognition, begets the questions: What does a successful *reckoning* require? Even further, as a political concept, what does *reckoning* achieve? Having established that the United States failed in its attempts to truly *acknowledge* and reckon following the aftermath of Summer 2020, it is imperative that we establish what a successful *reckoning* would look like. It is, therefore, important to understand that, at its most basic level, *reckoning* with police violence lies in understanding that punishment is not simply a black and white affair. It is important to understand that the threat of police violence and punishment involves direct consequences such as the suspension of rights and liberties. Whereas Mass incarceration is a racialized phenomenon in that 5.17 million Americans have a felony record, and 67% are black and people of color who find themselves on the margins of political participation and agency, and figuratively ghosts in their communities. Policing is itself the gateway to prison. It is how people become sacrificial victims aiding the growth of prison populations.

Beyond superficially recognizing that the foundation of the United States, as a white settler colonial empire, is inexorable from the way it has operated to exclude those it never meant to include or consider when envisioning the ideal citizen. We need to acknowledge that there is more work to be done and that a recounting of the past, a regurgitating of the historical narrative we know to be true—is just not enough. Though it would be a miscarriage to assume all Americans have an equal understanding that citizenship in the United States has operated paradoxically since its inception. Much articulating of this past and truth has not given us

anything. Beyond theory and the construction of a narrative that seeks to combat another entrenched in *White Supremacy*, and practices of exclusion, we need to ask what is there to be done? What can be done within our lifetime that gets us close to transformative change? What can we do to combat the pervasive thread that renders American Citizenship inseparable from a pattern of expansion, contraction, and backlash that allows the codification of exclusionary and racist practices?

I'll be the first one to admit that these questions are charged. They are heavy, complex, and require unpacking. There's no one right answer, at least no straightforward answer. I have insisted that we need to contend with the true reality, that is that citizenship was predicated upon a deep, racialized structuring of the social world. Where positive articulations of citizenship are simplified historical narratives that fail to address the (racialized) exclusion that were also constructive of them. Raw and honest histories need to be acknowledged largely in part because the settler colonialism and enslavement that founded this country operated at the same time the United States was constructing the ideas and practices that today inform and make up modern citizenship in the United States. All of which means that:

“Given the centrality of [these]ideas, citizenship cannot simply be extended to these other groups [historically excluded groups] as it is based from the outset on their own historical exclusion. These exclusions, then, are constitutive of the form of modern citizenship, and their inclusion would require an address of the initial exclusionary moment both conceptually and materially. Given that our dominant understandings of citizenship see it as a mechanism for producing inclusion, we fail to understand its beginnings as an institution fundamentally based on exclusion. This exclusion cannot be regarded as a mere contingency. As a consequence, those who are excluded are doubly disavowed.”⁷²

⁷² Clarke, John, Kathleen Coll, Evelina Dagnino, and Catherine Neveu. “Recentering Citizenship.” In *Disputing Citizenship*, 1st ed., 9–56. Bristol University Press, 2014. <https://doi.org/10.2307/j.ctt9qgzqg.5>.

To understand this history and its narrative, is to acknowledge the outsider positionality the formerly incarcerated are forced into after the doors of prison close behind them is a consequence of exclusionary historical actions that made citizens of some and subjects of others. To acknowledge this system is to get closer to a reckoning with this history, it is to identify a foundational flaw in American Citizenship that for long has been ignored. A flaw that has not only shaped the nation and the world we live in today, but the one the formerly incarcerated must navigate. The *reckoning* necessary illustrates our past since the sin of our fathers has ramifications in our present, granted only then can we reimagine society. Only then can we get closer to a form of citizenship that is inclusive, and not exclusionary, not one on a temporal axis where rights can be suspended and denied, but rather one that is consistent from one birth to one's death, universal in theory but also practice.

Simultaneously, once we have reckoned with these “historical facts,” what is next is not so very clear. For years, at some point, we have found ourselves recounting painful events of this country's history. At best, it has served as a reminder of what we know to be true, the United States is a land of contradictions and at worst it has kept us stagnant. It is telling that almost two summers ago, it was the murders of George Floyd, Breonna Taylor, Ahmaud Arbery (among others) who sparked a national uprising, “a national reckoning.” The unveiling of the pervasive anti-Blackness entrenched in every aspect of American society was conceived as a reckoning, but no structures or institutions were shaken, nothing was uprooted, overhauled, or changed. Reckoning as it was used, was a buzzword, and it is telling that America can only reckon when Black citizens are graphically killed and immortalized in video. It is telling because of the

complex intersections of history, politics, and the law, and how race and *White Supremacy* function to hinder, constrain, and outright destroy the lives of Black people. Invoking the language of reckoning, without actually taking actions to make *reckoning* a possibility, makes further evident that Black death is normalized in the United States; it is not a shocking moment (not that it should be in the first place). Black death is not a point of *reckoning* in the United States because there is no prescribed value to Black America. Meaning, Black death, can only be truly perceived by Black Americans, because for them it is another reminder that they exist within the parameters of this society without protection, without a true sense of belonging or membership.

Unfortunately, this is not a new phenomenon or a unique situation of our current times. Black Americans have always been left to reckon with their own positionality in society because they have always been on the oppressive receiving end of the American exclusionary foundation. Though, during the past two years, the United States has been described as a state of ‘reckoning.’ What does it mean to reckon, if reckoning— even if a false masquerading of the real deal, has only been conceivable following the murder of Black people? We must question why to reckon (even if falsely), Black people have to die, why civil unrest has to erupt?

To leave things on a positive note, reckoning as defined earlier refers to a revolutionary and transformative change that alters society in a truly profound way. To alter and overhaul the exclusionary foundation of American citizenship, I further contend, requires a grounding in the practices of *Afro-Presentism* — a philosophical view that the present is the only ‘time’ that exists and that past and the future do not. “Presentism acknowledges the past but realizes that the

present should hold the spotlight.⁷³ That is to say, one cannot languish in recounting the wrongs of yesterday. It is the road that leads to the future, and inspection of the present, as well as the events that have led to them, is vital to moving towards a better future.⁷⁴ A way of thinking that emerges from *Afro-Futurism*, a movement that started within the African-American community in the 1960s which sought to paint a very different view of the future than what they were being told was “possible.”⁷⁵

Afro-Futurism, which plays into a surrealist space, has no connection with reality; like the *Politics of Recognition*, (oddly) does not shatter or overhaul our currently exclusionary institutions and practices. It calls for reimagination, but that reimagination is focused on a future that we have not yet seen. One that, presumably, we might see. Meanwhile, *Reckoning*, grounded in the practices of *Afro-Presentism*, does include a reimagination and a belief that our future will be different, but it is not dependent and reliant on the future. *Reckoning* like *Afro-Presentism* requires that we change things as they exist. Currently, and presently, our American exclusionary foundation needs to be transformed, and we cannot wait patiently for a future when things will be different. What we need is an overhaul of our present. To do this, we must ground ourselves in the insight that our day-to-day experiences provide. I have chosen a framework like Afropresentism, because while it is distinct in that it does not situate the future as a place of escapist utopia; it aims to claim space boldly and unapologetically in the present.⁷⁶

⁷³ Ingram, David and Jonathan Tallant, "Presentism", *The Stanford Encyclopedia of Philosophy* (Spring 2022 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2022/entries/presentism/>>.

⁷⁴ Ingram, David and Jonathan Tallant, "Presentism", *The Stanford Encyclopedia of Philosophy*

⁷⁵ "On Afropresentism." Neema. Accessed May 1, 2022. <https://www.presentism2020.com/on-afropresentism>.

⁷⁶ "On Afropresentism." Neema.

I have come to believe in the necessity for reckoning in this way, because not so long ago, I believed in the optical illusion of recognition. I thought that being seen and recognized by the state was the only viable means for progress. That simply being seen by the state and therefore included was a step in the right direction. However, I have also come to realize that being recognized entails that the same violent and traumatic stories are not only told but experienced time and time again. These stories, of violence, and oppression, of death and despair, have been written and rewritten and yet the state only superficially seems to accept them as important, as worthy of unpacking. The endless loop of telling stories and narratives of exclusion have reopened traumatic wounds that haven't yet healed and probably never will. In discovering that recognition is not viable because it falls short of reaching a profound transformation, I come to believe that the stories of those who are forced into the outside of society, (like that of the formerly incarcerated), without a true sense of belonging and membership need not be told endlessly, but simply need to stop being erased. The stories, reality, and life experiences of those who were never intended to be seen as citizens need not be told time and time again. They simply need to be allowed to exist to take up space without being written out, without being erased.

That is why I asked if the *Politics of Recognition* matters, if it does, to whom does it matter? When? Where? Why? How? The *Politics of Recognition* allows us to fall onto an unending loop of reinstating harmful, oppressive, and exclusionary practices. When we seek to be recognized, we make these true stories placeholders and pawns that the state uses to further their exclusionary agendas at the expense of our own recognition and inclusion. It is a hard truth to accept, but to truly disable the exclusionary foundation of American

citizenship, we need more than to simply be seen. Citizenship, as it stands, cannot save us, cannot see us, because its institutions and its practices are quite literally carved out of the bones and blood of the ancestors of those who still are not allowed to belong. If inclusion and recognition allow these institutions to remain unchecked and unchallenged, if, in the end, we are individualized as our own heroes, as the tending mamies of this country, we enable political structures and projects like *White Supremacy*, to envision a future and world without us in it.

The *Reckoning* I am interested in acknowledges that being seen quite frankly does not lead to an overhaul of the current social order, its institutions and structures. What does it mean to be included if *White Supremacy* functions to erase us because we are unimagined? It matters, therefore, that when reckoning, we go beyond my own proposed framework of acknowledgment. Room and space should be made for those that are excluded today. As well as those who stand to be excused in the future that today is unwritten. Belonging should not be individualized. It should not be about one group of exclusionary subjects against another, but all those excluded against the structures and systems that keep all of us out. *Reckoning* is about rejecting the narrative that says that only one group of excluded subjects can be included, if and only if they agree to help sustain the exclusion of others. It is about shattering our current foundation by not working within the system, but forging a new one, where we do not have to look for a seat at the table or lean into power, but where when we can truly exist, not as 'progressive representational pawns' for others like us, but only for ourselves. It is about stepping into our own narratives without preventing others from telling theirs, and that means rejecting

the urge to compete for scraps, attention and recognition in the first place. That means rejecting the feeling that to truly belong we must be in competition.

There is no true answer for what *reckoning* will look like in the end, and perhaps that is what makes it what you might describe as unattainable and aspirational. Yet, because we know what reckoning is not, we know that there is a glimpse of hope that a true reconstruction, a true transformation of our social order as we know it, is possible. True reckoning begins as soon as we ensure that our stories can be told without recognition, because they hold intrinsic value without the politics of being ‘seen.’ As a result, the United States will come to reckon when it remembers, without misremembering its foundational past, without erasing the truth, for it is only then that we can move into the truth. If we truly are at a true tipping point in this country's history. The questions remain the same. What will we do? What will all of us do? What risks are we willing to take? How far will we expand our imaginations of what is possible? Are we truly committed to reckoning with America as well as reckoning with ourselves? Together these questions lead us to one conclusion, that is, the work needs to be done, even if we can not imagine a future where our efforts and struggles have bore fruit and been successful.

Chapter 3 Reckoning Beyond The Limits Of Criminal Justice Reform: An Address For Mass Incarceration

“This is a measure of how difficult it is to envision a social order that does not rely on the threat of sequestering people in dreadful places designed to separate them from their communities and their families.” — Angela Davis

The Politics Recognition and The Failure Of Criminal Justice Reform

The statistics are clear. In the United States, there are 1,566 state prisons, 102 federal prisons, 2,850 local jails, 1,510 Juvenile correctional facilities, 186 immigration detention facilities, 82 Indian country jails, and several military prisons and prisons in the U.S. territories.⁷⁷ Together, these institutions house around 2.3 million people. In 30 years, the United States's prison population has grown by 500 percent.⁷⁸ No matter how we conceive of it, one thing is true: the United States has the highest incarceration rate in the world. We know this to be true, but rarely if ever, has there been at least a second devoted to figuring out why. It's one thing to pathologize communities and individuals and their mishaps as concrete explanations for why mass incarceration is a crisis today. Another is truly uncovering the systems and institutions, and structures that have enabled mass incarceration.

While the mentioning of systems, institutions, and structures hint that there are various and numerous mechanisms that could explain why mass incarceration exists as it does today. I contend that there is only one structure, one intuition, and system that has exacerbated punishment through confinement today. That is a racist and racial social order. The United States has risen and clinched onto its identity as a world superpower and white settler empire by proxy of its inherent exclusionary foundation. As previously discussed this exclusionary foundation relies not only on white supremacy—the belief that white people constitute a superior race and should therefore dominate society, typically to the exclusion or detriment of other racial and ethnic groups but also on notions of *Republican*

⁷⁷ Wagner, Wendy Sawyer and Peter. "Mass Incarceration: The Whole Pie 2022." Prison Policy Initiative. Accessed May 1, 2022. <https://www.prisonpolicy.org/reports/pie2022.html>.

⁷⁸ Wagner, Wendy Sawyer and Peter. "Mass Incarceration: The Whole Pie 2022." Prison Policy Initiative.

Freedom — which dictated that inclusion and recognition as American Citizens are dependent on exclusionary and dispossession practices such that of Native dispossession and slavery. Influential in the building and development of today's American landscape, the reality that these practices and options have spillage within our contemporary life cannot be disavowed. After all governmental foundations keep the country above ground but also are designed and imagined to regulate and influence the direction of government funding at local, state, national, and international levels. Therefore, when a foundation is flawed, it follows that any amendment attempting to remedy the many cracks that arise in the structure falls short if the glue keeping everything together is destined to continue to crack and require a continual address. There is essentially no progress— other than a circular, never-ending loop where ever so often one has to return to patch up the cracks we attempted to cover up once before.

Reforms seeking to address mass incarceration have functioned similarly, insofar as reforms have tried to mitigate the effects of the country's laws and punitive practices. Although these reforms have fallen short of transformative, they are regarded as the ushers of reduced crime rates and community safety. A description that is incomplete, because even when crime is at an old-time low, there is no time devoted to the question: At what cost? How much does it cost to uphold the illusion of safety— granted we know that prisons do not keep us safe and ironically they tend to actually increase crime. A fact that is due in part to the harshness of the prison environment, which is prone to exacerbate mental health problems, making people more susceptible to aggression. This failure to reckon with the cost of safety is what makes criminal justice reform so attractive despite its proven record of failure to materialize. We are frantic to

confront the cost of our safety because the cost is not a pretty picture—the cost looks like separated families, shattered futures and lives—it runs deep and is unrepentant. If the imprisonment of people is the end cost, then we need to acknowledge how our hands are tied to this problem, and how indirectly and often times directly we are also part of the problem, that is of the cost many around us have to pay. This is why, we must fight against any future articulations of successful prison and criminal justice reform, we must instead take a look at the bigger picture, a picture that truly details the detrimental impact of imprisonment, not only on individuals but on families and communities. After all, a part of the reason why prison reform is so attractive is because it allows us to individualize mass incarceration. We think therefore of ‘individual prisoners,’ not of the incarcerated as a complete group of people. We must come to understand the adverse effects of mass incarceration because it is often more comfortable to picture all the innocent people behind bars, deserving mercy, and freedom than it is to grapple with the fact that someone needs not to have proven to be deserving of a second chance in our biased world-view to be worthy of one.

Criminal justice and prison reform allow us to only feel compassion and duty to uphold the humanity of those we conceive as presumably innocent, and does not allow us to imagine how we can extend that presumption to all. How can we make it possible for all to be given the opportunity to truly be allowed to reintegrate into society without existing in the outside perimeter of social belonging? How can rehabilitation be an option that can encompass all? I contend that once we get close to asking these questions that force us to *reckon*, (though I acknowledge are a big ask), we get close to something profound. We get closer to a point where we are forced to truly feel uncomfortable, reckon, and simply reimagine how our present as it

stands can be made different. Instead of falling for the promised future of criminal justice reform which helps to reconfigure exclusionary practices by offering second chances to some at the expense of others.

More concurrently, it is important to understand criminal justice reform as a tool employed by the politics of recognition. If we can understand that the politics of recognition is an optics that keeps us stagnated in our efforts to be seen by an exclusionary nation state permeated on an exclusionary and racist foundation. Reforms, as a tool of this politic allow the state to reconfigure its exclusionary practices as its projects the image of remedial address and proactive solutions. Reforms like demands asking to be seen by the state visa via the politics of recognition fall short, time and time again, because as previously discussed they are not transformative. They do not overhaul or change anything, they are individual remedies forced to account for failures and problems that affect groups of people and communities. Reform cannot amount to transformative change if they stand on an unequal and inherent exclusionary foundation. It follows that one must question: what exactly is being reformed? If not the exclusionary practices of the state, that are rendered obsolete slightly diminish but instead are further enhanced and concealed. W. E. B. Du Bois who wrote about the abolition of slavery—contended something similar, as he pointed out that the end of slavery per se was not going to solve the myriad problems created by the institution of slavery. You could remove the chains, but if you did not develop the institutions that would allow for the incorporation of previously enslaved people into a democratic society, then slavery would not be abolished.⁷⁹

⁷⁹ Hannah-jones, Nikole. “America Wasn't a Democracy, until Black Americans Made It One.” The New York Times. The New York Times, August 14, 2019. <https://www.nytimes.com/interactive/2019/08/14/magazine/black-history-american-democracy.html>.

For the most part, reform as an address to mass incarceration is considered an inevitable and permanent feature of our social lives, and this is not accidental, it is purposeful. As Mariame Kaba contends, reforms seeking to address mass incarceration relieve “us of the responsibility of seriously engaging with the problems of our society, especially those produced by racism.”⁸⁰ For this reason, we must dare to imagine an approach that is bigger than reform, that is not a simple, superficial fixture but a concrete address that overhauls and transforms our current exclusionary structure. When we fall for the optical illusion of the politics of recognition and by proxy that of reform as Kaba further elaborates, when we allow the constricting processes of reform to validate not only the existence of mass incarceration, but that of the institution of prisons.⁸¹ In essence, reform its temporary fixes and goals to make facilities more humane reinforce the idea that imprisonment is a natural human occurrence. It figures that while we find ourselves committed to overhauling the exclusionary foundation of the United States, we must question why these systems exist and, instead, offer people alternatives to carceral ways of dealing with harm. What is reform, a means to an end, or an obstacle keeping us stagnant?

⁸⁰“Being Antiracist.” National Museum of African American History and Culture, December 16, 2021. <https://nmaahc.si.edu/learn/talking-about-race/topics/being-antiracist>.

⁸¹ Madden, Sidney, Sam Leeds, and Rodney Carmichael. “‘I Want Us to Dream a Little Bigger’: Noname and Mariame Kaba on Art and Abolition.” NPR. NPR, December 19, 2020. <https://www.npr.org/2020/12/19/948005131/i-want-us-to-dream-a-little-bigger-noname-and-mariame-kaba-on-art-and-abolition>.

The Promise of Criminal Justice Reform And The Rise Of Progressive Prosecutors

By definition, a prosecutor is a “legal representative of the prosecution in states with either the common law adversarial system or the civil law inquisitorial system. The prosecution is the legal party responsible for presenting the case in a criminal trial against an individual accused of breaking the law.”⁸² Simply put, prosecutors are protectors of the state and its interests. Sometimes, they do defend people, but for the most part, a prosecutor is tasked with defending the law of the United States by any means necessary. Some people conceive prosecutors as lawyers that are seeking to impose justice within the bounds of the law, not merely looking to convict. However, prosecutors are not selfless protectors of the state, simply seeking justice. Prosecutors are the most powerful officials in the American criminal justice system. The decisions they make, particularly their charging and plea-bargaining decisions, control the operation of the system and often predetermine the outcome of criminal cases. In other words, a prosecuting attorney has the discretion to charge the case (or not) to decide what the charge will be, or dismiss it. That is a huge amount of leverage and power to have. The prosecutor is therefore an extension of the state tasked with criminalizing all those who transgress the bounds of American law without any regards of the role the state has played in the creation of the offence and crime that now needs deliverance.

If we understand prosecutors as extensions of the state, then we can conceive of prosecutors as key contributors to the problem we regard today as mass incarceration. As the gatekeepers of the criminal justice system prosecutors cannot be divorced from the damage they

⁸² “Prosecutor.” Wikipedia. Wikimedia Foundation, April 28, 2022. <https://en.wikipedia.org/wiki/Prosecutor>.

have caused to countless communities and people, in their efforts to defend the state and the law. However, it must be noted that prosecutors are not individual actors, as an extension of the United States exclusionary foundation, they are not all bad apples, in a broken system, they are as much tools of the system itself as they are ruthless defenders of it. This has not stopped the rise of a movement dubbed: *The Progressive-Prosecutor Movement*. A movement described by *The Atlantic* as a “well-intentioned” movement that forces one to consider— can one change the system while being part of it? Is it possible to create change from within the current consensus reality? If the consensus reality we find ourselves a part of was created through the use of violence and bloodshed, how can we change if not by enacting the same amount of violence and bloodshed? There are people (like myself) who believe that ‘if you are trying to change the system you can’t change it by being part of it.’ *The Progressive Prosecutors Movement* asserts that despite their positionality as an arm of the state, they make a note-worthy dent in the criminal justice system and cast a profound solution to mass incarceration without changing a single law. According to the movement, prosecutors can single-handedly transform the broken American criminal justice system, since they have been bestowed the power to deepen racial disparities as co-signers of disproportionate long and harsh sentences. It is to say, as agents of the state by proxy, prosecutors have sufficient power to continue to drive mass incarceration — or end it.

To end mass incarceration, progressive prosecutors promise to bring fairness to the criminal legal system—by doing things such as “declining to prosecute certain low-level offenses, expanding diversion programs, and replacing hardline assistants with reform-minded

outsiders.”⁸³ A promise that, as Darcy Covert explains in his article for *The Atlantic*, *The False Hope of the Progressive-Prosecutor Movement*, liberal activists and politicians, and even a Supreme Court justice, have endorsed as instrumental to criminal legal reform.⁸⁴ By changing their punitive stances in regards to bail and limiting their reliance on plea bargains, prosecutors who self-identify as progressives attempt to mitigate the harm they can and have caused in the past to an innumerable amount of people and their respective communities. Interestingly enough, these progressive movements arose at the time when voters across the United States have demonstrated to strongly prefer to elect and vote for prosecutors who are committed to reducing incarceration, ending racial disparities, and being fully transparent.

To narrow in on the movement, we should focus on the election of Chesa Boudin in 2019 as the district attorney in San Francisco. Initially a public defender, Boudin traveled an unprecedented journey in order to become San Francisco’s top prosecutor. He nonetheless ran on a platform pledging to make immediate reforms to the office.⁸⁵ Such as holding police accountable for misconduct, eliminating cash bail, dramatically reducing incarceration and pretrial detention, and implementing restorative justice. The results speak for themselves, beginning in 2019, Boudin reduced San Francisco’s jail population by 73%, to 766 from 2,850 in

⁸³ Covert, Darcy. “The False Hope of the Progressive-Prosecutor Movement.” *The Atlantic*. Atlantic Media Company, June 14, 2021.

<https://www.theatlantic.com/ideas/archive/2021/06/myth-progressive-prosecutor-justice-reform/619141/>.

⁸⁴ Covert, Darcy. “The False Hope of the Progressive-Prosecutor Movement.” *The Atlantic*.

⁸⁵ Stern, Mark Joseph. “Sonia Sotomayor Celebrates San Francisco’s New Progressive District Attorney.” *Slate Magazine*. Slate, January 10, 2020.

<https://slate.com/news-and-politics/2020/01/chesa-boudin-sonia-sotomayor-san-francisco-district-attorney.html>.

2019. Even further the charging rate for theft by Boudin's office declined from 62 percent in 2019 to 46 percent in 2021 and for petty theft declined from 58 percent to 35 percent.⁸⁶

Reducing San Francisco's jail population does not eliminate the fact that there are still people imprisoned. It does not forgo that the United States has no welfare social net, which means that people will continue to engage in crime as a means of making ends means and surviving. Of course, there are crimes committed where the lack of a safety net and welfare bear no relevance, however, crime does not emerge out of thin air. There is for the most part, a societal failure involved. The experience of the prison and jail as an unpleasant, violent and harsh environment is not eliminated, the collateral consequences the formerly incarcerated face are not forgone. After all, even the most minimal interaction with the criminal justice system leads to collateral consequences that continue to literally imprison and punish people years after their release.⁸⁷ This does not mean that Boundin's efforts are not benevolent or unhelpful to the people who have directly benefited from his progressive out-look. However, conflicting these realities makes evident that there is a system larger than Boundin. A system which renders reforms as not only ill-equipped but also insufficient when it comes to overhauling how we think and deal with crimes, punishment, and incarceration.

The various progressive approaches implemented by the *Progressive Prosecutors Movement* will not bring about meaningful change. That is not a pessimistic contention, but

⁸⁶ Shellenberger, Michael. "Da Chesa Boudin Won't Give San Francisco One Thing It Needs: Tough Love." New York Post. New York Post, January 15, 2022. <https://nypost.com/2022/01/15/how-da-chesa-boudins-soft-policies-are-destroying-san-francisco/>.

⁸⁷ Miller, Reuben Jonathan. *Halfway Home: Race, Punishment, and the Afterlife of Mass Incarceration*. S.I.: BACK BAY BOOKS, 2022.

rather, a true and crude reality. If we understand that laws governing slavery were replaced with *Black Codes* governing free black people — then we can understand that the making of our current criminal-justice system was central to racial control. For example, “Black defendants are 22 times more likely to receive the death penalty for crimes whose victims are white, rather than black — a type of bias the Supreme Court has declared inevitable.”⁸⁸ Thus, it is not a mere coincidence that there is a presumption of danger and criminality that follows black and people of color in the United States. There is no way of denying that the carceral reach of the state is kin to the country’s history of slavery and human bondage.

Despite Chesa Boudin’s “wins” his reforms are “reformist reforms” who fail to deliver the transformative change necessary to forgo mass incarceration and the way we think of punishment. Even further, as Professor Devon Carbado states, “the law does not simply reflect ideas about race. The law constructs race. The law not only distinguishes based on race but also creates racial hierarchies.”⁸⁹ Despite Boudin's progressive approaches, his reforms do not actively confront the racist social order embedded in the law and by proxy his positionality. We must understand that being a progressive arm within the criminal justice system does not mean the power of the law is diminished or that this so-call progressivism is not working within the binary of the exclusionary legal apparatus. There is no difference other than the semantics. This begs the question: If Boudin, and other “progressive prosecutors,” are not attempting to

⁸⁸ McCleskey is the Dred Scott decision of our time. It is a declaration that African-American life has no value which white men are bound to respect. Law professo, and Law professor Anthony Amsterdam. “Study Reveals Racial Bias in Executions.” Equal Justice Initiative, August 28, 2020. <https://eji.org/news/study-reveals-racial-bias-in-executions/>.

⁸⁹ “(e)Racing the Fourth Amendment - University of Michigan.” Accessed May 1, 2022. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1897&context=mlr>.

overhaul the function of the criminal legal system as a racial caste system— then what is their reformist work achieving? What is there to be gained in the first place from their efforts?

In a world where the prosecutorial system has been exempt from critique— prosecutors are “minister[s] of justice” and “servant[s] of the law” and without them, our society could not have achieved mass incarceration.⁹⁰ The work that needs to be done is more than reformist and superficial. Granted, the criminal legal system never intended to keep marginalized people safe. It follows, that counteracting the harms of an inherently punitive institution requires transformative change. Progressive prosecution is not transformative change. Instead, it is a reformist reform and approach that misdiagnoses the depth of the problem. It is a failed attempt at fixing broken systems without realizing that these systems are “working to re-entrench and legitimize current power arrangements.”⁹¹ The transformative change, we, unlike reformist and superficial avenues recognize that the problem of racial injustice within the criminal legal system is much deeper than anything an individual prosecutor can fix; true transformative change should disrupt the power imbalance between the prosecutors and the prosecuted highly empowered individuals to usher in fairer policies. It is worth noting that pragmatically fairer policies can be helpful. However, they are prone to enable and subtain an illusion and perception of progress that “mollifie[s] communities of color and sap[s] the energy needed for a continued push” toward a true soceital transformation.⁹²

⁹⁰ “The Paradox of ‘Progressive Prosecution.’” Harvard Law Review, December 10, 2018. <https://harvardlawreview.org/2018/12/the-paradox-of-progressive-prosecution/>.

⁹¹ “The Paradox of ‘Progressive Prosecution.’” Harvard Law Review

⁹² “The Paradox of ‘Progressive Prosecution.’” Harvard Law Review

At heart, “progressive prosecution” is a paradox, considering that the criminal legal system is an oppressive institution. Attempting to make the most powerful actors in such an institution more progressive seems to miss the point. There is no doubt that people in San Francisco have enjoyed meaningful benefits from the District Attorneys’ changes and reforms. Yet, it is troubling that these benefits are so contingent and dependent on how a prosecutor exercises her power. We should not have to ask prosecutors to be progressive or nice. We should instead be focused on how we can currently overhaul the institutions and structures that falsify their existence and rise as exclusionary agents by proxy of the exclusionary foundation of the United States. Consequently, *The Progressive Prosecutor Movement* is (at best) an example of the extent political actors within exclusionary states are willing to go to protect their power. One of their more insidious methods of doing so involves convincing members that they, themselves, have the power to repair the system. We must remember Audre Lorde’s adage, “the master’s tools will never dismantle the master’s house.”⁹³

⁹³ “The Paradox of ‘Progressive Prosecution.’” *Harvard Law Review*

Reckoning is a Constant Struggle: Afro-Presentism, & Decolonization

In *Chapter Two*, *Reckoning* refers to a revolutionary and transformative change that alters society in a truly profound way. Even further, it is the act of altering and overhauling the exclusionary foundation of American citizenship. Consistent with the definition, is the understanding that *Reckoning* is not a one-time event, as the title for this section suggests, *Reckoning* is a constant struggle. By that I mean, reckoning is not where we end, reckoning is our means to an end. Reckoning, and doing it successfully, is what allows us to embrace other ideologies and practices, like that of *Afro-Presentism*, and *Decolonization* — both of which are forms of reckoning calling not only for transformative change but making room and space for it to happen.

In understanding that *Reckoning* is a constant struggle, we must therefore know our agitation for a transformative world is and will be an ongoing practice. What we change today is not lost to history and buried away in a narrative, it is a catalysis for actions that generation after generation can harness and utilize as they seek to transform the world as we know it. *Reckoning*, is not pessimistic in that sense, because though it acknowledges the unending loops the *Politics of Recognition* has held us in, it allows us to be hopeful, grounded the ideal that what we do within our lives time, presently in the now, is what will allow for everything to fall into place. These patterns are thus a means of forging a better today. In other words, no matter how small our actions are, they need not to be underestimated or devalued because these very actions hold the power to not only change the course of our present lives but transform the world and racialized social order as we know it. Paraphrasing therefore Angela Davis, who in her book,

Freedom Is A Constant Struggle, states, “We are at a crossroads. The near future and the actions we will undertake as activists and as human beings will be remembered, and will have an effect on many generations to come.”⁹⁴

As we find ourselves researching for a better world, grounding in the politics of *Reckoning*, our adoption of the practice of *Afro-Presentism* is of utter importance. As a philosophical view that the present is the only ‘time’ that exists and that past and the future do not, *Afro-Presentism* is a sort of spiritual guide that can show us the way as we move towards a better future. Furthermore, approaching what I conceive as reckoning under the framework of *Afro-Presentism*, gives us the necessary ambition to truly transform society as it stands presently. Instead of aiding our current exclusionary state in its exclusionary reconfiguration. *Afro-Presentism* allows us to exist presently and therefore do something in the now. If in the future we hope to live in a world where the formerly incarcerated are not forced outside the boundaries of social and political belonging, then *Afro-Presentism* allows for these future apparitions to find root in the present. Instead of focusing on the past, *Afro-Presentism* allows for us to move forward, in the present, grounded not in the possibility of the future for a continual effort but in the actions taken today. In this way stepping away from the idea of historical truth and replacing it with meaningful narratives that alter how people think and behave in their presence.

⁹⁴Barat, Frank. “Freedom Is a Constant Struggle.” Poverty and Development | Al Jazeera. Al Jazeera, February 26, 2016. <https://www.aljazeera.com/opinions/2016/2/26/freedom-is-a-constant-struggle>.

Aside from *Afro-Presentism*, *Reckoning* also calls for a practice of International *Decolonization*. A form of *Decolonization* that while referring to the literal undoing of colonialism in the traditional sense, calls for an international approach and solidarity among oppressed and excluded people of the world.⁹⁵ More simply, we can think of *Decolonization*, in this way, as well as how Frantz Fanon thought of it—a means to a revolution that necessitates violence since the colonial empire we find ourselves under has gained power over us and has made us subjects through their use of cold-blooded violence.⁹⁶ This, while giving the impression of Mahatma Gandhi's adage “an eye for an eye” is instead, more about reckoning. Invoking the power of *Decolonization* allows us to challenge not only the United States' exclusionary foundation and racial order, but also the international racial hierarchy that governs the world. This is necessary because thus far the weaving connection of this thesis has been that mass incarceration and the current denial of civil rights the formerly incarcerated face is a spillage from the country's exclusionary foundation. For this reason, we must also go further into thinking of mass incarceration and its consequences not only as a problem within the United States' nexus of empire, but as a problem that transgresses borders, languages, cultures, and customs, and thus affects the international realms in one way or another.

Even further, this is necessary because the United States does not exist alone, it is not a lone wolf—as a settler empire, it has a reach well beyond its borders, and therefore if we are to address things at their root, then we have to overhaul not only the United States exclusionary

⁹⁵“Decolonization Is Not a Metaphor - Ohio State University.” Accessed May 1, 2022. <https://clas.osu.edu/sites/clas.osu.edu/files/Tuck%20and%20Yang%202012%20Decolonization%20is%20not%20a%20metaphor.pdf>.

⁹⁶ Fanon, Frantz. *The Wretched of the Earth*. New York, USA: Grove Press, 2021. Page, 1

foundation within its borders but the exclusionary foundation that reaches across the international empire. In turn, we need a global context application, an international application, an approach whereby reckoning with our current exclusionary existence, we come to understand “the workings of the apparatus that has produced mass incarceration in the United States,” and beyond. Decolonization as a practice of *Reckoning* can lead us into the creation but also the building of a postimperial world, one that “transcends legal, political, and economic hierarchies.” It follows, that when this is done and achieved, we are bestowed the opportunity to create a new social order that thrives not under racialized inequality but an egalitarian one.

To truly reckon with the spillage of the American exclusionary foundation, its creation of mass incarceration, and the denial of civil rights the formerly incarcerated face, we need to transform the state of our current society and forge a society where “[the needs of people] not profits, constitute the driving force.”⁹⁷ This is to paraphrase Angela Davis. Nevertheless, it must be noted, in more ways than one this appears to be a "utopian idea."⁹⁸ However, that is, only because [the current social order] and its bolstering ideologies are so deeply rooted in our contemporary world."⁹⁹ Furthermore, one needs to come to reckon that the reason why there is a "vast [number] of people behind bars in the United States [is because] imprisonment is used as a strategy of deflection of the underlying social problems -racism, poverty, unemployment, lack of education, and so on.

⁹⁷ Angela Y. Davis, *Freedom Is a Constant Struggle* (S.l.: PENGUIN BOOKS, 2021). Page 25

⁹⁸ Davis, *Freedom Is a Constant Struggle*, Page 6

⁹⁹ Davis, *Freedom Is a Constant Struggle*, Page 6

[Issues that] are never seriously addressed. [It follows,] that is only a matter of time before people begin to realize that the prison is a false solution”¹⁰⁰

This goes without mentioning that *Decolonization* as a practice of reckoning allows us to see that [for the most part] liberation has not come from the politics of national inclusion. It has instead been a product of not only the “forging cosmopolitan and mobile attachments within but of that between various geopolitical entities and imaginaries.”¹⁰¹ “A reality that exemplifies the limits of citizenship and the violent belongings and exclusions that constitute the modern nation-state. [Where the concept and status of citizenship is] frenetically animated by violent exclusions and expulsions that are not merely the consequence of bad faith and national dilemmas but are, rather, constitutive of the state itself.”¹⁰² In other words, citizenship as we know it, is exclusionary because of the United States exclusionary foundation, but also because of the nature of the nation-state itself. The nation-state is inherently exclusionary; it is an imagined community, with ill-imagined arbitrary borders.¹⁰³ State formation itself is exclusionary, therefore the United States’ exclusionary foundation is symptomatic of the nation state's governing inherently exclusivist principles . This is so, as as El-Gendi, notes in *Illusory Borders: The Myth Of The Modern Nation-State And Its Impact On The Repatriation Of Cultural Artifacts*, “the nation-states we see on maps today were political creations whose

¹⁰⁰ Davis, *Freedom Is a Constant Struggle*, Page 25

¹⁰¹ Clarke, John, Kathleen Coll, Evelina Dagnino, and Catherine Neveu. “Imagining the ‘Communities’ of Citizenship.” In *Disputing Citizenship*, 1st ed., 107–68. Bristol University Press, 2014. <https://doi.org/10.2307/j.ctt9qgzqg.7>.

¹⁰² Alex Lubin, *Geographies of Liberation: The Making of an Afro-Arab Political Imaginary* (Chapel Hill: The Univ. of North Carolina Pr., 2014).

¹⁰³ Anderson, Benedict R. O’G. (1991). *Imagined communities: reflections on the origin and spread of nationalism* (Revised and extended. ed.). London: Verso. pp. 6–7. ISBN 978-0-86091-546-1.

borders were drawn arbitrarily, with complete disregard for the cultural, ethnic, political, religious, and social divides that already existed among indigenous and native peoples.”¹⁰⁴

After all, in accordance with Marx's views, the nation-state consolidates its power through acts of exclusion. Acting in this way, the nation-state plays into the illusion of optics, through the *Politics of Recognition*, by invoking a selective common memory, made up of projections of unity often depending on selective amnesia.¹⁰⁵ Selective amnesia, who political leaders, use when they make arguments of institutions like slavery, and legal racial segregation vis a vis Jim Crow Laws, in the United States content, as political failures that have been overcome and triumphed over and defeated, instead of problems that are foundational to the nation's history.

Breaking away from this vision that the state is constantly moving toward the ideals of a “more perfect union” requires that we confront presently the country's exclusionary structures and institutions. This is what the practice of *Decolonization* allows us to do. *Decolonization* enables us to take on the exclusionary foundation of the United States as it is. It is the only way forward, the only way through, and towards a world where instead of conceptualizing our problems, we grapple with them; as they are and as they currently exist, without imagining a progressive future where maybe progress is viable or possible. Nevertheless, it is fundamental that we understand that the settler colonialism, and the imperialism that has facilitated and enabled the United States' exclusionary foundation, is not a one-time historical event but has been an ongoing process. Granted that, the exclusion and displacement of people in the United States from

¹⁰⁴Alex Lubin, *Geographies of Liberation: The Making of an Afro-Arab Political Imaginary*

¹⁰⁵Alex Lubin, *Geographies of Liberation: The Making of an Afro-Arab Political Imaginary*

the realms of citizenship, membership, and belonging has taken many forms and shapes, and has not been limited to one group over time, but has affected the lives of many people. *Decolonization*, as a practice of reckoning is necessary, because it allows for reclaiming. That is, the necessary space and opportunity for excluded people to come together and imagine, not how they can fit in within an exclusionary racialized social order—but new ways of social belonging. A framework, like *International Decolonization*, in allowing us to see that mass incarceration vis-à-vis the spillage of the exclusionary nation-state is a global manifestation, makes evident that the nature of our oppression and exclusion is not limited to arbitrary borders, but instead affects oppressed and excluded people around the world. It is that realization that allows us to forge bridges of solidarity against the exclusionary delineations of the nation state and their respective exclusionary foundations.

If we are conscious of this, then we can see why such an extensive effort is necessary moving forward, as a means of transforming and changing not only designated nation states but also everything and every place at its root. This is a call for the reimagination and building of everything we currently know to be exclusionary, it is the making of something new. *International Decolonization* as a practice of reckoning is, therefore, a way of saying that the oppressed stand with the oppressed, and that a form of solidarity capable of transgressing arbitrary borders established by exclusionary nation-states like the United States is possible. *Decolonization* will therefore mean not simply the elimination and overhauling of anything and everything, but instead, more profoundly the founding of a new society, and a world where something else can emerge. That is, another political imaginary.

It must be noted that there is not a blueprint for dismantling the exclusionary states all of us around the world, whether that be formally, presently incarcerated or those with no ties with the criminal justice system live in, but the politics of *reckoning* is a starting point. *Reckoning* and its practices of *Afro-Presentism*, and movement for *International Decolonization* are a starting point and a looking glass, into what can enhance and utterly transform the world we live in. The path towards something better than what we currently have is open, but no matter what step we take forward, it must be premised on the acknowledgment that “changes have to be from top to bottom and horizontally, in between and within groups, moving and encompassing various communities, and movements.”¹⁰⁶

Furthermore, *Decolonization*, as a practice that seeks to change the order of the world, is a program and movement that, as Franz Fanon, describes in *The Wretched of the Earth* :

cannot come as a result of magical practices, a natural shock or a friendly understanding. *Decolonization*, as we know, is a historical process: that is to say, it cannot be understood, it cannot become intelligible nor clear to itself except in the exact measure that we can discern the movements which give it historical form and content.¹⁰⁷

Beyond being progress that necessitates violence, *Decolonization* involves discomfort but also offers togetherness in the face of extreme alienation. It allows one to work on oneself, to not reproduce systems of harm and oppressive behaviors in the process of showing up for each other. It does so, premised on the belief that when we begin with ourselves, we are thus better equipped when it comes to discerning our role in the exclusion of others. In building a world where we weave our struggles together by taking action and holding each other with care we must allow

¹⁰⁶Decolonize This Place: Operations Manual for FTP3,” reddit, accessed May 1, 2022, https://www.reddit.com/r/UpliftingPraxis/comments/ex0lp4/decolonize_this_place_operations_manual_for_ftp3/.

¹⁰⁷ Frantz Fanon, *The Wretched of the Earth* (New York, USA: Grove Press, 2021). Page 36

those immediately affected by the violence of the exclusionary foundational of our respective nation states (like the formerly incarcerated) to occupy the forefront.

Beyond uncovering the history of citizenship and exclusion in nation-states like the United States, *Decolonization* is not merely a social justice endeavor calling for diversity, equity, and inclusion. There is no Decolonization if its practice is devoid of a critical analysis of power and sociopolitics. Insofar, as doing so, allows the power, hegemony, and the historical and continuing dynamics of internalized and systemic oppression in contemporary exclusionary structures to be reconfigured time and time again. This is why *Decolonization* is impossible if the same tools and systems of colonization are employed in attempts to reckon and therefore decolonize. *Decolonization* is an ongoing process that requires endless personal and political fracturing as means of making space for reflection, deconstructing, deconditioning, relationship-building, and structural dismantling.¹⁰⁸ All that is necessary to prevent ourselves from accepting “solutions” that leave our exclusionary power paradigm and dynamic intact, unfettered, and reinforced.

The bottom line is that *Decolonization* is an international ongoing movement in process via the politics of reckoning, and cannot exist either within or as part of the same exclusionary structures, dynamics, and paradigms that has given rise to exclusionary practices like that of mass incarceration. This is to again, hold Audre Lorde’s adage, “We cannot dismantle the master’s house with the master’s tools.” *Decolonization* will require an imagination revolution. A liberatory mindset reset. We must de-construct and re-construct, reimagine society, our world,

¹⁰⁸ Plos, “It’s Time to Decolonize the Decolonization Movement,” *Speaking of Medicine and Health*, July 27, 2021, <https://speakingofmedicine.plos.org/2021/07/29/its-time-to-decolonize-the-decolonization-movement/>.

and our current social order. Make a world that is transformative and grounded in the experiences of those who are currently affected by exclusionary and punitive institutions, whether it be the prison or any other vehicle and tool of the state. The voices therefore of the currently incarcerated, the formerly incarcerated, their families, indigenous peoples, grassroots movements (among others) need to be heard and centered as we move forward. This is how “we move towards a different and tangible place, somewhere out there—where no one has really been.”¹⁰⁹

¹⁰⁹ “What Is Decolonization and Why Does It Matter?” Intercontinental Cry, September 21, 2012. <https://intercontinentalcry.org/what-is-decolonization-and-why-does-it-matter/>.

Conclusion

This thesis was born out of curiosity. The question at hand was, why is mass incarceration a societal crisis? Why is it a phenomenon? Simply, why does mass incarceration exist? I had a narrow vision. Mass incarceration is a reconfiguration of the institution of slavery, the reinstatement of *Jim Crow Laws*, and *Black Codes*. There is some truth to these ideas, but they are not the complete picture. In reality, there is something much more pervasive, something much more entrenched within our social fabric.

In totality, the goal of this thesis was to explain how I understand mass incarceration and the denial of citizenship rights the formerly incarcerated face is made possible. I begin it this way, as the first chapter addresses: why and how is American Citizenship racially exclusionary? What does this mean in terms of mass incarceration? And finally, what does it mean for the formerly incarcerated? However, as time went on, I discovered that a reiteration of exclusionary histories was limiting. We know the history, we know what happened, yet what can we do to change things currently as we are, where we find ourselves? Is it enough to learn and acknowledge the history and the failures of this country and its exclusionary practices if there is no profound address? If there is no transformation, no overhauling of these exclusionary and racist structures and institutions? Guided by the belief that as much as mass incarceration is a problem of politics and policy, it is a problem of human exclusion. It is about disappearing people from society and relegating them inside a cage, holding the adage “out of sight, out of mind” true. I was finally able to contextualize that confronting mass incarceration in the United

States(at least) would be less about the United States' record of housing the highest number of incarcerated people; and more about how we come to grapple with membership and belonging.

Nevertheless, this thesis did more than provide a historical analysis of the United States' exclusionary foundation but has dared you, the reader, to not only challenge our currently exclusionary foundation but to be willing to utterly transform it. The concept of reckoning was described as a glimpse of hope that a true reconstruction, a true transformation of our social order as we know it, is possible. Philosophical views, like that of *AfroPresentism* — calling for a current transformation, a reimagination, and rebuilding of society, anew, now, instead of waiting for the feeling possibly that is; sometime in the near future, were indirect. Towards the end, we spoke of *Decolonization* through an international lens that will uproot the exclusionary nature of the nation-states that have not only harassed not only our current exclusionary institutions but also the punitive practices like imprisonment through confinement. Nevertheless, what I hope you take away is that addressing the consequences of the racially exclusionary practices of citizenship demands, not band-aid fixes that mask systemic grievances, we must address the foundational failure of the illness. As long as the only way through continues to be a direct confrontation, addressing mass incarceration demands a reckoning of what got us here, therefore not only uncovering the racially exclusionary foundation of American citizenship; but transforming it completely and envisioning something new.

Though we acknowledged that mass incarceration is not accidental and in fact, is purposeful. We must become invested in changing and transforming our world presently. We must help those currently affected by the state's exclusionary foundation. The formerly

incarcerated and those currently incarcerated should not be an afterthought. It is important that just as we work to articulate frameworks of change for our world, we are taking care of them and making sure they are safe. It matters that we ask ourselves, how can we protect those currently imprisoned? How can we safeguard them? How can we protect people from the worst excess of exclusion and punishment? Though the United States is an imagined community, the people who feel and face the wrath of the criminal justice system, punishment by incarceration, and policing, are not imagined. They are real people, real human beings who are expected to face the exclusionary nation-state and its practices on their own. This is not to say that a world beyond exclusion, prison, punishment, and mass incarceration is not closer than we think. However, as we speak, people are not only vulnerable but victims of these practices. If mass incarceration has cut people away from their communities and families, what can we do to repair this harm? What does it mean that the prison has not grown to eliminate itself but has rather grown to house hundreds of individuals each year as time has passed?

Again, these questions are hard, and I do not believe I have all the answers. However, I know that moving forward necessitates that we figure it out together, not over time, but now, in our present, as we are. Moving beyond mass incarceration, our exclusionary foundation, the exclusionary nation-state is a collective approach rooted in the present, as we are. That is a place where the present is not held captive by the promise of a progressive future, but where the present is the only place we know can be changed, transformed, and made different, granted that it is where we find ourselves. For now, I will leave you with my adoption of Ruth Wilson Gilmore's words: "[*reckoning*] is not absence, it is presence. What the world will become already

exists in fragments and pieces, experiments and possibilities. [*Reckoning* is about] building the future from the present, in all of the ways we can.”¹¹⁰

¹¹⁰ Mansfield, Maureen. “Practicing Everyday Abolition.” Abolitionist Futures. Abolitionist Futures, December 30, 2021. <https://abolitionistfutures.com/latest-news/practising-everyday-abolition>.

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