

Student Exemplar

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English 11H: Argument Essay

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### Prisons: A Legal Form of Slavery

Fun fact: if African-Americans and Hispanics were incarcerated at the same rate as Whites, prison and jail populations would decline by almost 40 percent. Mass incarceration became the main source of cheap labor after the abolition of slavery in 1865. Due to a loophole in the 13th amendment, convicts were stripped of their rights and used for manual labor, forming a structure of institutional racism and oppression. In *The 1619 Project* by Nikole Hannah-Jones, published by *The New York Times Magazine* in 2019, Bryan Stevenson asserts in his essay, “Why American Prisons Owe Their Cruelty to Slavery,” that “slavery gave America a fear of black people and a taste for violent punishment. Both still define our criminal-justice system.”<sup>1</sup> African-Americans are overrepresented in prisons because of intentional practices that mimic slavery, perceptions of guilt, and racial bias in the criminal justice system.

African Americans are disenfranchised upon incarceration which has become a successful vehicle for the cheap (sometimes free) labor once obtained only through slavery. Convict leasing, or “slavery by another name,” began in 1865 after the abolition of slavery and still occurs today. In 1871, the Virginia Supreme Court ruled that a convicted person is considered a “slave of the state” (history.com).<sup>2</sup> Southern states passed “Black Codes” which subjected African Americans to prosecution for minor crimes such as loitering, vagrancy, and

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<sup>1</sup> <https://www.nytimes.com/interactive/2019/08/14/magazine/prison-industrial-complex-slavery-racism.html>

<sup>2</sup> <https://www.history.com/news/13th-amendment-slavery-loophole-jim-crow-prisons>

interracial marriage. Once incarcerated, private companies could “rent” convicts and use them for cheap labor, similar to slavery. Prisons then became a form of institutionalized legal slavery, as stated by the Virginia Supreme Court. These practices are so ingrained in history that they are rarely ever questioned. Take for example, California. In California, inmates are paid \$1 a day to extinguish fires, which saves the state approximately \$100 million per year to spend elsewhere (cnbc.com).<sup>3</sup> Because of profits generated by prisoners, prison populations will only continue to increase.

To further compound this problem, African Americans are subject to harsher sentences for the same crime in comparison to Whites. According to a study by the University of Michigan Law School, African Americans are 75 percent more likely to face a charge with a mandatory minimum sentence than Whites for the same crime (washingtonpost.com).<sup>4</sup> According to the same source, African American men who commit the same crimes receive 20 percent longer sentences on average due to racial bias and prejudice in the criminal justice system. Racial bias affects both sentencing and conviction.

For similar, if not exactly the same crime, African Americans are convicted more often than Whites. Conscious and unconscious bias plays a role in the presumption of guilt. Data from the National Survey of Drug Use and Health shows that even though there are more White drug users, Black drug users are convicted more often. Seventeen million White Americans and four million African Americans reported using illicit drugs within the last month. However, despite the numbers, African Americans are six times as likely to receive a drug charge. As a whole,

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<sup>3</sup> <https://www.cnbc.com/2018/08/14/california-is-paying-inmates-1-an-hour-to-fight-wildfires.html>

<sup>4</sup>

<https://www.washingtonpost.com/news/wonk/wp/2017/11/16/black-men-sentenced-to-more-time-for-committing-the-exact-same-crime-as-a-white-person-study-finds/>

African Americans are incarcerated at five times the rate of Whites (NAACP.org).<sup>5</sup> Though it is hard to ignore the facts, others may have a difference in opinion.

Opponents to this view may state that African Americans simply commit more crimes. For example, African American men commit almost half the murders in the US, but only make up 6.7 percent of the US population (channel4.com).<sup>6</sup> Additionally, they account for 40 percent of the prison population—a clear overrepresentation (prisonpolicy.org);<sup>7</sup> however, these numbers do not account for false convictions due to prejudice, bias, and misinformation. According to a study by the National Registry of Exonerations, African Americans are seven times more likely to be convicted of murder. The study also concluded that they make up 47 percent of 1,900 exonerations registered with the NRE (vox.com).<sup>8</sup> It is imperative to look at both sides of the argument and get all the facts.

Because of racial bias in the criminal justice system, intentional practices which mimic slavery, and perceptions of African Americans as guilty, African Americans are overrepresented in prison populations. Incarceration practices clearly mimic slavery, allowing prisoners to become new slaves under a different system. To perpetuate this system, African Americans are also convicted and sentenced more harshly than Whites. Is the system really fair if it is overrun by racial prejudice and bias?

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<sup>5</sup> <https://www.naacp.org/criminal-justice-fact-sheet/>

<sup>6</sup> <https://www.channel4.com/news/factcheck/factcheck-black-americans-commit-crime>

<sup>7</sup> <https://www.prisonpolicy.org/profiles/US.html>

<sup>8</sup> <https://www.vox.com/policy-and-politics/2017/3/7/14834454/exoneration-innocence-prison-racism>

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