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In the Face of Death:
Black Erasure, Carcerality, and Resistance in the Post-Reconstruction South

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Abstract

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This honors thesis explores how Southern legislatures and white Southerners in the aftermath of the Civil War attacked the freedoms and civil rights of Black citizens. Through an emphasis on the role of laws and public discourse, “In the Face of Death” details the efforts to curb Black advancement and agency. The methods by which Southern legislatures attempted to restrict African Americans’ rights are referred to as forms of death within this thesis. During Reconstruction and Jim Crow, Southerners mobilized various forms of death—civil death, physical death, and freedom’s death through the use of carceral states—to circumscribe the lives of African American citizens and their political agency. These strategic attacks on Black life were attempts to uphold white supremacy and the white power structures that had prevailed before the war. Black freedom, but especially the Black vote, threatened the social order of the South, and the citizens and legislatures worked to prevent a change in the status quo. Nonetheless, Black advancement continued, showcasing the resiliency of millions of people across the United States. Through the analyses of state constitutions, published documents, newspapers, and additional primary and secondary sources, “In the Face of Death” confronts the white Southerners’ methods of attack on Black freedom and rights and the overarching goal of upholding white supremacy by denying Black sovereignty.

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INTRODUCTION

The Epicenter of Death

“Kill the Black devil!” a mob could be heard screaming as it relentlessly hunted Black citizens in the city of Atlanta, Georgia.¹ On September 22, 1906, violence erupted in the capitol of the so-called New South that would engulf it for two days.² On the first day of the attack, thousands of white men rampaged through the central business district, attacking every African American person they could. Black-owned businesses were raided and destroyed, with one barbershop assaulted and the barbers killed—defenseless against the throngs of white men. From evening until midnight, the attacks continued, with mobs entering public streetcars and Black neighborhoods searching for their next victims. Panicked about how the attack would negatively impact the state’s image, Governor Joseph M. Terrell sent the state militia into the city to quell the violence. However, fueled by hatred, the white men continued with their acts of death and destruction. Had it not been for the torrential downpour that began around two in the morning, the mob would have continued its bloody work. The next day Atlanta was officially under militia control, but that would not be enough to subdue the mob’s efforts.³

Spilling into September 23 and 24, the attacks continued, as white assailants carried on in their efforts to burn down African Americans’ houses and businesses, heinously murdering as

¹ Charles Crowe, “Racial Massacre in Atlanta, September 22, 1906,” *Journal of Negro History* 54, no. 2 (April 1969): 159, <https://www.jstor.org/stable/2716690>.

² The “New South” was the post-Reconstruction South that shifted from an agricultural-based economy to one that relied upon industrial development. The New South was a stark contrast from the “Old South” that had relied upon the cultivation of crops such as tobacco and cotton as well as the labor of enslaved people. The New South was a transformation in the southern states’ operations, becoming more similar to the North’s economic model. Critically, the New South relied upon the unpaid labor of convicted people trapped inside the carceral system. For more see, Talitha L. LeFlouria, *Chained in Silence: Black Women and Convict Labor in the New South* (North Carolina: University of North Carolina Press, 2015), 4-16.

³ Sarah Case, “1906 Race Riot Tour,” *Journal of American History* 101, no. 3 (December 2014): 880-2, <https://www.jstor.org/stable/44286310>; Crowe, “Racial Massacre in Atlanta, September 22, 1906,” 150-73.

they cut a bloody path through Atlanta. Of those killed, some were hanged from lampposts; others were left dead in the street, having been beaten, stabbed, or shot to death. At the end of the two-day massacre, dozens of Black citizens lay dead, with hundreds more gravely injured. This bloodbath made up the events of what is now known as the Atlanta Massacre of 1906.⁴

This attack was white rage in action. The white rage and fear in Georgia stemmed from a deep resentment of prospering and upwardly mobile Black communities in Atlanta. During the earlier hours of the massacre, one newspaper reported that four African American men had assaulted white women, sparking the frenzied attack. In the months preceding the massacre, Georgia's gubernatorial race consisted of two Democratic candidates—both of whom evoked the image of African American male suffrage in order to garner the white supremacist vote. In their campaigns, both men actively fanned the flames of white hatred and the fear that Black citizens' advancement within Atlanta would lead to them seeking equality, including access to the ballot box. Aspiring and upwardly mobile African Americans had been able to participate in elections during Reconstruction before the onset of the Nadir. As Atlanta saw the rise of flourishing Black neighborhoods, white fears that they would—once again—seek access to the ballot sparked the deep hatred and desire to uphold the white supremacist regime.⁵

The massacre also highlighted the fallacy of Booker T. Washington's call for the creation of a class of "New Negroes" whose very presence would serve as a positive propaganda campaign for access and acceptance among white Southerners. However, those who were targeted and assaulted during the 1906 Atlanta massacre were the very same aspiring class of Black folks who Washington wanted to serve as the embodiment of respectability politics. 1906 served as a pivot

⁴ Ibid.

⁵ Case, "1906 Race Riot Tour," 880-2; Pamela Logan, "The Impact of the Atlanta Race Riot of 1906 on the Discourse on Womanhood," (MA Thesis, Georgia State University Department of English, 2015), 2-6, https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1185&context=english_theses.

away from the accommodationist politics of Washington and towards the more radical and activist leanings of W.E.B. Du Bois. Having witnessed the violence in Atlanta firsthand, Du Bois bought a double-barreled shotgun to defend his family and community. Within a few short years, he would lead the Niagara Movement, join the National Association for the Advancement of Colored People, and advocate for Black suffrage and other rights of citizenship.⁶

“In the Face of Death” details the efforts of white citizens of the South to curb Black freedom and rights in the wake of the Civil War during Reconstruction and Jim Crow. The Atlanta Massacre of 1906 was one of the many ways Black freedom and advancement were targeted in the years following the end of slavery. The attacks on their rights of citizenship, their lives, and their freedom were all part of larger trends toward complete erasure. After the Civil War, four million African Americans gained rights and freedoms that threatened white supremacist regimes throughout the South. Desperate to cling to the power and control over Black people, Southern legislatures enacted laws and procedures that would secure the continued oppression of the formerly enslaved. Through the usage of primary and secondary sources, “In the Face of Death” asserts that to restrict the freedoms and rights of African Americans, Southern legislatures created and permitted three consecutive and overlapping forms of death—from the figurative to the literal—in the postbellum states of Mississippi, Alabama, Georgia, Louisiana, and Florida. These efforts, referred to as forms of death, included civil death, physical death, and the death of personal sovereignty and freedom embodied by carceral spaces and practices—from

⁶ Henry Louis Gates, Jr., “The Trope of a New Negro and the Reconstruction of the Image of the Black,” *Representations* 24, no. 1 (Autumn, 1988): 129-55, <https://doi.org/10.2307/2928478>; W.E.B. Du Bois, “A Litany of Atlanta,” GLAM Center for Collaborative Teaching and Learning - Atlanta University Center Robert W. Woodruff Library, accessed March 27, 2021, <https://glamportal.auctr.edu/items/show/141>; Doninic J. Capeci Jr. and Jack C. Knight, “Reckoning with Violence: W.E.B. Du Bois and the 1906 Atlanta Race Riot,” *The Journal of Southern History* 62, no. 4 (November 1996): 727-766, <http://www.jstor.org/stable/22111391>; David Levering Lewis, *W.E.B. Du Bois: A Biography of Race 1868-1919* (New York: Henry Holt and Company, 1994), 214-85.

convict leasing and chain gangs to incarceration. In detailing efforts to erase Black life in the American South, this work sheds light on the role of the criminalization of Blackness and how it was used to further the acceptance of these forms of death, impacting African American men and women across the region.⁷

Mississippi, Alabama, Georgia, Louisiana, and Florida were among the southern states that were home to the largest number of African Americans after the Civil War. The legislatures and political elites in these states went to great efforts to maintain control over Black citizens, especially denying them their right to vote. The efforts to restrict access to the political franchise were found in laws, incarceration, physical violence, and death. Methods to disfranchise African Americans have continued through time. To this day, the five states are among the most restrictive when it comes to felony disfranchisement laws, barring many incarcerated or formerly incarcerated people from the ballot box.⁸ “In the Face of Death” starts at the beginning. After Black citizens were given their rights and freedoms, white citizens of the South went to war once again, this time against the very agency of Black people that they had for so long denied, and in this war, they would not surrender—no white flag would be waved.

“In the Face of Death” draws on the expertise of historians who have examined African Americans’ lives during Reconstruction and Jim Crow. Scholarly discussion has centered around the use of legitimate systems to justify the efforts to restrict Black freedom and rights. In *Locked Out: Felon Disfranchisement and American Democracy*, Jeff Manza and Christopher Uggen describe the practice of felon disfranchisement, its origins, and its impact on the African

⁷ “The criminalization of Blackness” encompasses the laws, discourse, and legal systems that created the narrative of African Americans being people who continuously broke the law and posed a threat to society.

⁸ Jean Chung, “Felony Disfranchisement: A Primer,” The Sentencing Project, June 27, 2019, <https://www.sentencingproject.org/publications/felony-disenfranchisement-a-primer/>.

American electorate.⁹ Phillip Dray explores the practice of lynching throughout history in *At the Hands of Persons Unknown*. Through the usage of anecdotal evidence and primary sources, Dray explains how lynchings were often strategic, excused in the courts, and used to carry political and social messages.¹⁰ Also addressing the methods of attack on Black life and freedoms, *Trouble in Mind: Black Southerners in the Age of Jim Crow*, written by Leon F. Litwack, drives readers through Southern legislatures' efforts to curb Black advancement while simultaneously allowing for their vile lynchings and murders.¹¹

While the texts further the understanding of the efforts to limit Black rights and freedom in the postbellum South, a more detailed analysis of the ways that the types of attacks on Black sovereignty were all connected and upheld by the same legislatures is missing. "In the Face of Death" builds on the work of Manza, Uggen, Dray, and Litwack and uses archival material to explore how the legislatures of the South strategically created and permitted the criminalization of Blackness to justify the efforts to limit the rights and agency of African Americans.

In exploring the connection between the criminalization of Blackness, carcerality, and its connection to the assault on Black freedom, "In the Face of Death" draws on the works of historians who have contributed to the scholarly conversation on the subject.¹² In *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II*,

⁹ Jeff Manza and Christopher Uggen, *Locked Out: Felon Disenfranchisement and American Democracy*, (Oxford: Oxford University Press, 2006).

¹⁰ Philip Dray, *At the Hands of Persons Unknown: The Lynching of Black America* (New York: The Modern Library, 2002).

¹¹ Leon Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York: Knopf Doubleday Publishing Group, 1999).

¹² Carcerality refers to the physical confinement of a group of people in a carceral (a jail or prison) place. Carcerality is utilized to "reorganize" a given location to uphold power structures. In the context of this thesis, carcerality refers to the incarceration of African Americans and the ways that the carceral system was used to uphold white supremacy and maintain power over an entire group of people, while simultaneously continuing their subjugation. For more, see "Origins of the Carcerality Research Lab," *Imagining America*, May 2, 2018, <https://public.imaginingamerica.org/journalcontent/2018/5/2/306/index.html>.

Douglas Blackmon argues that the convict leasing system put into place in the South at the end of Reconstruction was a replication of slavery just under a different name. Blackmon details the ways that African Americans were targeted by discriminatory laws and exposed to a corrupt justice system that profited from Black subjugation and forced thousands of people into dangerous labor conditions.¹³ Similarly, David Oshinsky's *Worse Than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* argues that the convict lease system used in Mississippi's state penitentiary was more inhumane than the preceding system of slavery, emphasizing the brutality of the system.¹⁴ Talitha LeFlouria contributes to the discussion of criminalization and carcerality in *Chained in Silence: Black Women and Convict Labor in the New South*. The book focuses on the experience of African American women trapped in the convict lease and chain gang systems in Georgia and their contribution to creating the industrialized New South.¹⁵ Also centered around the female experience within the convict leasing and chain gang system, Sarah Haley's *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity* details how the carceral system created, benefitted from, and essentially relied upon Black women's alleged deviance to create the modernity of Jim Crow. The text centers around women's experiences with the carceral state – their subjugation, abuse, and acts of defiance to the gendered labor system of the Jim Crow South.¹⁶

Although current literature discusses the connection between the criminalization of Blackness and carcerality, there is still not an adequate conversation on the connection of

¹³ Douglas Blackmon, *Slavery By Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II* (New York: Vintage Books, 2008).

¹⁴ David Oshinsky, *Worse Than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Simon & Shuster, 1996).

¹⁵ LeFlouria, *Chained in Silence*.

¹⁶ Sarah Haley, *No Mercy Here: Gender, Punishment and the Making of Jim Crow Modernity* (Chapel Hill: University of North Carolina Press, 2016).

postbellum Southern legislatures' efforts to use incarceration as a means of further control and denial of rights in conjunction with other efforts to restrict Black freedom. "In the Face of Death" discusses the rise of incarceration as a result of the self-sovereignty of African Americans and the ways it was connected to other efforts to limit the rights of Black citizens. Building on Douglas, Oshinsky, LeFlouria, and Haley, this work contributes to the historical analysis of the attack on Black independence. The emphasis on the role of state legislatures and courts in upholding this attack on freedmen's citizenship rights fills in the gap in the current literature.

By emphasizing the Southern legislatures' role in criminalizing Blackness, "In the Face of Death" shows how the criminalization enabled white citizens of the South to deny freedoms and rights to the formerly enslaved people and bring African Americans back to a place of subjugation. The self-sovereignty of African Americans threatened the very foundation of white supremacy, and to preserve the system, Black advancement had to be stopped.¹⁷ Acting fast, the state legislatures' immediate response to this threat was seen in their efforts to restrict and rescind the freedoms and rights of Black Southerners in the form of felony disfranchisement, lynching, incarceration, and the utilization of convict leasing and chain gangs.

To explore the ways that legislatures of the South worked to target and revoke the rights and freedoms of African Americans, "In the Face of Death" analyzes state constitutions, court documents, and newspapers to view the language used in describing Black citizens and their alleged criminality. In examining these documents, this thesis reveals the often-blatant racism and disdain that white citizens of the South had for African Americans. The Southern Black Codes of 1865 discussed within the thesis reveal the white political elites' desire to prevent Black advancement, limiting and criminalizing citizens if they dared disrupt the social order.

¹⁷ George M. Fredrickson, *The Black Image in the White Mind: The Debate on Afro-American Character and Destiny, 1817-1914* (1971; repr., Middletown: Wesleyan University Press, 1987), 178-83.

These laws additionally highlight the direct ways that Blackness was legally criminalized, which lead to the continued subjugation of African Americans.

As the country moved out of Reconstruction and into the era of Jim Crow, the revisions to state constitutions from 1877 through 1900 also showed how laws were utilized and crafted to attack African Americans' citizenship rights and freedoms. At the same time that legislation was used to restrict Black life, newspapers of the South continuously reported on alleged Black criminality, working to maintain the fear of African American freedom and advancement. "In the Face of Death" incorporates these primary sources of the postbellum South to add to the explanation of how three types of death befell Black citizens.

Chapter 1, "Civil Death," explores the concept of civil death and how it allowed for the disfranchisement of African Americans. Civil death broadly encompasses the loss of rights and privileges as a result of a felony conviction.¹⁸ The chapter outlines the ways legislatures targeted newly freed people through a series of laws that aimed to criminalize them. Through the exploration of state constitutions, laws, and newspapers, the chapter shows the legal creation and utilization of the criminalization of Blackness in the postbellum South and how it was implemented to ensure that felony convictions upheld the civil death of an entire group of people.

Chapter 2, "Physical Death," focuses on the murders of African Americans in the Reconstruction and Jim Crow South in the form of lynchings and massacres. This chapter asserts that the acts of violence against Black citizens of the South were an intimidation tactic while also working to remove those who dared advance socially, economically, and politically. Through analyses of newspaper articles, state laws, statistical databases, and census records, the chapter

¹⁸ LeFlouria, *Chained in Silence*, 81.

highlights how the public perception and acceptance of lynchings was coupled with courts' dismissive attitudes in pursuing known assailants to continue the attacks on Black life. The sources exemplify how deaths were not a series of random incidences but rather strategic attacks designed to showcase the extremes of white supremacy and force African Americans back into a place of submission.

Chapter 3, "Freedom's Death," looks at the ways legislatures and courts in the South created a system to deny Black citizens their rights and agency in the form of incarceration and through the utilization of the convict lease system and chain gangs. This chapter argues that the imprisonment of African Americans was a continued effort to limit their freedom and citizenship rights and that the criminalization of Blackness was deployed to justify their inhumane captivity. Through the exploration of legal documents, newspapers, and historical records, the chapter examines the ways state legislation and courts allowed for the forced labor and leasing of incarcerated people, which forced them into conditions built in the image of slavery.

From the moment African Americans were freed from slavery, they were faced with three different forms of death. Legislatures and power structures upheld the creations and operations of criminality, carcerality, and death to prevent Black citizens from advancing in society, as that would have disrupted the white supremacist reign of power. "In the Face of Death" explores the means and methods by which this attack on African Americans' freedom and rights transpired and traces the ways in which each form of subjugation was connected to the next, all working together to bar Black advancement and stop Black citizens in their tracks. Nevertheless, they persisted—even in the face of death.

CHAPTER 1

Civil Death

[The Negro] had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the Negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold and treated as an ordinary article of merchandise and traffic, whenever a profit could be made.¹⁹

Supreme Court Chief Justice Roger Taney's remark in 1857 as he delivered the *Dred Scott v. Sandford* case's decision denied Black humanity. It further signaled that legal systems could effectively work to block African Americans from fundamental civil rights.²⁰ Dred Scott, born into slavery, was moved around the country by his owners, going from states that allowed slavery to states and territories that did not. In 1836, while he was in the Wisconsin Territory, where slavery was prohibited, he married Harriet Robinson, who urged him to secure his official freedom. After the death of one of his owners, John Emerson, Scott became the legal property of his widow, Irene Emerson, who pushed for him to leave his free life and move back to a slave state. Later, in 1850, Irene transferred ownership of Scott and his family to her brother, John F.A. Sanford.²¹ However, after living life as an independent man, Scott would fight to hold onto his freedom. He had lived independently and successfully in Illinois, a place free of slavery, but the

¹⁹ Roger B. Taney, Samuel A. Cartwright, and John H. Van Ervire, *The Dred Scott Decision: Opinion of Chief Justice Taney* (New York: Van Ervire, Horton & Co., 1860), 1-48, <http://hdl.loc.gov/loc.law/lst.022>.

²⁰ Civil rights are unalienable liberties a citizen has that are supposed to protect their freedoms and prevent injustice from restricting their ability to live and partake in democracy. The freedom of speech, the press, to a fair trial, and to vote are all civil rights that were not protected for African Americans before the 20th century.

²¹ Due to a clerical error when entering the case's name into the Supreme Court records, "Sanford" became "Sandford," and gave the case its (slightly incorrect) title. For more, see Toni Konkoly, "Dred Scott v. Sandford (1857)," Thirteen, last modified December 2006, accessed October 15, 2020. https://www.thirteen.org/wnet/supremecourt/personality/landmark_dred.html.

question remained: Was he free? In giving the verdict of this case, Taney delivered his infamous remark.²² The answer to the question of whether or not Scott was free was a resounding “no.” This decision, coming from the highest court in the country, meant that all Black people, freed or not, were not legal citizens of the U.S. The most powerful court of the United States, with one case, legally devalued Black life. This case was a prime example of how state legislatures, in conjunction with the judicial system, could create and interpret laws that worked to deny African Americans their most basic civil liberties.

Civil death dated back hundreds of years to Europe and was often the punishment for a crime. This practice was incorporated into the U.S. carceral system beginning in 1792.²³ It soon became the fate for many people convicted of felonies, most notably by stripping them of their right to vote. The civil death of African Americans would be their disfranchisement. Felony disfranchisement laws would target Black citizens, ensuring they would be blocked from the ballot box. While the Civil Rights Act of 1866 and the 14th Amendment—passed to protect freedmen’s rights—undermined the wording of the *Dred Scott v. Sandford* case, they did not undermine the sentiment of it.²⁴ In the eyes of white citizens, African Americans did not deserve to be free people with agency, and they most certainly did not deserve the right to vote. Just as

²² John S. Vishneski III, “What the Court Decided in *Dred Scott v. Sanford*,” *The American Journal of Legal History* 32, no. 4 (October 1988): 373-90, <https://doi.org/10.2307/845743>.

²³ Ryan King, “Jim Crow Is Alive and Well in the 21st Century: Felony Disenfranchisement and the Continuing Struggle to Silence the African-American Voice,” *Souls: A Critical Journal of Black Politics, Culture & Society*,” 8, no. 2 (September 21, 2006): 7-21, <https://doi.org/10.1080/10999940600680507>.

²⁴ The 13th Amendment was ratified in 1865 and abolished slavery except as a punishment for a crime. The Civil Rights Act of 1866 declared that all males born in the United States were citizens, regardless of race or previous servitude. The Reconstruction Acts of 1867 mandated that freedmen be registered to vote. In 1868, the United States Congress ratified the 14th Amendment to further protect freed people's citizenship rights. This legislation declared that all persons born in the United States were legal citizens and were to have equal protection under the law. In 1870, the 15th Amendment was ratified and declared that neither the federal government nor an individual state could deny a man his right to vote based on the color of his skin or previous servitude. For more, see U.S. Congress, *The Reconstruction Act of 1867* (1867); *Annals of Congress* 1866, 29; U.S. Const. amend. XIII; U.S. Const. amend. XV.

Dred Scott was denied his humanity and any civil liberties, legal systems continued to rob African Americans of their rights by denying their right to enfranchisement after Emancipation. State legislatures of the South used state constitutions and laws to criminalize Blackness, allowing for felony disfranchisement to block thousands of citizens from the ballot box. The mere humanity of African Americans became the way they were criminalized, victimized, and ostracized. Through this practice, the southern states of Mississippi, Alabama, Georgia, Louisiana, and Florida were able to rob millions of Black citizens of their votes.

Following the federally mandated end of slavery in 1865 with the 13th Amendment, state legislatures across the U.S. contested the citizenship rights of African Americans. In response, the Reconstruction Amendments of the U.S. Constitution were passed. Especially important was the 15th Amendment in 1870, which protected African American men's right to access the political franchise.²⁵ Nevertheless, opposition to their voting rights continued. With no sufficient federal oversight, the states of Mississippi, Alabama, Georgia, Louisiana, and Florida were able to secure the disenfranchisement of Black citizens. These states were free to criminalize aspects of life for newly freed African Americans and ensure that laws in place would attack their right to vote. In this context, political elites in Southern states were able to move from a war against the U.S. to a war against the Black vote, with the tangible goal of civil death in mind.

To ensure this death, Southern legislatures had to be strategic. To maintain their power and keep African Americans from advancing socially, economically, and politically, lawmakers criminalized them. They defended the oppressive measures they instituted by insisting they were put in place to protect the public. Under this façade, legislatures in the South were able to block African American men from the ballot box.²⁶

²⁵ Blackmon, *Slavery by Another Name*, 41-58.

²⁶ Litwack, *Trouble in Mind*, 217-29.

Mississippi's legislature, which oversaw the brutal conditions for enslaved people before 1865, worked to ensure that the roughly 440,000 Black people who resided in the state continued to suffer once freed.²⁷ White lawmakers understood that their power was predicated on the denial of the civic life and political potential of African Americans. In efforts to remove them from the electorate, in 1865, the legislature passed a series of laws known as Black Codes, which criminalized African Americans and their conditions of life after the end of slavery. Under a series of acts, notably, *An Act to Confer Civil Rights on Freedmen*, Mississippi lawmakers restricted the ability for Black citizens to earn income independently. These laws also forced them to rent land within city limits, prohibiting their movement, which most often led to the never-ending cycle of sharecropping.²⁸ Additionally, the legislation required all African Americans to have formal proof of employment at the beginning of each year. Failure to do so was considered an act of vagrancy, a crime punishable by arrest, often resulting in a felony conviction.²⁹

In effect, Black Codes directly worked to undo the freedom of Black citizens. They included an extensive array of things that could be considered a “crime.” For instance, *An Act to Confer Civil Rights on Freedmen* listed numerous occurrences that could result in a vagrancy charge. Under the act, vagrants were considered those who “misspend what they earn, or do not provide for the support of themselves or their family, and all other idle and disorderly persons...”³⁰ With such vague language, African Americans faced an increasingly complex array

²⁷ U.S. Census Bureau, “Population of the United States, 1860,” prepared by United States Census Bureau, accessed March 22, 2021, <https://www2.census.gov/prod2/decennial/documents/1860a-02.pdf>.

²⁸ Mississippi, *An Act to Confer Civil Rights on Freedmen*, (1865).

²⁹ *Ibid.*

³⁰ *Ibid.*

of measures that could lead to their arrest and felony conviction, giving state authorities ample opportunity to disfranchise them.

Using Mississippi laws as a template, state legislatures in Alabama and Louisiana also passed Black Codes in 1865.³¹ Similar to Mississippi's codes, Alabama's state legislature focused on vagrancy—a felony offense. Upon conviction, African Americans would be sentenced to serve time in the convict lease system.³² Although Mississippi had similar laws and practices in place, Alabama's state legislature expanded on what could be considered vagrancy, allowing for a wider net to be cast over the newly freed Black population.³³ Similarly, Louisiana's Black Codes also expanded on the notion of vagrancy, adding to their laws that those with “good behavior” could be excluded from this code, with a general understanding that it would be white citizens and not African Americans who would be excused under the clause.³⁴

Georgia and Florida's legislatures also passed Black Codes in 1865. Like other states, Georgia's legislature ensured that newly freed people's political and economic rights were restricted, enacting vagrancy laws that, while claiming to be the response to Black “idleness,” worked to imprison men, women, and children for minor offenses.³⁵ In addition, while men were arrested for vagrancy at higher rates than women, Black women were targeted by vagrancy laws for prostitution. In 1873 within the city of Atlanta, the charge of prostitution came with a fine as high as \$25. As most women could not afford such fees, they were incarcerated and sent back

³¹ Joel Williamson, *After Slavery: The Negro in South Carolina During Reconstruction, 1861-1877*, (Chapel Hill: University North Carolina Press, 1965), 74.

³² Williamson, *After Slavery*, 745.

³³ David Marin, “The Birth of Jim Crow in Alabama 1865-1896,” *National Black Law Journal* 13, no. 1 (1993): 1-15. <https://escholarship.org/uc/item/5x65v6ch>.

³⁴ Louisiana, *An Ordinance Relative to the Police of Negroes Recently Emancipated within the Parish of St. Landry*, (1865).

³⁵ LeFlouria, *Chained in Silence*, 56-8.

into a system of control and exploitation.³⁶ These laws additionally worked to ensure that white elites could continue to use African Americans as a cheap labor force.³⁷ Florida's legislature established similar laws to block African Americans from the ballot box, criminalizing them while also continuing to benefit from their forced labor.³⁸ Under Florida's laws, not only could adults be punished for things such as vagrancy, but the children of parents deemed to be vagrants could also become "apprentices" of whites, ensuring that entire generations of African Americans were under the command of what was all too similar to that of a slave regime.³⁹

While short-lived during Presidential Reconstruction under Andrew Johnson, Black Codes successfully criminalized African Americans, establishing the precedent of legal crusades that would continue to target and incarcerate them. Simultaneously, this also allowed for the disfranchisement and convict labor workforce to grow as time progressed. However, these efforts hit a roadblock beginning in 1866 with Congressional Reconstruction. Now, Southern legislatures had to include Black citizens in their ranks and were forced to pass progressive legislation that acknowledged and granted citizenship rights to African Americans. During the 11 year stretch of Congressional Reconstruction, Black citizens were able to cast votes and participate in politics. During the Southern governments' progressive rule, biracial legislatures passed laws that stipulated the terms of voting rights, including laws on felony disfranchisement. However, as these laws were designed to be applied to both Black and white citizens, the general and vague language in describing who would be barred from voting, while not intended to

³⁶ Haley, *No Mercy Here*, 36-8.

³⁷Alex Camardelle, "Telling the Unvarnished Truth About Georgia," accessed February 1, 2021, <https://gbpi.org/telling-the-unvarnished-truth-about-georgia/>.

³⁸ Joe Richardson, "Florida Black Codes," *The Florida Historical Quarterly* 47, no. 4 (April 1969): 365-79, <https://www.jstor.org/stable/30140241>.

³⁹ *Ibid.*, 370-5.

discriminate against Black citizens, provided a path for post-Reconstruction Democratic governments to utilize the language to their benefit and target African Americans' civil rights.⁴⁰

By the time Congressional Reconstruction began in 1866, most state legislatures had made it clear that those with felony convictions would have their right to vote revoked. With the intention to ensure that traitors to the Union were unable to influence the futures of southern states, many of the progressive biracial legislatures revised their constitutions to include specific language on how people with felony convictions would be excluded politically. In addition, these governing bodies that oversaw all new state constitutions after 1865 ensured that civil rights were granted to newly freed people. Failure to abide by the new progressive requirements meant that states would not be admitted back into the Union. In 1868, all former states of the Confederacy had state constitutions that acknowledged and granted Black citizenship and rights, and with the approval and ratification of the documents, they were once again a part of the United States. However, the states were still under Congressional Reconstruction and had to act within the limits set by Congress. It was clear that the old ways of the antebellum legislatures would not be tolerated.⁴¹ Nonetheless, as soon as Reconstruction ended and Democrats regained control of state governments, they used the legislation created by the progressive legislatures to limit Black freedom and rights.

This was first made evident within the state of Florida. Florida's legislature became the first out of the five to propose a new constitution after the Civil War.⁴² However, it did not include the enfranchisement of Black men, and after Congressional Reconstruction began, due to

⁴⁰ Paul E. Herron, *Framing the Solid South: The State Constitutional Conventions of Secession, Reconstruction, and Redemption, 1860-1902* (Lawrence: University Press of Kansas, 2017), 154-84.

⁴¹ *Ibid.*, 179-82.

⁴² Constitution or Form of Government for the People of Florida, 1865.

its lack of structure, the constitution was rejected by the federal government. As a result, Florida was placed under military rule until 1868, when the state legislature successfully proposed and passed a new constitution, specifically, with the voting rights of African American men included.⁴³ While this constitution enfranchised Black men, after Reconstruction ended in 1877 and Democrats regained control of the government, the 1885 Constitution altered Article VI, Section 4, and expanded upon the topic of felon voting and included that “...nor shall any person convicted of a felony be qualified to vote at any election unless restored to civil rights...”⁴⁴ Nowhere in the text did it mention what types of crimes would put one under the category of a “felon,” making its vague wording a perfect path to disfranchise any person or targeted group. The white supremacist rule was back and went after the rights of African Americans with a vengeance.

In 1868, Louisiana’s progressive legislature, also under the federal government’s supervision, passed a constitution that included felony disfranchisement in the text, with the intention that the laws would be applied equally to all citizens, regardless of race. Article 99 of Louisiana’s Constitution stated, “The following persons shall be prohibited from voting and holding any office: All persons who shall have been convicted of treason, perjury, forgery, or other crime punishable in the penitentiary.”⁴⁵ While the text was race-neutral, following Reconstruction, in 1879, Louisiana’s government passed a new constitution that included 107 new articles—ensuring white political elites would regain their power.⁴⁶ With its power restored,

⁴³ Ralph Peek, “Aftermath of Military Reconstruction,” *The Florida Historical Quarterly* 43, no. 2 (October 1964): 123-7.

⁴⁴ Constitution of the State of Florida, 1885.

⁴⁵ Constitution Adopted by the State Constitutional Convention of the State of Louisiana, March 7, 1868.

⁴⁶ *Official Journal of the proceedings of the Constitutional convention of the state of Louisiana, held in New Orleans, Monday, April 21, 1879.*

the Democratic party utilized the felon disfranchisement laws crafted by the former progressive legislature and enforced the ambiguous laws to target African Americans' voting rights.

As the efforts of Reconstruction faded, in 1875, Alabama's legislature ratified a new constitution that sought to undo much of the progressive work done in the Constitution of 1868 and fully restore power back to the white Democratic elites.⁴⁷ While slightly still appealing to the federal government's demand for equality among the races, included in the new constitution was race-neutral yet damning language for the fate of incarcerated people and their voting rights. The constitution's third article read, "The following classes shall not be permitted to register, vote, or hold office: First - Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or other crime punishable by imprisonment in the penitentiary. Second. -Those who are idiots or insane."⁴⁸ The ambiguous language of the text left the interpretation of the law to the discretion of white powerholders. Effectively, the wording ensured that there would be an easy way for white judges and juries to make felons out of Black citizens and strip them of their right to vote.

Georgia's Constitutional Convention of 1877 worked to rescind the Republican-led changes to the constitution during Reconstruction, namely the constitutions of 1865 and 1868. The two constitutions had legally abolished slavery and expanded voting rights to include all

⁴⁷ The November 3, 1874, statewide elections in Alabama resulted in Democrats regaining control of the government and legislature. Tensions were high as Democrats desperately wanted control of the state again. The Reconstruction era of the state had brought the political franchise to African American men and upset the ideal social order wherein white supremacy reigned. The tensions between Democrats and Black Republicans reached a boiling point, and violence erupted in three counties, leaving roughly eight African American men dead and nearly 100 more injured.

⁴⁸ "Constitution of the State of Alabama, 1875." For more see, Matthew Pinsker, "Democratic Victory Through Violence – The Eufala Riot of 1874 and Southern Redemption," accessed March 23, 2021, <http://blogs.dickinson.edu/hist-211pinsker/2016/11/04/1548/>; Blake Willhelm, "Election Riots of 1874," accessed March 23, 2021, <http://www.encyclopediaofalabama.org/article/h-2484>.

male citizens over 21, regardless of race.⁴⁹ However, with regained power, the Democrats were determined to undo the changes that promised the political franchise to Black citizens. Mirroring the language of other Southern state constitutions, the Journal of the Georgia Constitutional Convention of 1877 noted that the Committee on Elective Franchise's report was adopted to the constitution with the following text,

.... But the following classes of persons shall not be permitted to register, vote, or hold any office, or appointment of honor, or trust in this State, [namely]: Those who shall have been convicted of treason against this State, of embezzlement of public funds, malfeasance in office, bribery or larceny, in any court of competent jurisdiction, or of any crime involving moral turpitude, punishable by the laws of this State which imprisonment in the penitentiary, unless such person shall have been pardoned; idiots or insane persons.⁵⁰

Like Alabama, Georgia's legislature included more ways to disfranchise people, allowing for the laws to be disproportionately applied to Black citizens. As the text appeared to be race-neutral, there was no way to claim that the amendments were put in place to disfranchise African Americans. This allowed for the laws to be carried out by the predominantly white police officers, judges, and juries—hindering Black citizens' access to their civil rights. Despite the damage done by the new state constitutions in the South, one more state was to follow, with a constitution that would go on to influence all other southern states for the next several decades.

Mississippi's post-Reconstruction Constitution of 1890 set precedents on how to permit access to the ballot box for some, while at the same time, "justifiably" excluding others. The text became explicit in how the state would target the Black population. Essentially, the government would make felons out of those who committed small, petty crimes—crimes that African Americans were most often accused of committing. However, their "crimes" were due in part to

⁴⁹ "Constitution of the State of Georgia, 1865.," "Constitution of the State of Georgia 1866."

⁵⁰ *Journal of the Constitutional Convention of the People of Georgia, 1877*, accessed February 18, 2021, <https://babel.hathitrust.org/cgi/pt?id=hvd.li18ta&view=1up&seq=100&q1=crime>.

their inability to earn an income or have access to tools that would promote their social mobility after generations of enslavement. Regardless, the Democratic legislature was eager to criminalize Black citizens and expanded Section 241 of the constitution to read,

Every male inhabitant of this State, except idiots, insane persons, and Indians not taxed, who is a citizen of the United States, twenty-one years old and upwards, who has resided in this State two years, and one year in the election district, or in the incorporated city or town, in which he offers to vote, and who is duly registered as provided in this article, and who has never been convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement or bigamy, and who has paid, on or before the first day of February of the year in which he shall offer to vote, all taxes which may have been legally required of him, and which he has had an opportunity of paying according to law, for the two preceding years, and who shall produce to the officers holding the election satisfactory evidence that he has paid said taxes, is declared to be a qualified elector.⁵¹

This drastically longer section worked to bar more people from the ballot box. With the poll tax formally put into law, there was now another way to block Black citizens from voting. Poll taxes were considerably high, and most African Americans—stuck in a cycle of perpetual debt from sharecropping and debt peonage—had no money, and those who did, could seldom afford the tax.⁵² Subsequently, as people owed the state the accumulated amount of the taxes from the two previous years as well, the goal of voting was unobtainable for many African Americans.⁵³ Even more so, before Black citizens could make it to the point of voter registration and face the poll tax barrier, Southern legislatures worked to ensure that they were branded as felons, stopping them in their tracks.

⁵¹ Miss. Const. of 1890. art. XII, §. 241.

⁵² Jeff Manza and Christopher Uggen, *Locked Out: Felon Disenfranchisement and American Democracy*, (Oxford: Oxford University Press, 2006), 78-80.

⁵³ Malia Brink, “Fines, Fees, and the Right to Vote,” *Human Rights Magazine* 45, no. 1 (February 2020), accessed March 12, 2021, https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/voting-rights/fines--fees--and-the-right-to-vote.

As the South moved beyond Reconstruction in the 1880s, both Jim Crow and felony disfranchisement laws were in place and spreading rapidly. To find an example of the notion that Black meant criminal, all one had to do was look at a newspaper. Editors throughout the South did all that they could to vilify Black citizens. Reports of “Negro crime,” factual or not, were easily found in almost any Southern paper.⁵⁴ This type of reporting furthered states’ abilities to take any Black person, create a narrative of their criminality, and with an unjust legal system leading the way, turn them into convicted felons—effectively stripping them of their civil rights.

With Reconstruction in the rear-view mirror and the federal government mandating that African Americans receive equal treatment and protection under the law, white men of the South adapted to the changes, determined to keep their power and block African Americans from the political franchise. Newspapers in the South spread the shared sentiment of the need to prevent Black citizens from voting. A 1900 article in the North Carolina newspaper, *The News & Observer*, boasted the headline, “The People Demanded It,” referring to the exclusion of African Americans from the electorate. The paper further read that the Democratic political elite, Dr. Cyrus Thompson, spoke for everyone when he said, “It is evident that the Democrats will have to eliminate the Negro question now. I do not think that the people who have given the Democratic party power will be satisfied with anything else than the elimination of the Negro from politics...”⁵⁵ The article further expressed that the removal of Black citizens from any political activity was “necessary” to prevent “bad government.”⁵⁶ As North Carolina neighbored Georgia, this report made it ardently clear that the desire to prevent African Americans from voting was widespread and powerful. As Jim Crow grew stronger, more efforts were made to suppress the

⁵⁴ LeFlouria, *Chained in Silence*, 21; 33-7; Haley, *No Mercy Here*, 41-6.

⁵⁵ *The News & Observer*. (Raleigh, N.C.) 1884-current, May 17, 1900.

⁵⁶ *Ibid.*

Black vote, including turning Black men into monsters in the press to further allow for their incarceration and disfranchisement.

Black success was alarming to white Southerners who sought to uphold white supremacy.⁵⁷ In response to this presumed attack on white power, men of the South created false narratives of Black crime and danger to justify their murders, and according to the historian Leon Litwack, “the closer a Negro got to the ballot box, the more he looked like a rapist.”⁵⁸ The purity of Southern white women, used as an analog for the racial purity of the South, was something that white men and mobs vowed to protect. If the narrative could be spread that all Black men were barbaric rapists lusting after white women, then the white mobs would seem like heroes and not the bloodthirsty monsters they truly were.

As Americans moved into the 20th century, Southern legislatures continued their quest to use felony disfranchisement to bar African Americans from the ballot box. Alabama’s 1900 Constitutional Convention added crimes of “moral turpitude” to the list of offenses that resulted in the loss of voting rights.⁵⁹ The language that spelled out “moral turpitude,” intentionally vague, worked to further criminalize Black citizens, as practically anything could be interpreted as a crime under that clause.

John B. Knox, the President of the Alabama Constitutional Convention, had stated that the purpose of the convention was “to establish white supremacy in the state... within the limits imposed by the Federal Constitution,” adding that the state’s apparent manipulation of the law to remove the Black vote was justified to avoid the “menace of Negro domination.”⁶⁰ The irrational

⁵⁷ Litwack, *Trouble in Mind*, 280-324.

⁵⁸ Leon F. Litwack, James “Hellhounds” in *Without Sanctuary: Lynching Photography in America*, ed. James Allen (Santa Fe: Twin Palms Publishers, 2000), 30.

⁵⁹ Al. Const. Of 1901. Art VIII, § 177.

⁶⁰ *Ibid.*

fears of “Negro domination” prevailed in the nation far before 1900. Democrats had lost power during Congressional Reconstruction, and Black citizens had been included in government and the state electorate. The temporary political power African Americans were given furthered the fears that if allowed to vote, they would seek to take away Democratic power in the state all over again.⁶¹ However, the truth lay in the fact that white citizens realized that in 1900, as African Americans consisted of roughly 32 percent of southern states’ populations, the power that white men held would be at risk if Black citizens had unrestricted access to the ballot box.⁶² In essence, legislatures had to protect what was understood as a “white man’s government.”⁶³ With these ideas in mind, laws establishing crimes of moral turpitude spread throughout the region. It was clear that there was no intention to give Black citizens access to their civil rights, and by further criminalizing them, felony disfranchisement became Black disfranchisement.

The Southern legislatures of the Jim Crow era continued to infringe on the liberties of African Americans. As media outlets increased around the country, so did the message that Black meant criminal, with the understood sentiment that criminals had to be controlled. The white men of the South had made it abundantly clear that they would do everything in their power to block African Americans from the ballot box, including their physical death. For those who were not disfranchised from felonies, lynchings, beatings, and the burnings of houses and places of worship all worked to send a threatening message to all Black citizens who dared to

⁶¹ W.E.B. Du Bois, *Black Reconstruction in America* (Oxford: Oxford University Press, 2007), Location 10509/19517, Kindle.

⁶² Campbell Gibson and Kay Jung, “Historical Census Statistics on Population Totals By Race, 1790 to 1990, and By Hispanic Origin, 1970 to 1990, For The United States, Regions, Divisions, and States.” United States Census Bureau accessed March 24, 2021, <https://web.archive.org/web/20141224151538/http://www.census.gov/population/www/documentation/twps0056/twps0056.html>.

⁶³ Du Bois, *Black Reconstruction in America*, Location 10509/19517, Kindle.

register or vote.⁶⁴ Within these practices, Jim Crow gained its legacy of being the most horrific period for African Americans, encompassing the Black Nadir. This all stemmed from pure white rage.⁶⁵ The loudest instrument Black citizens had was their ability to vote, and the white men of the South understood that they had to suppress Black suffrage in order to silence African Americans and maintain white supremacy. There was no better way to do this than to make Blackness criminal, making it easier to brand the word “felon” onto their image, simultaneously blocking their votes and ability to advance in society. Efforts of white Southerners to restrict the rights and freedoms of African Americans would stretch far beyond civil death, forcing Black citizens to face another barrier as they pushed forward.

⁶⁴ Carol Anderson, *White Rage: The Unspoken Truth of Our Racial Divide* (New York: Bloomsbury Publishing, 2016), 98-100.

⁶⁵ *Ibid.*, 3.

CHAPTER 2

Physical Death

As the sun set on Newnan, Georgia, on April 23, 1899, Sam Hose's tortured and mutilated body parts were being carried and sold around the state as souvenirs from his lynching earlier that day.⁶⁶ Accused of killing his employer in cold blood and reportedly proceeding to rape his employer's wife, a mob caught Hose and dragged him to jail. Despite the truth being less gruesome, the barbaric narrative that described the events leading to his employer's death criminalized and made a monster out of Hose in the eyes of the white citizens of the town. Although true that he did kill his employer, it was out of self-defense after being held at gunpoint when he requested time off to visit his ill mother. Fearing for his life, Hose swung the ax he had been working with and delivered a fatal blow.⁶⁷

After news of the event spread around town, a mob of white men had taken Hose from his home and dragged him to the local jail. However, as the mob was surrendering Hose to the custody of the police, they changed course and took Hose with them—determined to deliver “justice” themselves. News quickly spread throughout the state that Hose was captured and was going to be lynched. Excited for what was to come, over 2,000 people rode into town on trains from all around to witness the spectacle. Hose's torturous death lasted for almost thirty minutes, beginning with one man cutting his ears off, followed by each of his fingers, and then his genitals. Next, members of the mob skinned his face before burning him alive. “Sweet Jesus!” was all Hose could manage to scream out in pain, with the fire soon killing him. Members of the mob and crowd rushed to grab body parts as souvenirs and sold and displayed pieces of his flesh,

⁶⁶ Philip Dray, *At the Hands of Persons Unknown: The Lynching of Black America* (New York: The Modern Library, 2002), 3-14.

⁶⁷ *Ibid.*

bones, and heart across the state.⁶⁸ This vile murder was more than just revenge predicated on a lie; this was a warning to all African Americans in Georgia to stay in their place or meet a similar fate.

Sam Hose was not an anomaly. He was one of the 3,446 known African Americans lynched in the United States from Reconstruction through the end of Jim Crow.⁶⁹ Despite the narrative that lynchings were often justice brought to rapists, as shown in the case of Hose, the truth rarely aligned with the story told. African Americans were often met with mob violence for violations of the assumed racial code, unpaid debt, attempting to negotiate their pay and labor agreements, theft, arson, or attempting to be politically active or vote.⁷⁰ *Lynching* is defined as “a mob of riotous assemblage composed of three or more persons acting in concert, without the authority of law, to kill or injure any person in the custody of any peace officer, with the purpose or consequence of depriving such person of due process of law or the equal protection of the laws.”⁷¹ Many states allowed lynchings to go unpunished, with legal systems used to protect murderers and, at the same time, criminalize the dead.⁷² It was bad enough that these egregious acts were occurring, but the actual danger lay within the fact that law enforcement and courts would not protect the Black citizens in the South. As in the case of civil death, the lawmakers in Mississippi, Alabama, Georgia, Louisiana, and Florida, would be the worst perpetrators. Just as civil death was brought upon newly freed African Americans using legal paths, the same legal

⁶⁸ *Ibid*; Leon Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York: Knopf Doubleday Publishing Group, 1999), 280-3; Lawrence Goldstone, *Inherently Unequal: The Betrayal of Equal Rights by the Supreme Court 1865-1903* (2011; repr., London: Walker Books, 2011), 1-12.

⁶⁹ “Lynchings: By State and Race, 1882-1968,” University of Missouri-Kansas City School of Law, accessed October 10, 2020, <http://law2.umkc.edu/faculty/projects/ftrials/shipp/lynchingsstate.html>.

⁷⁰ Litwack, *Trouble in Mind*, 305-6.

⁷¹ Dray, *At the Hands of Persons Unknown*, 32-3.

⁷² Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Urban America* (Cambridge, MA: Harvard University Press, 2010), xvii.

systems and power structures that sought their civil oppression upheld their physical death as a means to control and intimidate them. The legislatures in the five states would use their legal systems to ensure that the deaths of Black citizens would be both permitted and excused, creating a war against Blackness that would plague the region.

Discursive violence—fed upon by tales of Black inferiority, tales of Black people as savages, animals, criminals, and overall subhuman, with the inability to be civilized – preceded the deaths of African Americans.⁷³ Newspaper reports fed this notion with disastrous ease, including headlines such as “William Evans Attacked by a Savage Negro,” “Negro Brute Burned at Stake,” “A Negro Monster,” and “Seek to Lynch Black Brute.”⁷⁴ Under this practice, the presence of Black citizens was presented as a threat to white Southerners, making the desire to remove them from society strong enough to resort to acts of physical death.⁷⁵

At the beginning of Reconstruction, the former states of the Confederacy were still recovering from their loss in the Civil War while at the same time having to grapple with the fact that African Americans were now legally free. This freedom also meant self-sovereignty, something that white power structures had been able to deny for over two hundred years. Now, with federal legislation mandating that all freed African Americans be given rights, the same power structures that had upheld white supremacy began to worry that they would crumble just as the Confederacy did.⁷⁶ In the eyes of the state legislatures, to hold on to the power they had

⁷³ Discursive violence was the preamble to physical violence. This type of discourse called for, justified, and rationalized violence. It further created a racial hierarchy that led to the destruction of value for an entire group of people, leading to violence against them.

⁷⁴ *The Birmingham Age-Herald* (Birmingham, Ala.) 1902-1950, January 1, 1899; *Hattiesburg Daily Progress* (Hattiesburg, Miss.) 18??-1909, June 24, 1903; *Condon Globe* (Condon, Or.) 189?-1919, January 15, 1897; *The Thibodaux Sentinel* (Thibodaux, La.) 1905-1912, October 17, 1908.

⁷⁵ Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self Making in Nineteenth Century America* (New York: Oxford University Press, 1997), 5-10.

⁷⁶ U.S. Congress, *The Reconstruction Act of 1867* (1867); *Annals of Congress* 1866, 29; U.S. Const. amend. XV.

enjoyed and ensure that Black citizens would not try to advance and gain equality in the U.S., something had to happen. With that flawed logic in mind, white Southerners felt that the best way to eliminate the perceived threat, realistic or not, was to eliminate it physically. Thus, the physical death of African Americans spread throughout the region like wildfire, with no vehicle of justice big enough to put it out for decades to come.

The lynchings of Black citizens became a common occurrence in the United States. Even more so, lynching was an accepted form of justice by many, with little interference from local and state officials. Lynch law was an unofficial and unspoken yet understood form of “justice.” Ida B. Wells, the prominent Black journalist and activist, described it as an “unwritten law” advocated for by Southern citizens that justified the murders of thousands of African Americans at the hands of white men without due process, trial, or conviction.⁷⁷ All understood lynch law as the “law of the land,” allowing for Black lives to be taken without any protection and allowing for any white person or mob to dispose of Black life as they pleased.⁷⁸ In a “Speech on Lynch Law,” given at the National Negro Conference in 1909, Wells explained the deeper meaning behind lynch law.

Our country’s national crime is lynching. It is not the creature of an hour, the sudden outburst of uncontrolled fury, or the unspeakable brutality of an insane mob. It represents the cool, calculating deliberation of intelligent people who openly avow that there is an ‘unwritten law’ that justifies them in putting human beings to death without complaint under oath, without trial by jury, without opportunity to make defense, and without right of appeal.⁷⁹

⁷⁷ Ida B. Wells-Barnett, “Lynch Law in America” (Boston: Arena Publishing Company, 1900), 15-24, accessed February 1, 2021, <http://www.self.gutenberg.org/eBooks/WPLBN0100002658-Lynch-Law-in-America-by-Wells-Ida-B-.aspx>.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

Lynching was a national spectacle; however, the resentment white Southerners felt towards Black freedom in the South fanned the fire on the assault of African American life. The discursive violence that prevailed in the nation fed the ability for white Southerners to view Black men, women, and children as less than human. In reflecting upon the lynchings of African Americans during the late 19th and early 20th century, a white man from Florida remarked, “[W]e Southern people don’t care to equal ourselves with animals... The people of the South don’t think any more of killing the Black fellows than you would think of killing a flea... and if I was to live 1,000 years that would be my opinion and every other Southern man.”⁸⁰ This sentiment was shared by thousands of people across the South, including Georgian suffragette Rebecca Felton.

Despite her progressive stance on voting for white women, Felton promulgated the racist notion that African American men were violent and continuously attacked white women. In 1897 while giving an address, she remarked, “if it needs lynching to protect women’s dearest possession from drunken, ravening human beasts, then I say lynch a thousand a week.”⁸¹ Her views furthered the idea that African Americans’ freedom was a danger to the well-being of the South, and therefore, they had to be completely eliminated. Like Felton, white citizens considered the trio of Blackness, Black advancement, and Black agency a threat to the social order of the region, and lynchings worked to remove that threat from white society.

The unspoken lynch law allowed for “justice” to be carried out by white mobs and allowed for assailants to act without consequence. These killings did not happen in secret, yet, with widespread support, the anonymity of murderers was protected. To do this, many official

⁸⁰ Litwack, *Trouble in Mind*, 284.

⁸¹ “Felton, Rebecca Latimer,” United States House of Representatives, accessed March 29, 2021, [https://history.house.gov/People/Listing/F/FELTON,-Rebecca-Latimer-\(F000069\)/](https://history.house.gov/People/Listing/F/FELTON,-Rebecca-Latimer-(F000069)/).

reports on lynchings read that the vile act was done “by parties unknown.”⁸² This protection allowed for lynchings to occur and made it clear that no one in power would work to stop the violence. As a result, the citizens of the South found ways to work with that unchecked freedom, and with it, weekly reports of lynchings were found in newspapers across the South.

During both Reconstruction and Jim Crow, before other forms of media became popularized, newspapers were often the only news source that people had, especially for those in rural southern states.⁸³ Consequently, these newspapers were trusted as legitimate sources of information. With this power, presses were able to take the physical deaths of Black citizens and spread the messages that these lynchings were appropriate and celebrated by the greater community.⁸⁴ Newspapers in Mississippi, Alabama, Georgia, Louisiana, and Florida utilized their presses to further the efforts to delegitimize Black life. These newspapers spread these messages with ease, sending the core message that Black freedom was dangerous and had to be contained.

As both the law and the press criminalized Blackness, the deaths of African Americans at the hands of white mobs surged. Legal systems in all five states had a significant role in condoning this behavior, especially as the acceptance of lynch law allowed for lynchings to run rampant. White citizens in Mississippi, known for creating some of the most brutal conditions during slavery, aimed to maintain their white supremacist power structure as African Americans emerged as free people. From 1882 through 1968, there were 539 known lynchings of Black citizens in the state, but for every known lynching, there were more victims whose names and

⁸² Dray, *At the Hands of Persons Unknown*, 42-3.

⁸³ Richard Perloff, “The Press and Lynchings of African Americans,” *Journal of Black Studies* 30, no. 3 (January 2000): 315-30. <https://www.jstor.org/stable/2645940>.

⁸⁴ *Ibid.*

bodies never resurfaced.⁸⁵ In addition to mob violence, so-called “Southern Justice,” upheld by judicial lynchings, worked to kill Black citizens, with courts sentencing them to death in the electric chair or by hanging for offenses that would not be met with a death penalty if committed by a white citizen. The allegations that resulted in their deaths included those of murder, assault, rape, theft, or arson. This was a way to legally kill African Americans while simultaneously claiming to rid society of dangerous criminals.⁸⁶ The frequent news of lynchings and deaths of Black people was often seen as justice well delivered, and presses throughout the South furthered that message.⁸⁷

As Mississippi was the location of some of the highest recorded numbers of lynchings across the entire country, the white supremacist ideals ran deep throughout the state. As a result, the white-owned presses worked to further criminalize the victims and, subsequently, Blackness. Even more so, the lynchings of Black women, while underreported, at times hinted at the sexual violence women experienced and the troubles they faced in freeing themselves from their abusive situations.⁸⁸

An 1891 article from *The Macon Beacon* reported that Louise (Lou) Stevenson was lynched due to her status as an alleged accomplice in the death of a white man. The report read, “The infuriated populace hanged both White [the assailant] and his accomplice, the Negro woman Lou Stevenson, [from] a railroad bridge near the town during the early hours of Monday morning. There is great excitement there, but no further trouble is expected.”⁸⁹ Left out of the

⁸⁵ “Lynchings: By State and Race, 1882-1968.”

⁸⁶ Litwack, *Trouble in Mind*, 257-68; David Jansson, “The Work of Southering: ‘Southern Justice’ and the Moral Landscape of Uneven Racism,” *Southeastern Geographer* 57, no. 2 (Summer 2017): 131-150.

⁸⁷ Perloff, “The Press and Lynchings of African Americans,” 327.

⁸⁸ Barbara J. Zeitz, “Black Women Lynched, Too,” American Association of University Women, 2015, accessed March 2, 2021, <https://aauw-il.aauw.net/files/2013/04/feb15.pdf>.

⁸⁹ *Macon Beacon* (Macon, Miss.) 1859-1995, October 3, 1891.

report were details of Stevenson's abuse done by the deceased with whom she had been in an affair.⁹⁰ The efforts to remove Stevenson from a dangerous relationship led to her death.

Simultaneously, the press painted the man who continuously harmed her as an innocent victim—dying at the hands of barbaric criminals. Both before and after Emancipation, laws and public officials did not protect African American women from the abuse of white men, and drastic measures taken to free a woman from harm's way could prove to be lethal. However, white citizens in Mississippi were hardly alone in the measures taken to abuse and punish African Americans. Other southern states were home to similar vile acts that threatened Black life and simultaneously upheld white supremacy.

Similar to Mississippi, white citizens in Alabama were not shy about their mistreatment of African Americans. From 1882 through 1968, the state was home to 299 known lynchings of Black citizens.⁹¹ Trusted newspapers in the state worked to spread the message of the “violent and dangerous Black citizen,” sharing constant news of “Negro crime” and tales of “justice” done by white mobs.⁹² The reports of lynchings normalized the horrific violence that plagued the region. One 1903 report published in *The Birmingham Age-Herald* boasted the headline, “Negro Lynched, Houses Burned and Joplin at Mercy of Mob.” The report explained that Thomas Gilyard, a twenty-year-old African American man, was lynched by a mob after being taken from a jail cell as he awaited trial on suspicion of being involved with the death of a policeman. No trial had occurred, no overwhelming evidence was presented, and yet a white mob saw it fit to take matters into their own hands. The newspaper merely reported that the lynching had been the response to a crime done by a Black man, and Gilyard fit that description, based on nothing more

⁹⁰ Wells-Barnett, “Lynch Law in America,” 3-4.

⁹¹ “Lynchings: By State and Race, 1882-1968.”

⁹² *The Birmingham Age-Herald* (Birmingham, Ala.) 1902-1950, April 16, 1903.

than his dark complexion. Furthermore, other African Americans in the town were met with violence, as the mob burned down numerous houses in a Black community, exemplifying the extremes that white citizens were willing to go through to uphold white supremacy and intimidate African Americans into remaining subordinate. The usage of newspapers for information on crime only worked to normalize the idea of the Black savage and simultaneously normalized lynchings and violence even more. The story of Thomas Gilyard showed the ease at which white hands could end Black life. This act was a further attack on Black freedom. However, as newspaper reports applauding lynchings were common throughout the South, Alabama was hardly alone in this practice.

Louisiana was home to the third-largest number of lynchings of African Americans, with 335 lynchings recorded during Reconstruction and Jim Crow.⁹³ Just as lawmakers in Mississippi and Alabama had done, by route of local and state laws, Blackness was criminalized and allowed for the ideas of the Black brute and savage to run rampant throughout the state. The tale of the Black brute described African American men as savage, animalistic criminals that attacked white women. This harmful stereotype also portrayed Black men as ape-like creatures, and by portraying men as animals and not human, white citizens could justify their deaths. After all, it would not be murder if the deceased were not seen as human.⁹⁴ Protected by public opinion, white Southerners used lynch law to justify the heinous murders. Further, more often than not, those lynched—especially when the charge of assaulting a white woman was involved—never lived to see a trial, with public discourse applauding the slayings.

⁹³ “Lynchings: By State and Race, 1882-1968.”

⁹⁴ Calvin J. Smiley and David Fakunle, “From ‘brute’ to ‘thug:’ the demonization and criminalization of unarmed Black male victims in America,” *Journal of Human Behavior in the Social Environment* 46, no. 3-4 (2016): 350-66, doi: 10.1080/10911359.2015.1129256.

Newspapers in Louisiana reported on the lynchings of African Americans with similar language as those in other southern states. The actions of white assailants were always justified, and the Black victim was criminalized. A 1906 issue of *The Southern Sentinel* bore nothing but the simple headline, “Paid the Penalty,” regarding the lynching of a Black man, Alfred Schaufniet.⁹⁵ As was common during the time, Schaufniet was accused of attempting to assault a white woman.⁹⁶ The truth did not matter. Like situations in Mississippi and Alabama, the instances of mob violence were often the result of Black citizens living their lives and having the freedom to choose where they went, whom they saw, and what they did. Their agency upset the social structure that upheld white supremacy, and white Southerners, desperate to maintain their power, worked to eliminate the perceived threat of African Americans’ agency. Newspapers such as *The Southern Sentinel* used their influence and place of trusted authority to spread the message that Black citizens were a dangerous threat to society. Such reports strengthened the public perception that lynchings were justified and necessary to ensure the town's safety and, most importantly, the safety of its white citizens. Even more so, Louisiana did not stand alone.

On the eve of Emancipation, slaveholders in Georgia held approximately 462,200 enslaved men and women, who accounted for 44% of the state’s total population.⁹⁷ This large number of freed people saw high levels of violence and intimidation from 1882 through 1968, with 492 reported lynchings of African Americans taking place within the state.⁹⁸ The large number of free Black citizens meant that nearly half of the state’s population, while once

⁹⁵ *The Southern Sentinel*. (Winnfield, La.) 1883-1910, August 31, 1906.

⁹⁶ *Ibid*.

⁹⁷ Georgia Historical Society, “Mapping Slave Resistance in Antebellum Georgia,” accessed March 2, 2021,

<https://www.arcgis.com/apps/MapJournal/index.html?appid=70c680f83eb94cfb81341325e4ca1327#:~:text=On%20the%20eve%20of%20the,of%20the%20state's%20total%20population.>

⁹⁸ “Lynchings: By State and Race, 1882-1968.”

restricted in bondage, were now supposed to be granted the same rights that white citizens had previously held exclusively. The mere threat of equality was all too much for the white citizens of Georgia. To uphold white supremacy, those who dared disrupt the social order would pay the highest price. Often kept out of the newspapers were the lynchings of Black women, with the story of the Black brute all too exciting. However, women were lynched just as men were, with the case of Mary Turner shedding light on that reality.

In 1918, Mary Turner's life would tragically end at the hands of a white mob. Turner's husband, Hayes Turner, had been lynched a few days earlier as a part of a mob's frenzied attack on Black men after Hampton Smith, a white plantation owner, was killed. In May of that year near Valdosta, Georgia, Sidney Johnson, an African American laborer, killed Smith after receiving one too many brutal whippings. As the immediate response, white men from the town set out to get revenge for Smith's death and lynched nearly a dozen Black men, including Turner's husband—leaving his body rotting and hanging from a tree in the hot heat of May. As a citizen of the United States, with some rights supposedly granted to her in the Constitution, Turner was determined to receive justice for her husband's death and declared that if she found out the identities of the men in the mob, she would "have warrants sworn out against them."⁹⁹ Her threat would cost her her life. For daring to protest her husband's death and threaten the mob with prosecution, Turner, who was eight months pregnant at the time, was taken by the same mob that killed her husband, stripped, and hung upside down from a tree by her ankles. Next, the mob doused her in gasoline and, while still alive, they set her on fire. Adding to the brutality, when signs of life came from her stomach, the mob cut her baby from her womb, letting it fall to the ground, and one man smashed the newborn's head with his boot as it lay helplessly under its

⁹⁹ Anderson, *White Rage*, 39-40.

mother's limp body. Not satisfied still, the mob shot several rounds of bullets into Turner's lifeless body.¹⁰⁰ Blackness could not exist if it were to threaten the white supremacist regime, and Mary Turner had declared to disrupt it. For that, she paid the ultimate price. Unfortunately, Turner's death would be just one of the heinous ways white mobs ended Black life.

Known for slave owners who upheld oppressive laws and practices against African Americans, Florida was home to 257 lynchings of Black people.¹⁰¹ It was not enough that white citizens targeted African Americans for their mere existence. With the criminalization of Blackness present in law and public perception, it was all too easy for a white person to tie African Americans to any crime. This practice was evident by the Rosewood Massacre of 1923, in which six Black citizens died in a horrific attack on the town. The events began after a white woman claimed that a Black man had assaulted her. The white men of the neighboring town believed the assailant to be Jesse Hunter, who was an escaped convict and was believed to be hiding in Rosewood—a well-off, predominantly Black town. With hundreds of white men and Ku Klux Klan members, the mob set out to destroy the town and murder every Black man they saw.¹⁰²

The attack began on January 1, 1923, and by the seventh, the town had been burned to the ground, displacing all who lived there. Black economic prosperity was erased in a matter of days, and the attack instilled fear so great that no one dared moved back, and the town—and its success story—soon ceased to exist.¹⁰³ While lynchings were heinous acts of violence intent on killing one or more people, an event such as Rosewood, a massacre in its actions, was all the more

¹⁰⁰ *Ibid*; LeFlouria, *Chained in Silence*, 28-30.

¹⁰¹ "Lynchings: By State and Race, 1882-1968."

¹⁰² Trever Goodloe, "Rosewood Massacre (1923)," *Black Past*, 2008, accessed March 3, 2021, <https://www.blackpast.org/african-american-history/rosewood-massacre-1923/>.

¹⁰³ *Ibid*.

destructive. Massacres were the ultimate end to racial violence, working to eliminate an entire population. These events stemmed from the same logic of lynchings, both undercut by white supremacy and the need to uphold it.¹⁰⁴ Moreover, as with lynchings, the men responsible for the Rosewood Massacre would not be held accountable for their despicable actions.

Lynch law allowed for the deaths of African Americans to go unpunished while simultaneously terrorizing Black communities. However, the lack of accountability for guilty white parties was not a random occurrence. It took more than just public acceptance. Discursive violence and the fear of African Americans partaking in society, coupled with the desire to uphold the racial hierarchy, fed into the violence that prevailed in the South. Additionally, legal systems, run by white elites, furthered the ideas found in discursive violence and allowed for lynchings to continue without penalties.¹⁰⁵

The leniency of courts when it came to punishing white assailants was made very clear. Newspaper reports across the South shared that many lynchings happened “at the hands of parties unknown.” The ability for members of mobs to stay anonymous allowed for an eerie yet clear understanding of what this meant for Black life: African Americans of the South were not protected, and their deaths would go unpunished—anyone could be next. The use of the courts to prevent charges of the guilty parties was handed to the states. The U.S. Supreme Court’s monumental *Slaughterhouse Cases* set the precedent that it was not the federal government’s job to intervene and protect people, even if their rights were not being upheld.¹⁰⁶ While the right to life was written into the very fabric of the country in the Declaration of Independence, white citizens made it clear that that right would only be protected as long as those lives were white.

¹⁰⁴ Fredrickson, *The Black Image in the White Mind*, 178-83.

¹⁰⁵ Dray, *At the Hands of Persons Unknown*, 117; Leon F. Litwack, James “Hellhounds” in *Without Sanctuary*, 20.

¹⁰⁶ *Slaughterhouse Cases*, 83 U.S. 36 (1872).

The criminal justice system and the use of juries had existed in the United States since 1630, dating back even further to England to 1066 C.E.¹⁰⁷ However, despite the Sixth Amendment's ratification in 1791, giving people the right to trials by impartial juries, juries were often all-white.¹⁰⁸ In order to sit on a jury, a person had to be a registered voter. With rampant voter disfranchisement efforts in place to prevent African Americans from registering to vote, there were hardly any Black jurors. With all-white juries, despite men arrested and charged with murder for lynching African Americans, the lack of impartiality allowed for guilty men to go free. It was frequently under these circumstances where "of parties unknown" was the court's declared guilty party, making countless lynchings unresolvable in the eyes of the legal system. The idea that the parties were "unknown" was often a fabricated narrative. Members of mobs were frequently known and connected to jurors; however, using the legal system to their advantage, white juries could claim they did not know who the assailants were. Additionally, although there were often Black witnesses to lynchings, they seldom appeared in court out of fear of being beaten or killed.¹⁰⁹ With no federal oversight, state and local governments could conduct trials in any way they pleased. A lack of due process coupled with a lack of effort to bring the guilty to justice allowed for lynchings to occur under the appearance of a just legal system. However, not all people accepted the status quo and worked to end lynchings and the systems that allowed them to occur.

Much of the progress and success of anti-lynching efforts are owed to Ida B. Wells, a Black woman born into slavery on a farm in Mississippi in 1862. One of her most well-known

¹⁰⁷ Richard Vogler, "The International Development of the Jury: The Role of the British Empire," *Revue Internationale de Droit Pénal* 72, no. 1-2 (2001): 525-550.

¹⁰⁸ Goldstone, *Inherently Unequal*, 158-180.

¹⁰⁹ Dray, *At the Hands of Persons Unknown*, 117; Leon F. Litwack, James "Hellhounds" in *Without Sanctuary*, 20.

publications, *The Red Record*, detailed the horrors of lynching. Further, it exposed the nature and actual reasons behind lynchings, as well as how white citizens mobilized these events to instill fear in the lives of African Americans. Wells, an established journalist, began her anti-lynching crusade in 1892 after the death of three Black businessmen she knew in Memphis, Tennessee: Thomas Moss, Calvin McDowell, and Henry Stewart.¹¹⁰ Their deaths came at the hands of a white mob, angry that the grocery store they successfully ran was taking away white customers from competing white businesses. As Wells examined hundreds of reports on the lynchings of African Americans, it was abundantly clear that mobs used violence to intimidate and prevent Black citizens from trying to progress economically, socially, and especially politically.¹¹¹ Using her newspapers, *The Memphis Free Speech* and *Headlight* and *Free Speech*, Wells spoke out against the lynchings of African Americans. Despite intimidation (in the form of white citizens burning down *Memphis Free Speech's* offices in 1892) and the threat of death, Wells continued her anti-lynching crusade while also working towards Black women's suffrage.¹¹²

Ida B. Wells lived a life of activism, working for the better treatment of all African Americans. She used her talent as a researcher and journalist to write several articles, pamphlets, and books detailing the violence and hardships placed upon Black citizens in the years following Reconstruction. Wells also traveled throughout the United Kingdom and shared the horrors of lynching with audiences that had influence over white Americans. As an active member in the women's suffrage movement, Wells used her platform to criticize white women who worked for

¹¹⁰ Ida B. Wells, *The Red Record* (1895; repr., New York: Open Road Integrated Media, 2015), 3-5; Akiko Ochiai, "Ida B. Wells and Her Crusade for Justice: An American American's Woman's Testimonial Autobiography," *Soundings: An Interdisciplinary Journal* 75, no 2/3 (1992): 366-9, accessed March 3, 2021, <https://www.jstor.org/stable/41178581?seq=1>.

¹¹¹ Wells, *The Red Record*, 65-67.

¹¹² "Ida B. Wells," National Park Service, 2020. Accessed February 28, 2021, <https://www.nps.gov/people/idabwells.htm#:~:text=She%20later%20became%20an%20owner,segregated%20public%20school%20in%20Memphis.>

progressive change, but at the same time, ignored lynchings and violence against Black women. As a member of the Niagara Movement from 1905-1910, and later the National Association for the Advancement of Colored People, Wells continued her activism until her death in 1931.¹¹³

An additional figure in the anti-lynching efforts was W.E.B. Du Bois, whose time as a scholar-activist brought him to address the many issues working against Black life. The lynching of Sam Hose ignited the fire in Du Bois to be more than just a scholar. That horrendous day pushed him to move beyond his scholarly focus and to also be an agent of change in the country.¹¹⁴ Through his position in the NAACP as the editor of the acclaimed magazine, *The Crisis*, Du Bois worked to expose the constant violence African Americans faced. Particularly troubling to Du Bois was the treatment of Black soldiers as they returned home from World War I. Black men fought for freedom overseas and were sometimes treated without discrimination when working with white men from other countries, only to return to the United States to experience attacks by white mobs. Some men were attacked while still in uniform, showing that their Black lives were devalued despite their sacrifices to protect all Americans.¹¹⁵ In a 1919 editorial in *The Crisis*, Du Bois detailed the abuse Black citizens faced while also calling for them to resist the inhumane treatment. In his call to action, he wrote,

This country of ours, despite all its better souls have done and dreamed, is yet a shamefully land.

It lynch.

And lynching is a barbarism of a degree of contemptible nastiness unparalleled in human history. Yet for fifty years we have lynched two Negroes a week, and we have kept this up right through the war.

¹¹³ Ibid.

¹¹⁴ W.E.B. Du Bois, *The Souls of Black Folk* (1903; repr., London: Penguin Publishing Group, 1996), xi.

¹¹⁵ "(1919) W.E.B. Du Bois 'Returning Soldiers,' Editorial from the Crisis," Black Past, accessed March 3, 2021, <https://www.blackpast.org/african-american-history/w-e-b-dubois-returning-soldiers-editorial-from-the-crisis-may-1919/>.

It disfranchises its own citizens.

Disfranchisement is the deliberate theft and robbery of the only protection of poor against rich and black against white. The land that disfranchises its citizens and calls itself a democracy lies and know it lies.¹¹⁶

Utilizing his resources, Du Bois worked to expose the injustices and violence that African Americans faced. While justice would not come overnight, his work influenced changes that were yet to come.

In conjunction with Ida B. Wells and thousands of anti-lynching activists, the efforts of W.E.B. Du Bois paved the way for progress. In 1922 the first anti-lynching bill, the Dyer Anti-Lynching Bill, was proposed and would have made lynching a federal crime but was met with rejection by Southern Democratic Senators.¹¹⁷ These efforts continued throughout the 1930s, but subsequent bills never became laws due to the strong opposition and control white Southerners had in Congress. For decades, white Southern Congressmen struck down progressive anti-lynching bills. This ensured that all efforts to stop lynching would be the responsibility of states, essentially guaranteeing that nothing would be done to end the attacks on Black life in the South.

The lynching of Sam Hose was just one of the thousands of vile acts of violence that would claim Black lives in the post-war South. His status as a freedman meant that he should have had the ability to travel freely and be appropriately compensated for his work, and yet his request resulted in violence that would cost him his life. However, in the eyes of white citizens, he was a Black man who disrupted the social order, and for that, was criminalized and killed.

¹¹⁶ Ibid.

¹¹⁷ Dray, *At the Hands of Persons Unknown*, 336-42.

CHAPTER 3

Freedom's Death

On March 30, 1908, at the age of 22, Green Cottenham was arrested and forced into the convict lease system. A white police officer had arrested him for riding on a freight train, and he remained in jail for days awaiting his trial. The court then charged Cottenham with riding the train without a ticket. However, the court had no evidence of this, but wanting to keep Cottenham for the state's use and profit, Judge Longshore charged him with vagrancy. The terms of vagrancy were vague and up to the discretion of white powerholders, leaving Cottenham defenseless. Judge Longshore sentenced Cottenham to three months of labor for Tennessee Coal, Iron and Railroad, a company that utilized the labor of hundreds of African Americans that were forced into the carceral system. Sent to work at Slope No. 12 the Pratt Mines, located outside Birmingham, Cottenham's time under the convict leasing system would cost him his life. The camp's horrid conditions allowed for disease to run rampant, straining the already over-worked and abused workers' bodies. Green Cottenham died on August 15, 1908, five months after he arrived at Pratt Mines—his body merely added to a mass grave reserved for others who met a similar fate.¹¹⁸

Cottenham's story was not a rarity. Black citizens across the South were targeted and imprisoned, forced into convict camps and chain gangs, completing labor that profited white Southerners. Men, women, and children were all forced into brutal conditions, ensuring that the convict lease system threatened all African Americans in the South.¹¹⁹ To white Southerners, Black freedom was a threat, but Black labor was an asset. The ability to deny African Americans

¹¹⁸ Blackmon, *Slavery by Another Name*, 320-2.

¹¹⁹ *Ibid.*, 96.

their rights as citizens and simultaneously profit from their forced labor was the white Southerner's dream come true.

In 1865, Southern legislatures began work to ensure African Americans' civil and physical death, with these efforts fed off white supremacy and fears of Black freedom.¹²⁰ At the same time these deaths were occurring, a new system was rising to both control Black bodies while at the same time profiting from their subjugation. Incarceration and convict leasing were additional ways to control and silence African Americans, and under the protection of the law, the practices were able to continue through time.¹²¹ This additional system of control and power was necessary to maintain the white supremacy of the South and to ensure that white power structures could continue to benefit from the oppression of an entire group of people.¹²² The carceral system began in the United States in 1773 and was well in effect by Emancipation, ready to be used as a tool in the attack on Black life.¹²³ At the same time that Southern legislatures attacked African Americans with civil and physical death, incarceration created freedom's death for Black citizens. It ensured that Black life and rights would continue to be restricted. The carcerality of African Americans allowed for the control and exploitation of Black citizens to continue under a new name: convict leasing.¹²⁴

The rise of the incarceration and leasing of Black citizens did not occur overnight, nor was it a phenomenon found solely in the South. White citizens in the North had been utilizing the carceral system to control Black bodies since the late 18th century, as states in the North passed

¹²⁰ Fredrickson, *The Black Image in the White Mind*, 178-83.

¹²¹ Litwack, *Trouble in Mind*, 270-6.

¹²² LeFlouria, *Chained in Silence*, 65-7.

¹²³ J.M. Moynahan and Earle K. Stewart, "The Origin of the American Jail," *Federal Probation* 42 no. 4 (December 1978): 41-50, accessed March 20, 2021, <https://heinonline.org/HOL/P?h=hein.journals/fedpro42&i=299>.

¹²⁴ Litwack, *Trouble in Mind*, 270-6.

gradual emancipation laws, beginning in Pennsylvania in 1780.¹²⁵ These laws, granting freedom to African Americans, led to an ever-increasing number of freed people in the population. However, just because they were free did not mean that white supremacist sentiments did not prevail in the region. Legislatures in the North responded to the increase in free Black citizens the same way the South would later do: by incarcerating them for obscure reasons, primarily based on the racist perceptions of their criminality.¹²⁶ The North had a booming Black population after Emancipation; however, nothing could compare to the South. In the 1890s, 90 percent of the nearly four million African Americans previously enslaved there still resided in the region.¹²⁷ The large number of people attempting to begin their lives out of the bondage of slavery threatened the control that the white citizens of the South had enjoyed for centuries. With the need to control and prevent African Americans' political franchise at the forefront of white Southerners' priorities, the same state governments that boasted some of the largest Black populations worked to ensure that they could continue their physical control—by any means necessary.

By 1877, Jim Crow laws, stemming from the ideas found within the previous Black codes, worked to incarcerate African Americans for virtually any reason. During the late 19th and early 20th centuries, Black citizens were charged with crimes of vagrancy, violence, and property-related offenses.¹²⁸ The ability for laws to target and incarcerate Black citizens allowed for their fates to fall back into the hands of those who previously profited from their bondage. With the same people who benefitted from their labor also those in charge of the law, they could

¹²⁵ Kali Gross, *Colored Amazons: Crime, Violence and Black Women in the City of Brotherly Love, 1880-1910* (Durham: Duke University Press, 2006) 21-3; 44-6.

¹²⁶ Gross, *Colored Amazons*, 15-24.

¹²⁷ LeFlouria, *Chained in Silence*, 22-7.

¹²⁸ Litwack, *Trouble in Mind*, 137-41; LeFlouria, *Chained in Silence*, 10.

arrest Black citizens and create false charges, all to regain control of them and exploit their labor for financial profits. This additionally served to take away their civil rights and prevent African Americans from being full citizens with rights and agency.¹²⁹

The horrors of the carceral system during the 1890s and early 1900s were endless, but there were always more ways to burden the people trapped within it. It became an established practice to have the accused pay for all of the court costs. Such fines included the costs of the judge, lawyers, jury, and any fine given as punishment, or the debt owed to a white landowner. The amount of the fine often did not matter as the sums were usually higher than the average African American in the post-Reconstruction South could afford. This reality was paired with the understanding that unless the accused Black citizen could pay off such debts, they would remain incarcerated and forced into an institutionalized system of forced labor through convict leasing.¹³⁰

Convict leasing was the practice of “leasing” incarcerated people to other people or companies that needed bodies to do manual labor. The leasing system’s general idea was that a person or company would pay off the incarcerated person’s fines and then have ownership of the person until they worked off the money that they owed.¹³¹ This meant that even if a sentence given to a man or woman was only weeks or a couple of months after fines were taken into account and paid off by a third party, men and women could be forced into labor for several months, if not years. After the Civil War, white Southerners attempted to keep their economy based on agricultural production. Because the economy had been sustained by cotton cultivation during slavery, many people forced into the convict lease system were sent into fields to plant

¹²⁹ Blackmon, *Slavery by Another Name*, 61-2.

¹³⁰ Litwack, *Trouble in Mind*, 270-6.

¹³¹ *Ibid.*

and harvest the crop.¹³² However, the agricultural production of cotton alone was not enough to sustain the Southern economy, and as the South moved towards industrialization, the labor demands of convicted people changed as well. In conjunction with the changing tides, the boll weevil's disastrous toll on cotton plants beginning in 1915 increased the need for urban and industrial labor to support the economy, furthering the creation of the "New South."¹³³

While the typical written "lease" of a person was around nine months to one year, with no checks and balances in place, coupled with the financial profits made from cheap labor, white citizens took advantage of the poorly regulated system. In practice, this meant that there was usually no one to ensure that contracts were honored and that African Americans were released after their contract-stated time was up—trapping some people in the convict lease system for years.¹³⁴ While this practice was inhumane, the 13th Amendment created a way for forced labor to continue without repercussion—giving white Southerners the perfect excuse to force Black citizens into perpetual systems of servitude.

The 13th Amendment abolished slavery; however, it included a critical clause, allowing the heinous institution to continue through the criminal justice system. In the amendment's full text, it stated, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."¹³⁵ With these unequivocal terms allowing for slavery to continue with legal provisions, the carceral system put every African American at risk of being

¹³² Blackmon, *Slavery by Another Name*, 118.

¹³³ Fabian Lange, Alan L. Olmstead, Paul W. Rhode, "The Impact of the Boll Weevil, 1892-1932," University of California Department of Economics, 2008, 1-30. http://faculty.econ.ucdavis.edu/faculty/alolmstead/Working_Papers/BOLL%20WEEVIL%20.pdf; LeFlouria, *Chained in Silence*, 6-12.

¹³⁴ *Ibid.*, 64-5.

¹³⁵ U.S. Const., amend. XIII.

brought back under the oppressive control of white Southern elites. If slavery was legal as long as those enslaved were technically guilty of crimes, their labor could be forced as it had been during slavery. Through the utilization of the laws and codes that criminalized and targeted Black citizens in the South, there was a straightforward way to round up as many people as possible, charge them with a crime, and profit from their labor.

While control was an essential factor in the incarceration of African Americans, the ability to profit from their forced labor created an additional incentive for their subjugation.¹³⁶ The states of Mississippi, Alabama, Georgia, Louisiana, and Florida were home to some of the largest Black populations in the country, so with millions of people to have at the disposal of the carceral system, the creation and movement of “convicts” were endless.¹³⁷ This gave the state legislatures unchecked power and, left to their own devices, ensured that convict leasing would mirror pre-war slavery as closely as possible—with all of the white parties standing to profit from Black confinement. With Jim Crow laws also present to criminalize and incarcerate Black citizens, incarceration, convict leasing, and later on, chain gangs—encompassing freedom’s death—emerged as the third form of attack on African Americans’ lives. This method of control ensured that the death of their freedom would not only disfranchise them, but as physical death did, it also removed them from society.

Lawmakers in Mississippi—who had allowed for the mistreatment of both enslaved and free African Americans alike—had fought against the 13th Amendment entirely. However, with a legal pathway to continue the forced labor of Black citizens, political elites established a convict

¹³⁶ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2010; repr., New York: The New Press, 2020), 37-8.

¹³⁷ “Historical, Demographic, Economic, and Social Data: The United States, 1790-1970,” Inter-university Consortium for Political and Social Research, accessed February 17, 2021, <https://doi.org/10.3886/ICPSR00003.v1>.

leasing system that was almost indistinguishable from the system of slavery that had once ruled the state.¹³⁸ In 1876, the Mississippi state legislature enacted laws to strengthen and expand the convict leasing system. One of the laws passed by the legislature was the “Pig Law,” which stated that any theft of property worth more than 10 dollars was an act of grand larceny—a crime punishable by a prison sentence of up to five years. The legislature created the law with the expectation that it would disproportionately apply to Black citizens, some of whom resorted to stealing food and livestock as a means of survival.¹³⁹ However, this was just one of the measures taken to exploit Black citizens’ labor. Expanding on the powers and scope of convict leasing, in 1876, Mississippi’s legislature also passed the “Leasing Law,” which officially allowed for companies and individuals to lease state prisoners to work outside of the state penitentiary.¹⁴⁰ With this law enacted, prisons could send imprisoned people anywhere, furthering the ability for white citizens to profit from Black oppression.

Convict leasing became the most reliable source for cheap labor. The citizens of Mississippi looked for ways to spend as little money as possible and amass large profits as they had done before the war. After the Leasing Law was passed, over 1,000 Black men, women, and children across the state found themselves being leased out and forced to work wherever white

¹³⁸ During Reconstruction, the legislature of Mississippi was one of the few that refused to support the 13th Amendment and never ratified it. However, despite this refusal, the amendment received enough votes to be ratified federally. In 1995, the state legislature ratified the amendment; however, the copy of the bill that was supposed to go to the federal registrar—which would have officially made it a law—was never sent. It was not until 2013 that this error was corrected, making Mississippi the 50th and final state to ratify the 13th Amendment, 147 years after the federal government ratified it. For more, see “Mississippi Finally ‘Bans’ Slavery,” *Civil Discourse* (2018), accessed March 10, 2021, <http://www.civildiscourse-historyblog.com/blog/2017/6/7/mississippi-finally-bans-slavery>.

¹³⁹ “The Lasting Legacy of Parchman Farm, the Prison Modeled After a Slave Plantation,” *Innocence Project*, accessed February 17, 2021, <https://innocenceproject.org/parchman-farm-prison-mississippi-history/>.

¹⁴⁰ “Mississippi Enacts Laws to Strengthen Convict Leasing,” *Equal Justice Initiative*, accessed February 19, 2021, <https://calendar.eji.org/racial-injustice/jan/4>.

powerholders sent them.¹⁴¹ Contrary to the practices during slavery, those who leased “convicts” had minimal incentive to ensure that their workers were healthy or well-cared for. During slavery, if landowners had enslaved people under their watch, it was likely that their own money had gone into buying them. Slave owners viewed the enslaved as a lifelong investment, and any death or illness that prevented them from working was a personal financial loss. However, under the convict leasing system, if a Black person fell ill or died, they were soon replaced from the surplus of African Americans found in almost every county jail or state penitentiary.¹⁴²

White Southerners understood this reality. In 1893, one man who used the convict lease system acknowledged this difference in the now-infamous remark, “If a man had a good [slave], he could afford to take care of him; if he was sick, get a doctor... But these convicts: we don’t own em’. One dies, get another.”¹⁴³ The sentiment and support of the convict lease system were evident. Reports from local newspapers casually described the use of Black convict laborers in their daily reports. A 1904 article reported on the lease of incarcerated African American with a casual tone and read, “The Board of Supervisors of Harrison county have leased nineteen negro convicts to David Parks, the owner of a sawmill on the loan of the Gulf & Ship Island railroad for \$5.25 a month each.”¹⁴⁴ This report in the paper came right before the news of the construction of a courthouse, highlighting that this forced labor of Black citizens was nothing noteworthy and was just an accepted part of life. However, despite the system’s popularity, those on the outside caught on to the atrocities taking place and worked to end the convict leasing system.

¹⁴¹ Equal Justice Initiative, “Mississippi Enacts Laws to Strengthen Convict Leasing.”

¹⁴² Litwack, *Trouble in Mind*, 271-3.

¹⁴³ Ibid.

¹⁴⁴ *The Port Gibson Reveille* (Port Gibson, Miss) 1890-current, July 14, 1904.

In, 1906 after continual public outcry and reform efforts, Mississippi became the first state to legally end the convict leasing system for state prisoners. However, with the abolition of the leasing system, the state needed to provide a location to house all of its convicted people, paving the way for a penitentiary that would continue to exploit African Americans' labor for decades to come.

Mississippi's state penitentiary, known as "Parchman Farm," was built in 1901 to meet an ever-increasing need for cheap Black labor. The penitentiary became infamous for its horrific treatment and conditions of its workers. The farm covered 20,000 acres, with the majority of that land used for the cultivation of cotton. From its beginnings, it housed thousands of men and women, with 4,480 inmates being forced into the confines of the penitentiary and required to work the land from sunrise until sundown.¹⁴⁵ The crowded conditions, long work hours, and inadequate nutrition provided to the incarcerated people left them vulnerable to death and disease, with as many as 16 percent of the incarcerated dying during their sentence.¹⁴⁶ No one was free from the brutal conditions of Parchman, with women and children as young as six years old forced to work the land.¹⁴⁷ The sex or age of the workers did not matter, as the penitentiary found itself to be a profitable system, which further encouraged the forced labor of African Americans. The penitentiary made the state government close to \$185,000 in its first fiscal year—a sum worth roughly \$5,500,000 today. With the goal of financial prosperity in mind, the government would continue to force Black incarcerated people into strenuous and dangerous

¹⁴⁵ Oshinsky, *Worse Than Slavery*, 147-57.

¹⁴⁶ Equal Justice Initiative, "Mississippi Enacts Laws to Strengthen Convict Leasing."

¹⁴⁷ Hannah Grabenstein, "Inside Mississippi's Notorious Parchman Prison," Public Broadcasting Service, 2018, accessed February 22, 2021, <https://www.pbs.org/newshour/arts/inside-mississippi-notorious-parchman-prison>.

working conditions, profiting from their labor with unsettling ease.¹⁴⁸ Just as was seen with civil and physical death, freedom's death would not be exclusive to just one state.

Like that in Mississippi, Georgia's convict lease system was strengthened during Reconstruction and Jim Crow to allow the state to continue to profit from the mostly Black inmate population. This was especially true for women who were forced into labor roles traditionally dominated by men while also forced to complete domestic work. Their labor's duality contributed to the New South's creation and modernity.¹⁴⁹ Working to move into the New South, Georgia's first convict lease was formalized in May of 1868, and the state penitentiary sent 100 African Americans to work for the Georgia and Alabama Railroad. The following year, the state leased out 393 prisoners to work on the Macon and Brunswick Railroad. The economic prosperity that the convict lease system brought to white citizens of Georgia encouraged African Americans' criminalization and incarceration, evidenced by the roughly 1,991 incarcerated people whom the state leased out—93% of whom were Black men, women, and children.¹⁵⁰ Again like Mississippi, conditions were dangerous and filthy, causing the deaths of dozens of incarcerated people; and more often than not, during the dangerous and strenuous work, the majority of those deaths were from teenagers and young children. No one was safe from the brutality of the convict lease system, and Black women, whose names and stories are often not told, worked and died in this system, the same as everyone else.¹⁵¹

The lives of women who found themselves under the control of the convict lease system in Georgia were fraught with both the risk and danger of the taxing physical labor required of

¹⁴⁸ "\$185,000 in 1905 → 2021 | Inflation Calculator," Official Data Foundation, accessed February 22, 2021, <https://www.officialdata.org/us/inflation/1905?amount=185000>.

¹⁴⁹ LeFlouria, *Chained in Silence*, 6-12; 61-3.

¹⁵⁰ *Ibid.*, 9-10.

¹⁵¹ LeFlouria, *Chained in Silence*, 1-2.

them. Additionally, they were often subject to sexual abuse and violence, often by the white men who worked within the camp; and sometimes, these acts resulted in the births of biracial children.¹⁵² This additional layer of suffering added to many women's lives served as a testimony to the convict lease system's brutality. It was the ability to force women into whatever job or role was needed that made them invaluable to the convict lease system's operations and success within the New South.¹⁵³ Their suffering did not matter as long as a profit could be made.

This vicious system and cycle of abuse extended past the abolishment of convict leasing in 1908. After its end, the state switched to prison camps in the Georgia Milledgeville State Prison Farm and forced imprisoned people into chain gangs.¹⁵⁴ Despite the shift to the chain gang, women were still forced into brutal working conditions and were targeted, imprisoned, and sent to work just as men were. A 1914 newspaper report from the *Americus Times-Recorder* reported on a Black woman's sentence to the chain gang. The report read, "Mattie Mosely, a negress convicted of the illegal sale of whisky, was given a straight sentence of eight months in the chaingang. After she has served four months of this sentence, the defendant may be released upon the payment of a fine of \$100 and all costs, or else serve the entire eight months on the gang."¹⁵⁵ The lengthy stay and high fine for the sale of alcohol further proved how the white power systems used the carceral system to entrap African Americans in a system of labor and control. As long as white citizens could profit from Black labor, especially the exploitation of women, legislatures and courts would continue to force them into systems of unpaid labor.

¹⁵² *Ibid.*, 108-15; Haley, *No Mercy Here*, 31-3.

¹⁵³ *Ibid.*, 4-20.

¹⁵⁴ *Ibid.*, 31-4; LeFlouria, *Chained in Silence*, 10-9.

¹⁵⁵ *Americus Times Recorder* (Americus, Ga.), 1891-current, July 14, 1915.

Louisiana's state legislature was not new to the idea of convict leasing when it started exploiting large numbers of Black citizens after their emancipation. The state had used the practice since 1844. However, as with the other southern states, Reconstruction brought a surge in convict leases. Before the end of the war, most men and women in the Louisiana state penitentiary were forced into textile factories. However, with a dramatic shift in demographics fed by the high incarceration rate of African Americans, the future of imprisoned people would drastically change.¹⁵⁶ In 1870, the James Convict Lease, named after the Confederate Major Samuel L. James, who leased the convicts, forever changed prisoners' treatment and their required work.¹⁵⁷ The work that the prisoners had to endure mirrored the work of formerly enslaved people, with cotton picking and production being the primary job of the prisoners. As time progressed, more and more African Americans found themselves under the Louisiana State Penitentiary's control, known as Angola. The penitentiary was informally named after the homeland of many formerly enslaved people trapped there. By 1901, most imprisoned people in the state were located in Angola—many of whom would never leave the grounds alive.¹⁵⁸

Like many other penitentiaries, Angola's conditions soon became known to the public, and public outcry and the denunciation of the prison's operations forced change to occur. The Prison Reform Association in New Orleans, formed in 1886, was the primary group responsible for leading the efforts to ban convict leasing after shocking reports of long hours and the ever-increasing number of deaths made their way around the state. The efforts calling for reform were

¹⁵⁶ Matthew Mancini, "Convict Leasing," Louisiana Endowment for the Humanities, accessed February 22, 2021, <https://64parishes.org/entry/convictleasing#:~:text=Another%20distinctive%20feature%20of%20the,the%20penitentiary%20in%20Baton%20Rouge>.

¹⁵⁷ "History of Angola," Louisiana State Penitentiary Museum Foundation, accessed February 22, 2021, <https://www.angolamuseum.org/history-of-angola>.

¹⁵⁸ Mancini, "Convict Leasing."

eventually successful, and in 1898 convict leasing was outlawed in the 1898 Constitution of the State of Louisiana. Under the leadership of Governor Murphy J. Foster, the new constitution read, "... no convict sentenced to the State penitentiary shall ever be leased."¹⁵⁹ Despite abolishing convict leasing, Angola, purchased from the James family in 1900, became the official site of the state's penitentiary in 1901, subjecting the thousands of African Americans that entered the grounds to brutality indistinguishable from slavery.¹⁶⁰ A 1902 newspaper from Mississippi reported that an escaped man from Angola stated that "he preferred death to being returned there, as he claimed that the treatment of convicts at that place was very brutal."¹⁶¹ Prisoners suffered abuse that included beatings, inadequate nutrition, unclean living conditions, long work hours, and dangerous work conditions.¹⁶² The mistreatment of the incarcerated people in Louisiana was not a secret, yet, as white citizens profited from the labor of the predominantly African American incarcerated population and benefitted from their disfranchisement still, the abuse and exploitation continued.

Following suit in its abhorrent convict leasing practices was the legislature of Florida. Like other southern states, following Reconstruction, Florida's legislature solidified its convict leasing system. Governor George Franklin Drew signed off on this system, which forced the primarily Black imprisoned population into brutal labor conditions, primarily railroad construction; a dangerous and sometimes deadly task. Florida's forced laborers were subject to

¹⁵⁹ Louisiana State Penitentiary Museum Foundation, "History of Angola."

¹⁶⁰ Laura Sullivan and Steven Drummond, "Angola State Prison: A Short History," accessed February 23, 2021,

https://ccnmtl.columbia.edu/projects/caseconsortium/casestudies/54/casestudy/www/layout/case_id_54_id_547.html#:~:text=It%20traced%20its%20origins%20as,control%20of%20Angola%20in%201901.

¹⁶¹ *Woodville Republican* (Woodville, Miss.) 185?-current, January 11, 1902.

¹⁶² A.C. Grimes, "The Violent History of Angola Prison," Grunge, April 27, 2020, <https://www.grunge.com/204945/the-violent-history-of-angola-prison/>.

long hours under the blazing sun and were also forced to work on the railroads in chain gangs.¹⁶³ In the early 1900s, around 1905, the Florida prison system was comprised primarily of Black men and women, with men being the majority. However, women still made up over three hundred people in the prison's population, forced into slave-like labor, same as the men.¹⁶⁴ Regardless of age or sex, the lives of incarcerated people were constantly filled with torturous abuse and long hours of grueling work, with horrific consequences for those who dissatisfied the white men in charge.¹⁶⁵

While punishment and abuse were present in prison camps across all southern states, Florida's year-round hot weather allowed for the imprisoned population's torture to reach new barbaric levels. Known as a "sweatbox," prisoners could for any reason be placed into a box, which served as a form of solitary confinement, but it also trapped the sun and heat, creating an oven-like effect for the person inside.¹⁶⁶ The ability to torture incarcerated people was endless, but these acts did not go unnoticed.

The horrendous acts occurring within Florida labor camps were leaked to the public by muckrakers during the early 1900s, which caused outrage from the state's citizens. In 1914 a newspaper report exposed the conditions of the camps. The *Ocala Evening Star* read, "It is alleged that the conditions under which the prisoners live are absolutely unsanitary, and that vermin abound in the quarters. It is alleged that the sweat-box plays an important part in the

¹⁶³ Anne Holt, "Men, Women, and Children in the Stockade: How the People, the Press, and the Elected Officials of Florida Built a Prison System," PhD diss. (Florida State University, 2005), 6. <https://fsu.digital.flvc.org/islandora/object/fsu:182046/datastream/PDF/view>.

¹⁶⁴ LeFlouria, *Chained in Silence*, 4-8.

¹⁶⁵ Aubrey Brown, "The Story of Convict Leasing in Florida: A Brief Article Highlighting the General History of Convict Leasing in the Development of Florida," accessed February 20, 2021, <https://www.thejaxsonmag.com/article/the-story-of-convict-leasing-inflorida/#:~:text=In%201877%2C%20Florida's%20Governor%20George,the%20economic%20setup%20of%20slavery.>

¹⁶⁶ Holt, "Men, Women and Children in the Stockade," 37.

administration of prison regulation.”¹⁶⁷ Reports such as these furthered the cry for change. This demand for reform was successful, and in 1923, Governor Cary Hardee officially abolished convict leasing.¹⁶⁸ However, just like Georgia, the forced labor of imprisoned African Americans continued for decades with the use of chain gangs. This practice did not end until 1946, subjecting thousands of men and women to the continued brutal working conditions.¹⁶⁹ The ability for a profit to be made off of incarcerated Black citizens and for their incarceration to disfranchise and strip them of their freedom, left white citizens in no rush to free them from the horrid conditions they were forced to endure.

Alabama’s history with convict leasing, similar to the entire region’s practices, began before the abolishment of slavery but expanded after the state saw large numbers of free African Americans. The state saw a boom in convict leasing in 1875 when a fiscal crisis needed a quick remedy. The state turned to their primarily Black incarcerated population and leased out their labor to lift the state out of financial ruins.¹⁷⁰ Alabama’s state prisons leased convicts out to many different employers and companies, but popular among the work done by these men, women, and children was coal mining. The Tennessee Coal Company leased thousands of incarcerated African Americans and made large profits from their labor.¹⁷¹ Alabama’s government also profited from the convict lease system, evidenced by the fact that 10% of the state’s overall revenue came from the system’s profits in 1883, with that number skyrocketing to

¹⁶⁷ *The Ocala Evening Star* (Ocala, Fla.) 1895-1943, January 3, 1914.

¹⁶⁸ Rob Goyanes, “The Secret History of Florida Prison Labor,” *The New Tropic*, last modified January 24, 2016, accessed February 23, 2021, <https://thenewtropic.com/prison-labor-florida/>.

¹⁶⁹ Rob Goyanes, “The Secret History of Florida Prison Labor.”

¹⁷⁰ Holt, “Men, Women, and Children in the Stockade,” 26-8.

¹⁷¹ Blackmon, *Slavery by Another Name*, 50-7.

73% in 1898—effectively pushing Alabama’s government out of economic turmoil.¹⁷² With coal mining as the leading enterprise for which companies hired convict labor, it was also within this field of work that African American men, women, and even children, experienced the most brutal conditions and treatment.

Alabama’s lawmakers were the last in the country to end convict leasing, holding onto the practice until 1928, as it continued to make financial profits from the labor of its predominantly African American incarcerated population. There was no rush to end the horrific system, as evidenced by the region’s newspapers, which reported on the penitentiary with a romanticized and paternalized view of the state penitentiary’s operations. As late as 1909, an Alabama newspaper headline read, “Alabama’s Penitentiary Shows Results of Wise Management,” and further went on to report how the cultivation of cotton was working to bring significant profits to the state.¹⁷³ However, even after abolishing convict leasing, the state continued to utilize chain gangs at the Wetumpka State Penitentiary. Where there was a profit to be made, Black citizens suffered at the hands of white power structures, stripping them of their freedom and civil rights—all of which benefitted white powerholders.

The use of the convict lease system and its abuse of African Americans resulted in a skilled attack on Black life and labor, aiming to control and silence as many freedmen as possible. The ideas and sentiments towards the profitability of Black labor and the desire to control a newly freed population came together to form a system that controlled African Americans and forced them into conditions similar to those of slavery. However, the convict lease system was not slavery. While there was a monetary exchange for the temporary labor of

¹⁷² Robert Perkinson, *Texas Tough: The Rise of America’s Prison Empire* (New York: Macmillan Publishers, 2010), 104-10.

¹⁷³ *The Birmingham Age-Herald* (Birmingham, Ala.) 1902-1950, May 23, 1909.

African Americans, incarcerated people were not bought and sold as enslaved people were. Their servitude was not lifelong, as the men, women, and children were not born into the system and were supposedly released after a set number of years.¹⁷⁴ Additionally, the most significant difference was in the fate of women. Unlike during slavery, women's reproductive abilities were not exploited to produce future laborers.¹⁷⁵ This difference marks an important distinction between slavery before the Civil War and the new form of control and exploitation that emerged after it. Nonetheless, the resulting system put all Black citizens at risk. Because white citizens' labor forces could not be generated maternally, to meet labor demands, more and more African Americans had to be targeted and stripped of their rights—all of this backed by legal systems that promised legitimacy and equality.

Green Cottenham was a casualty in the efforts to strip Black citizens of their rights while continuing the cycle of control, exploitation, and subjugation. Incarceration caused freedom's death and worked alongside civil and physical death to work towards complete Black erasure. The effective means of legally criminalizing Blackness that began with Emancipation in 1865 fed the ever-hungry beast of white supremacy, allowing for state-sanctioned deaths to befall Black citizens. Civil death and physical death were deadly forces, working to deny African Americans of their citizenship rights, and freedom's death—with the many facets of it—worked hand-in-hand with the other forms of death to kill Black sovereignty.

¹⁷⁴ LeFlouria, *Chained in Silence*, 7-9.

¹⁷⁵ *Ibid.*, 8.

CONCLUSION

Facing Death Head On

There has been a war raging in the United States against Black life. The criminalization of Blackness has made it all too easy for white Southerners to continue to reap the benefits of white supremacy. The forced incarceration of African Americans continues to rob the country of brilliant and capable minds, branding them as felons to silence their vote while profiting from their labor. When Black citizens are denied a vote, they are denied a voice. When they are robbed of their freedom, they are robbed of their life. When media coverage is so quick to make a monster out of a slain Black child with a toy gun, a Black teenager with skittles, a Black man screaming “I CAN’T BREATHE,” it is clear that even as centuries go by, the senseless deaths of African Americans are still too readily accepted and justified by many. But yet, there is hope. There is also a lot of work to be done.

I began this project to explore the different ways that the legislatures of the South relentlessly worked to control, silence, and remove Black freedom and rights during Reconstruction and Jim Crow. “In the Face of Death” resulted from my findings, working to bring to light all of the ways that state legislatures robbed African American citizens of their civil rights and lives. From the moment the first Africans were brought ashore in what would become the United States, their freedom was threatened and controlled by white men who sought to monetize Black bodies. As time went on, the same desire for control led to the inhumane treatment of Africans and their descendants. Even with freedom achieved by Black people, white power structures found ways to ensure that laws would hamper their freedom and rights as citizens.

Civil death, physical death, and freedom's death were manifestations of an immense desire to uphold white supremacy in the South after 246 years of the control and abuse of an entire group of people. Currently, in 2021, slavery has only been outlawed for 156 years, and despite progress, we are still not out of its shadow quite yet. The attack on Black life is present across the country, as the states of focus for "In the Face of Death" were not the only places where white citizens went to great lengths to impose restrictions on African Americans' rights and freedoms.

The legacy of racially charged felon disenfranchisement has left a disastrous toll on Black voting rights, evident by the fact that African Americans are still the most disenfranchised demographic in the U.S.¹⁷⁶ Across the country, felony convictions block over 1,807,000 Black citizens from the ballot box. That is nearly 1 in 16 voting-aged African Americans. Even more so, that number is over three times as great when compared to non-Black voting-aged populations in the United States. Although these numbers are remarkably high, across southern states, the percentage of voting-aged African Americans who are barred from voting due to a felony conviction is much higher. The five states included in this study alone account for nearly 813,000 disenfranchised Black citizens.¹⁷⁷ These numbers are not present because African Americans commit more crimes. Across the nation, Black citizens are more likely to be arrested and convicted than are any other group of people, stemming from discourses of criminality and from the same practices and discriminatory laws that emerged after 1865.¹⁷⁸ This all leads to

¹⁷⁶ "State-by-State Data," The Sentencing Project.

¹⁷⁷ Ibid; Chris Uggen et al., "Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction," The Sentencing Project, October 30, 2020, <https://www.sentencingproject.org/publications/locked-out-2020-estimates-of-people-denied-voting-rights-due-to-a-felony-conviction/>.

¹⁷⁸ "Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System," The Sentencing Project, last modified April 19, 2018, accessed March 18, 2021, <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>.

high levels of felony disfranchisement among would-be Black voters, denying them their right to the ballot box.

In concluding my research, it became apparent to me that while perhaps not in the same manner as before, the act of physical death still haunts the country, as African Americans are still brutally murdered, with their assailants rarely held accountable for their deaths. Black men, women, children, gender-nonconforming, and non-binary people are still killed for their mere existence.¹⁷⁹ Beyond the color of their skin, sexual orientation, religion, and personal expression add more risk of violence, with Black LGBTQ+ people experiencing higher levels of violent threats, harassment, and—in the gravest situations—death.¹⁸⁰ The attack on African American life is not over. However, as time has given way to more diverse members of Congress, there are those who continue to work for change to ensure the protection of all Black life.

In 2018, nearly 100 years after the Dyer Bill was introduced, Democratic Senator Kamala Harris, who now is the nation's first African American, first Asian American, and first female vice president; Senator Cory Booker; and Senator Tim Scott, proposed the Justice for Victims of Lynching Act, which would make lynching a federal crime.¹⁸¹ Despite a unanimous vote to pass the Act in the Senate, the House failed to pass the bill before the end of the 115th Congress. In 2020, the act was revised and passed by the House and, in honor of the late Emmett Till, became the Emmett Till Antilynching Act.¹⁸² However, despite widespread support, the bill was not

¹⁷⁹ Alia Chughati, “Know Their Names: Black People Killed by the Police in the U.S.,” Al Jazeera English, accessed March 17, 2021, <https://interactive.aljazeera.com/aje/2020/know-their-names/index.html>.

¹⁸⁰ “When the Rainbow is Not Enough: LGB+ Voices in the 2019 Black Census,” Black Features Lab, last modified June 27, 2019, accessed March 19, 2021, <https://blackcensus.org/wpcontent/uploads/2019/06/When-The-Rainbow-Is-Not-Enough.pdf>.

¹⁸¹ S.3178 – Justice for Victims of Lynching Act of 2018.

¹⁸² Emmett Till was a 14-year-old African American boy from Chicago who was brutally murdered in Mississippi during the summer of 1955. He was alleged to have flirted with a white woman, Carolyn Bryant, “offending” her. This encounter prompted Bryant’s husband Roy, and half-brother, J.W. Milam,

passed after Republican Senator Rand Paul raised illegitimate concerns that the bill would be misused, and he and others voted to reject it.¹⁸³ To this day, both chambers have yet to pass an anti-lynching bill, and lynching is still not a federal crime. However, all is not lost. With a Democratic-controlled Congress for the first time in over ten years, the ability for positive change and legislation is present, which leaves one last dark cloud looming over the lives of African Americans.

I found that despite progress, freedom's death continues to threaten Black life. Incarceration, intertwined with felony disfranchisement and the attack on Black life, continues to keep Black bodies under the control of power structures that benefit from their confinement. There are roughly 874,000 incarcerated African Americans across the country, making up nearly 40% of all incarcerated people.¹⁸⁴ The carceral system is disproportionately comprised of African Americans and continues to trap them in a system that profits from their subjugation.¹⁸⁵ There is a reason that Michelle Alexander has called the mass incarceration of today the new Jim Crow.¹⁸⁶ Black incarceration continues to be the result of targeted legislation and unjust

to hunt down Till, take him from his family's home at gunpoint, brutally torture him, shoot him in the head, tie a 70-pound cotton gin fan around his neck, and dump his body in the Tallahatchie River. The famous words of Till's mother, Mamie Till-Mobley, "Let the people see what they did to my boy," alongside the heart-wrenching photos of Till's disfigured face during his open-casket funeral, reignited a fire in the anti-lynching efforts. However, Till's murderers were acquitted, continuing the practice of letting the gruesome deaths of African Americans go unpunished – this time because the prison sentence for murder seemed to be "too much" for white men who had killed a Black person. For more, see Henrietta Toth, *The Murder of Emmett Till* (New York: Rosen Publishing Group, 2017), 1-46; Elliott Gorn, *Let the People See: The Story of Emmett Till* (Oxford: Oxford University Press, 2018), 59; Chris Crowe, *Getting Away With Murder: The True Story of the Emmett Till Case* (New York: Penguin Random House, 2018), 166-210.

¹⁸³ H.R.35 – Emmett Till Antilynching Act, 2019-2020.

¹⁸⁴ Sentencing Project, "State-by-State Data.," Jesse Jannetta, Justin Breaux, and Helen Ho, "Examining Racial and Ethnic Disparities in Probation Revocation: Summary Findings and Implications from a Multisite Study," (New York: Urban Institute, 2014), 3-15, accessed February 27, 2021. <https://www.urban.org/sites/default/files/publication/22746/413174-Examining-Racial-and-Ethnic-Disparities-in-Probation-Revocation.PDF>.

¹⁸⁵ Sentencing Project, "State-by-State Data."

¹⁸⁶ Alexander, *The New Jim Crow*, 4-16.

treatment by law enforcement and courts, forcing hundreds of thousands of people into a system that robs them of their freedom, their votes, and in some cases, their lives.

Movements and proposed legislation to improve inmates' conditions and to provide them with adequate wages fall short in many states where Republican majorities within the state legislatures block humane reform efforts from taking place.¹⁸⁷ With state governments continuing to profit from the incarceration and exploitation of African Americans, reform is crucial to ensure that Black citizens are not continuously trapped in a system built to benefit white powerholders. These elite few still rely on freedom's death to make their profits. This cannot continue. In the face of death, there must be resistance.

I have seen the ways in which the oppressive tactics employed over 100 years ago to curb Black advancement are still embedded into the fabric of society and the laws claiming to uphold the greatness of our nation. Black freedom is still met with massive resistance because true Black freedom would mean that the white power structures that have prevailed within the country for centuries would come crumbling down, and a more just balance of power would soon emerge. It has become clear to me that we are far from freedom. There is still work to be done, but much like a phoenix coming out of the ashes, we will rise.

A new day is dawning for Black life in the United States. We see now more than ever African Americans proudly and unapologetically letting it be known that Black lives matter. Black freedom matters. Black votes matter.¹⁸⁸ Allies of all racial and ethnic backgrounds have

¹⁸⁷ Recent movements pushing for prison reform have incorporated efforts to increase wages for incarcerated people. The Prison Policy Initiative is one group working to advocate for these improvements, doing so by creating dialogue and spreading awareness on the current conditions of prisons. For more, see Wendy Sawyer, "How much do incarcerated people earn in each state?," Prison Policy Initiative, last modified April 10, 2017, accessed March 18, 2021, <https://www.prisonpolicy.org/blog/2017/04/10/wages/>.

¹⁸⁸ The #BlackLivesMatter movement was created by Alicia Garza, Patrisse Cullors, and Opal Tometi in 2013. The movement came in response to the acquittal of George Zimmerman, who murdered Trayvon

joined in on a movement that strives to see the day Black lives are valued as much as white ones. The fight is not over. Black lives are beautiful. Black voices are beautiful. Black freedom is beautiful.

Amanda Gorman, the youngest Inaugural Poet, eloquently captured the spirit behind the fight for progress in the United States. Her words ring true as we live another day to fight for true justice for all.

When day comes, we step out of the shade,
 Aflame and unafraid.
 The new dawn blooms as we free it,
 For there is always light,
 If only we are brave enough to see it,
 If only we are brave enough to be it.¹⁸⁹

Martin, a 17-year-old African American boy, in 2012; Organizations such as The Sentencing Project, the NAACP, and the ACLU all strive to ensure that African Americans are given fair treatment under the law and not incarcerated unjustly or for longer periods of time than a typical conviction would call for. Organizations such as Fair Fight, founded by Stacy Abrams of Georgia, work to fight against voter suppression tactics through legal action, public awareness, and public action. For more on prison reform efforts, see “Criminal Justice Facts,” The Sentencing Project, accessed March 15, 2021, <https://www.sentencingproject.org/criminal-justice-facts/>; “Criminal Justice,” NAACP, accessed March 19, 2021, <https://www.naacp.org/issues/criminal-justice/>; “ACLU Policy Priority for Prison Reform,” American Civil Liberties Union, accessed March 19, 2021, <https://www.aclu.org/other/aclu-policy-priorities-prison-reform>. For more on efforts to combat voter suppression tactics, see Fair Fight, <https://fairfight.com/>.

¹⁸⁹ Amanda Gorman and Oprah Winfrey, *The Hill We Climb: An Inaugural Poem for the Country* (New York: Penguin Random House, 2021), 28-30.

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