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“LOCKDOWN FOR LIBERTY!” BLACK MASCULINITIES, MASS INCARCERATION AND LABOR IN THE GEORGIA PRISONERS STRIKE

By Jeremiah Chin *

*I'm expressin' with my full capabilities
And now I'm livin' in correctional facilities
Cause some don't agree with how I do this
I get straight, meditate like a Buddhist¹*

Introduction

In February 2011, proposed budget cuts in benefits for public workers drew 70,000 demonstrators to protest the removal of bargaining rights from unions. Wisconsin became the “main stage” for the discussion of labor rights in the United States as national attention focused on the Midwest.² Reports appeared in the front pages of the *New York Times*³ while public figures like Michael Moore and Sarah Palin made speeches in Madison, Wisconsin to show support. Months before Wisconsin took the main stage, however, thousands of prisoners in at least four state prisons⁴ across Georgia non-violently refused to leave their cells or work until demands for better working conditions and recognition of constitutional rights were met.⁵ Although the self-imposed lockdown of inmates lasted only six days in December, the strike demonstrated a mass collective

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¹ N.W.A., *Express Yourself*, on STRAIGHT OUTTA COMPTON (Ruthless Records 1988).

² Richard A. Oppel Jr. & Timothy Williams, *Rallies for Labor, in Wisconsin and Beyond*, N.Y. TIMES, February 27, 2011, at A4.

³ The article cited, Oppel and Williams, *Rallies for Labor in Wisconsin and Beyond*, appeared on page A4 of the print edition of the New York Times on February 27, 2011.

⁴ Baldwin, Hancock, Hays, Macon, Rogers, Smith and Telfair State Prisons were reportedly involved in the strike, while the Georgia Department of corrections would only confirm Hays, Macon, Telfair, and Smith were in lockdown. Compare Sarah Wheaton, *Prisoners Strike in Georgia*, N.Y. TIMES, December 12, 2010, <http://www.nytimes.com/2010/12/12/us/12prison.html> with Bruce A. Dixon, *GA Prison Inmates Stage 1-Day Peaceful Strike Today*, BLACK AGENDA REPORT, December 09, 2010, <http://blackagenda.com/content/ga-prison-inmates-stage-1-day-peaceful-strike-today>

⁵ Wheaton *supra* note 4.

action within the U.S. prison system and became the “largest prison protest in the history of the United States.”⁶ However, the Georgia prisoners’ strike never took the main stage. Beginning on December 9, 2010, news of the strike spread throughout the internet via independent, alternative publications like the *Black Agenda Report*. The strike took five days before spreading to national media coverage in the *New York Times* on December 12 and local media coverage in the *Atlanta Journal-Constitution* on December 13. The prisoners’ strike failed to make the front pages like the demonstrators in February. The *New York Times* was the only national paper to pick up the strike, though deeper in the “A” section of the paper.⁷ When the strike ended on December 15, prisoners’ demands for fair labor wages, increased educational opportunities, better living conditions, healthier prison nutrition, and greater access to families had not been met.⁸

These events raise the following questions: considering the events in Wisconsin and Georgia were both organized to contest unfair or inequitable labor issues, why were demonstrators in Wisconsin given the main stage while prisoners in Georgia were relegated to the back stage? Why didn’t public figures such as Michael Moore show up at the Hays, Macon, Telfair or Smith State Prison to stir up support for the thousands of incarcerated laborers on strike? The short answer is simple demographics: Georgia prisoners are predominantly black,⁹ labeled as criminals and live in the south, while images of Wisconsin are predominantly white, blue collar workers who live in the north. This article argues that the lack of national response and attention to the Georgia Prisoners’ strike is a reflection of the system of mass incarceration, the racially stratified nature of US polity and the criminalization of black men in the United States.

Although “mass incarceration has been the most thoroughly implemented government social program of our time,”¹⁰ “there is

⁶ Dixon *supra* note 4.

⁷ The two subsequent articles in the NEW YORK TIMES appeared on pages A13 and A27 of their respective print editions. See Sarah Wheaton, *Inmates in Georgia Prisons Use Contraband Phones to Coordinate Protest*, N.Y. TIMES, December 12, 2010, at A13; Sarah Wheaton, *Some Georgia Inmates Return to Work*, N.Y. TIMES, December 16, 2010, at A27.

⁸ Rhonda Cook, *Prisoners’ protest over. Protest Over. For now. Now.*, ATLANTA JOURNAL-CONSTITUTION, December 15, 2010, <http://www.ajc.com/news/news/local/prisoners-protest-over-for-now/nOnxt/>.

⁹ African-Americans make up 30 percent of the population of Georgia, yet account for 63 percent of the states’ prison population. See Nicole D. Porter, *Incarceration Trends in Georgia*, THE SENTENCING PROJECT, 2010, 2.

¹⁰ Elliott Currie quoted in ANGELA DAVIS, ARE PRISONS OBSOLETE? 11 (2003).

reluctance to face the realities hidden within them, a fear of what happens inside them... We take prisons for granted but are often afraid to face the realities they produce.”¹¹ Keeping prisons out of the public gaze allows the public to ignore the systemic labeling of crime, prisons historical link to race, particularly blackness, and the present system of mass incarceration as a racial caste system.¹² On a national scale, media coverage of the Georgia prisoners strike was relatively meager but the strike was still important in speaking out against mass incarceration from within the prison system. The demands of Georgia prisoners raised issues of exploited convict labor, inequitable health and educational opportunities through a self-imposed lockdown. In calling their strike a “Lockdown for Liberty”¹³ the prisoners turned one of the central models of control for prisons into a means of resistance that organized inmates across gang affiliations and across prisons around the state. Prisoners united through the common cause of justice and equitable, humane treatment. Prisoners understood that, as summarized by one anonymous participant, “we committed the crime, we’re here for a reason. But at the same time we’re men. We can’t be treated like animals.”¹⁴

This article examines the Georgia prisoners’ protest and uses the prisoners’ list of demands to examine the relationship between historical and present notions of race, labor, rights and incarceration. Particular focus will be placed on how mass incarceration is racialized in the disproportionate imprisonment of men of color, specifically black men, and how this contributes to the invisibility of this population in the public eye.¹⁵ The next section offers a theoretical framework to understand how prisons and prisoner issues are removed from public discourse, the general assumptions undergirding public perceptions of prisons and how common sense assumptions of prisons can be countered. Section three examines how criminality has been conflated with black masculinity to establish mass incarceration as a racial caste system in the United States, intensifying the stigma and invisibility of prisons/prisoners. The fourth section outlines a brief history of United States prisons from slavery to the present in relation to black men, convict labor and white supremacy. The final section examines the Georgia prisoners strike as a specific site of resistance to the history of racialized mass incarceration, assertions of

¹¹ DAVIS, *supra* note 10, at 15.

¹² MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* 6-7 (2010).

¹³ Dixon, *supra* note 4.

¹⁴ Wheaton, *supra* note 4.

¹⁵ See generally DAVIS, *supra* note 10; ALEXANDER, *supra* note 12; KATHERYN K. RUSSELL, *THE COLOR OF CRIME: RACIAL HOAXES, WHITE FEAR, BLACK PROTECTIONISM, POLICE HARASSMENT, AND OTHER MICROAGGRESSIONS* (1998).

constitutional rights by a disenfranchised prison population and the role of media in generating public discourse during the strike. Though the lack of ongoing media coverage makes the Georgia prisoners strike appear as a non-event, the “Lockdown for Liberty” presents a crucial act of resistance to mass incarceration.

I. Hegemony, the “Back Stage,” and Critical Race Theory

Relegating the prisoners strike to the back stage in public discourse is a reflection of the larger invisibility of mass incarceration to mainstream society. “Prisoners are kept behind bars, typically more than a hundred miles from home. Even prisons—the actual buildings—are a rare sight for many Americans, as they are often located far from population centers...Prisoners are thus hidden from public view—out of sight, out of mind.”¹⁶ Despite the fact “the United States imprisons a larger percentage of its black population than South Africa did at the height of apartheid;”¹⁷ these racial disparities are obscured by rhetoric of “law and order”¹⁸ and being “tough on crime.”¹⁹ Angela Davis argues “prison is one of the most important features of our image environment. This has caused us to take the existence of prisons for granted. The prison has become a key ingredient of our common sense...We do not question whether it should exist.”²⁰

As Davis points out, prisons as institutions and prisoners as people are completely obscured by the commonsense acceptance of “the prison” as an idea. This dichotomy between systems of power concerning prisons and prisoners and general acceptance of the social institutions is underscored by Antonio Gramsci’s notion of hegemony.²¹ Gramsci asserts that power relationships are obscured by a culture of “common sense” that asserts the worldview of the status quo as normal, natural and inevitable.²² While hegemony looks at common sense in a broad cultural context, Erving Goffman focuses on the acceptance and visibility of institutions. Goffman notes that social institutions present a public face or “front region” with formal documented practices that appear to be just or

¹⁶ ALEXANDER, *supra* note 12, at 190.

¹⁷ *Id.* at 6.

¹⁸ *Id.* at 42.

¹⁹ *Id.* at 55.

²⁰ DAVIS, *supra* note 10, at 18.

²¹ ANTONIO GRAMSCI, *THE MODERN PRINCE & OTHER WRITINGS* 60 (Louis Marks trans., 1970).

²² *Id.*

unbiased, while informal practices are hidden in the back stage through, what Goffman terms, “impression management.”²³

Extending Goffman’s argument, Katheryn K. Russell contends that this binary presentation of front region and back stage are “inextricably linked,” since “what appears in the front region is presumed to be a statement of reality... Thus, racially-motivated decisions made in the back stage are easily presented as racially-neutral ones in the front region.”²⁴ In this article, by explaining how the issues and conditions raised in the strike remain absent from social discourse and media accounts, the notions of hegemony and the backstage become key theoretical points of conversation for discussing the role of prisons and the prisoners strike

This article uses Critical Race Theory (CRT) to understand how the prisoners strike forms a story counter to the commonsense acceptance of prisons and forefront the historical context of race, labor and incarceration. CRT argues the law historically and directly contributes to the process of maintaining racial stratification and preserving the interests and needs of whites. The theory is founded on the notion that, in the context of the United States, “racism is normal, not aberrant...it looks ordinary and natural to persons in the culture.”²⁵ Therefore, formal legal remedies can only address extreme instances of injustice, ignoring “the business-as-usual forms of racism that people of color confront every day and that account for much misery, alienation and despair.”²⁶ Consequently, racism functions as a social construct which encompasses the more visible, structural demonstrations of racism, such as segregation or slavery, as well as the larger collection of cultural attitudes towards race that form the dominant narrative of white supremacy and “racial subordination [which] maintains and perpetuates the American social order.”²⁷ CRT scholars argue that counterstories are key to undermining racist systems of oppression. These are stories of oppressed groups that challenge socially constructed notions of race and destroy the hegemonic dominant mindset, or “the bundle of presuppositions, received wisdoms, and shared understandings against a background of which legal and political discourse takes place.”²⁸ As Derrick Bell explains, the voices of

²³ Katheryn K. Russell, *Toward Developing a Theoretical Paradigm and Typology for Petit Apartheid*, in *PETIT APARTHEID IN THE U.S. CRIMINAL JUSTICE SYSTEM: THE DARK FIGURE OF RACISM* 3, 6 (Dragan Milovanovic & Katheryn K. Russell eds., 2001).

²⁴ *Id.*

²⁵ RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY: THE CUTTING EDGE* xvi (2000).

²⁶ *Id.*

²⁷ Derrick Bell, *Who's Afraid of Critical Race Theory?*, in *THE DERRICK BELL READER* 78, 80 (Richard Delgado & Jean Stefancic eds., 2005).

²⁸ Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*,

oppressed groups “expose[], tell[] and retell[], signal[] resistance and caring, and reiterate[] the most fearsome power – the power of commitment to change.”²⁹

However, the presence and use of stories by oppressed groups do not instantly change the existing racial hierarchy that places white, upper-class males at the top. Rather, the existing social structures and institutions allow for change only through what Derrick Bell has termed “interest convergence.” For Bell, black social movements and a national “change of heart” do not lead to racial justice, but rather “the interest of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites.”³⁰ To better understand how interest convergence occurs in issues of social justice, CRT emphasizes a call to context that requires a deeper examination of legal and social issues by urging “attention to the details of minorities’ lives as a foundation for our national civil rights strategy.”³¹ CRT presents an important framework for analyzing the Georgia prisoners’ strike.

II. Criminalizing Black Masculinity

Prisons and the criminal justice system both sit at an intersection between cultural attitudes towards racialized groups and the institutional manifestation of racism in the United States. Although whites represent 69.5 percent of the arrests in the United States, blacks constitute 46 percent of the prison population.³² Blackness has been used in racial profiling to arrest black people involved in almost any every day act, ranging from driving, to standing or even breathing while black.³³ Criminologist Katheryn K. Russell notes that crime and blackness have become interchangeable in public perception, making blackness an indicator for criminality and crime a code word for blackness.³⁴ Thus the “criminalblackman” comes to exist in the mindset of society.³⁵ Black men are therefore caught in a perpetual cycle of criminalization as “policies which allow law enforcement officers to use Blackness as an indicator of

in CRITICAL RACE THEORY: THE CUTTING EDGE 60, 61 (Richard Delgado and Jean Stefancic eds., 2000).

²⁹ Bell, *supra* note 27, at 80.

³⁰ Derrick Bell, *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 523 (1980).

³¹ DELGADO & STEFANCIC, *supra* note 25, at xviii.

³² KATHERYN RUSSELL-BROWN, UNDERGROUND CODES: RACE, CRIME AND RELATED FIRES 108-11 (2004).

³³ See *Id.* (For a longer, but still incomplete, list),

³⁴ RUSSELL, *supra* note 15, at 71.

³⁵ *Id.*

criminality (in the absence of empirical support), have the effect of *creating* black criminality.”³⁶ The criminalblackman becomes more than just a rhetorical image; it underscores drastic disparities in the criminal justice system. The range of influence for racial determinations in the criminal justice system, from arrest to parole, represents a “petit-apartheid” since the process is not explicitly sanctioned, but rather permitted and enabled by the process of the criminal justice system.³⁷ The criminalblackman image is a central feature of the dominant narrative of criminality in the United States, fronting the idea of “black crime” while valorizing whiteness, maintaining white supremacy and keeping white crime in the back stage.

Focusing on the role of prisons and imprisonment in the criminal justice system reveals what legal scholar Michelle Alexander has termed the “New Jim Crow.” Alexander argues that mass incarceration represents more than a system of racial disparity, but rather a racial caste system that facilitates discrimination since “it is perfectly legal to discriminate against criminals in nearly all the ways that it was once legal to discriminate against African Americans... Once you’re a felon, the old forms of discrimination...are suddenly legal.”³⁸ Under the guise of colorblindness, the criminal justice system acts as

a *gateway* into a much larger system of racial stigmatization and permanent marginalization. This larger system, referred to here as mass incarceration, is a system that locks people not only behind actual bars in actual prisons, but also behind virtual bars and virtual walls—walls that are invisible to the naked eye but function nearly as effectively as Jim Crow laws once did at locking people of color into a permanent second-class citizenship.³⁹

Felon disenfranchisement laws have “decimated the potential black electorate,” as nationally, one in seven black men have had their voting rights removed.⁴⁰ Blacks labeled as felons are therefore unable to choose their representation on any level of government; from school boards that can determine their children’s education, to legislators who make laws that determine sentencing or decide how taxes are spent. Incarcerating large numbers of black men in rural prisons not only obscures the prisons from public view, forming the back stage, it also shifts political boundaries to

³⁶ RUSSELL, *supra* note 23, at 11.

³⁷ *Id.* at 3.

³⁸ ALEXANDER, *supra* note 12, at 2.

³⁹ *Id.* at 12 (emphasis in original).

⁴⁰ *Id.* at 188.

favor predominantly white rural areas by; increasing their voice in the political process, silencing the voices, needs and experiences of blacks in prison, removing voting power from predominantly black urban communities and shifting federal aid from urban centers to rural towns.⁴¹

Despite the wide sweeping marginalizing and oppressive effects of mass incarceration, the dominant narrative persists in the front stage: prisons are necessary to keep the general public safe and increases in the prison population are due to an explosion of crime. What lurks backstage is that, over the past twenty-five years, the prison population has “leapt from approximately 350,000 to 2.3 million”, while violent crime is at historically low levels and murder rates similarly have had little impact on the explosion of the prison population.⁴² What keeps the prison population rising is how federal funding for drug arrests has made it incredibly profitable for law enforcement agencies to pursue drugs as their primary agenda. “Financial incentives were offered to local law enforcement to pump up their drug arrests,” regardless of levels of drug activity within the agency’s jurisdiction.⁴³

Mass incarceration is therefore a self-perpetuating caste system with financial benefits for those who operate and regulate it. A criminalblackman stereotype facilitates racial profiling while law enforcement agencies are paid to increase arrest rates, which leads to a disproportionate incarceration rate for black men. This generates a large, predominantly black prison population that legitimizes the stereotype in social discourse, starting the cycle of oppression all over again. Law enforcement agencies and even entire towns have become dependent on the funding and revenue generated by mass incarceration, masked by a commonsense understanding that “it is simply the way things are done.”⁴⁴

III. Race, Labor, and Incarceration in the United States

Historically, race, labor, and incarceration have been intertwined, especially in the South. Though slaves were not punished with incarceration, slave codes regulated the behaviors of blacks through corporal and capital punishment against slaves or anyone deemed to have African ancestry. Crimes committed by blacks received the harshest punishments, while any crime committed by whites against blacks was either not enforced or treated as a punishment for violating a white slave

⁴¹ JEFF MANZA & CHRISTOPHER UGGEN, *LOCKED OUT: FELON DISENFRANCHISEMENT AND AMERICAN DEMOCRACY* 202 (2006).

⁴² ALEXANDER, *supra* note 12, at 92.

⁴³ *Id.* 76.

⁴⁴ ALEXANDER, *supra* note 12, at 83.

owner's property rights.⁴⁵ Under slavery, the value of black people was reduced solely to their ability to work as white-owned laborers; law and crime enforcement followed suit.

After emancipation, Southern whites feared blacks that had been given rights and full status as people, even if only on paper, and faced an economic crisis as the primary source of free labor, through chattel slavery, had been eliminated. In 1865, “Black Codes” developed as a new system of control that made it a crime for blacks to be unemployed, “have a gun, be out after a certain hour, or utter ‘offensive language’ in the presence of white women.”⁴⁶

Nine southern states adopted vagrancy laws—which essentially made it a criminal offense not to work and were applied selectively to blacks—and eight of those states enacted convict laws allowing for the hiring-out of county prisoners to plantation owners and private companies. Prisoners were forced to work for little or no pay.⁴⁷

Crime served as an easy way to maintain racial caste hierarchy in the south. It continued an exploitative system of labor while ensuring the disenfranchisement of black men by turning lesser offenses into felonies, disproportionately criminalizing black men.⁴⁸ The combination of black codes and convict lease systems in the South during Jim Crow, in essence, replaced black slave labor with black convict labor as white supremacy in the South ensured common, arbitrary arrests based on blackness.⁴⁹ Even after the end of the black codes, a convict lease system persisted, linking “race and criminality in a new and powerful way. It generated peonage by forcing convicted individuals to escape prison by allowing a local white landowner to pay their fine and thus control their labor.”⁵⁰

Georgia followed the post-emancipation trend of creating prisoner labor, and built a convict lease system tasked to work on quarries, mines, and railroads. The division of labor had different implications for convicts based on race; whites were given craft labor and industrial training leaving

⁴⁵ RUSSELL, *supra* note 15, at 16.

⁴⁶ MARY ELLEN CURTIN, *BLACK PRISONERS AND THEIR WORLD, ALABAMA, 1865-1900* 6 (Reginald Butler ed., 2000).

⁴⁷ ALEXANDER, *supra* note 12, at 28.

⁴⁸ “These lesser crimes included theft, vagrancy, wifebeating [sic], adultery, larceny, bribery, burglary, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement, and bigamy.” Keesha M. Middlemass, *Racial Politics and Voter Suppression in Georgia*, in *AFRICAN AMERICANS IN GEORGIA: A REFLECTION OF POLITICS AND POLICY IN THE NEW SOUTH* 13 (Pearl K. Ford ed., 2010).

⁴⁹ *Id.*

⁵⁰ Curtin, *supra* note 46, at 10.

“punitive manual labor for blacks.”⁵¹ Much like present systems of mass incarceration, the convict lease system provided a perfectly legal outlet for racialized labor in Georgia because “the language of the Thirteenth Amendment still allowed the southern states to use the criminal law to sell blacks into bondage.”⁵² These early roots of the criminalblackman merged an economic need for the continuance of black labor exploitation with maintaining a social hierarchy wound through the legal codes that legitimized white supremacy.

Convict labor became a key financial source for rebuilding following the devastation of the Civil War, as well as maintaining social and economic control over emancipated blacks. Historian Alex Lichtenstein explains that “New South capitalists in Georgia and elsewhere were able to use the state to recruit and discipline a convict labor force, and thus were able to develop their states’ resources without creating a wage labor force, and without undermining planters’ control of black labor.”⁵³ By 1908 the convict lease system was outlawed. Georgia claimed it was to end the brutal form of punishment, but in reality it was due to competition with free labor. Convict leasing was replaced with the similarly racialized, exploitative chain gangs that would continue through the mid-twentieth century. Like the present day system of mass incarceration, chain gangs and convict lease programs depended on impression management to legitimize the racialized system of convict labor that constructed the roadways of twentieth century Georgia. Lichtenstein concludes that “the Progressive ideals of southern modernization, penal reform, and racial moderation” obfuscated “the role of the state in coercing black labor for economic development.”⁵⁴

In the same way that black codes and convict labor emerged to reinforce racial and economic hierarchy following emancipation, the use of “law and order” rhetoric “was first mobilized in the late 1950s . . . to generate and mobilize white opposition to the Civil Rights Movement.”⁵⁵ Race became inscribed into criminality as conservatives presented blackness and poverty as a “tangle of pathology,”⁵⁶ evolving into the declaration of a War on Drugs and corresponding laws and enforcement in the 1970s and 1980s. During the presidency of Ronald Regan, the War on Drugs went into full force, entrenching crime and welfare in negative

⁵¹ ALEX LICHTENSTEIN, *TWICE THE WORK OF FREE LABOR: THE POLITICAL ECONOMY OF CONVICT LABOR IN THE NEW SOUTH* 33 (1996).

⁵² *Id.* at 36.

⁵³ *Id.* at 13.

⁵⁴ *Id.* at 16.

⁵⁵ ALEXANDER, *supra* note 12, at 40.

⁵⁶ *Id.* at 45.

racial tropes like the “welfare queen”⁵⁷ that blamed black unemployment, poverty, crime, and drug use on black people rather than systemic failures.

Georgia followed with the rest of the nation in pursuing a hardline law and order approach to the War on Drugs. It enacted the “Two Strikes” law in the 1980s that provided life imprisonment after the second conviction for sale or possession with intent to distribute a controlled substance.⁵⁸ Legal challenges to two strikes laws cited the uneven application along racial lines. Black defendants were sixteen times more likely to have “Two Strikes” invoked in their case and black convicts made up 98.4% of those serving life imprisonments under the two strikes law.⁵⁹ Yet the Georgia Supreme Court ruled that there was no violation of constitutional rights or discrimination in sentencing.⁶⁰ The Sentence Reform Act of 1994 imposed “the strictest mandatory minimum laws of any other state and required that the sentence be served in its entirety.”⁶¹ In 1995, Georgia passed the Truth in Sentencing Law that effectively abolished parole and required inmates to serve 90% of their sentence in prison. Together, these laws effectively ensure a large and long-term prison population that— thanks to racial profiling and application of sentencing laws—is disproportionately black. These laws also make Georgia more viable for federal incentives programs, such as the Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants (VOITIS) created in 1994, which gives funds to states to expand, construct, and operate prisons. Georgia received more than \$82 million in federal VOITIS grants between 1996 and 2001; “only eight states received more money.”⁶² Thus Georgia not only incarcerates disproportionately more black men for longer periods of time, but the federal government pays the state to continue to do so.

While the state of Georgia is receiving millions of dollars to support prisons, it is also saving millions of dollars by utilizing convict labor. Inmate labor in Georgia is no longer outsourced to private mines or used

⁵⁷ *Id.* at 48.

⁵⁸ Artemesia Stanberry & David R. Montague, *Serving Five to Life: Racial Disparities in the Enforcement of Georgia Drug Sentencing Laws*, in *AFRICAN AMERICANS IN GEORGIA: A REFLECTION OF POLITICS AND POLICY IN THE NEW SOUTH* 247 (Pearl K. Ford ed., 2010).

⁵⁹ *Id.* at 248.

⁶⁰ *Compare Stephens v. State*, 456 S.E.2d 560, 561 (Ga. 1995) (citing *McCleskey v. Kemp*, 481 U.S. 279, 292 (1987) that absent showing of purposeful discrimination and discriminatory effect on an individual defendant, there was no constitutional issue) *with Id.* at 567 (Benham, dissenting) (noting that all persons sentenced to life in Hall County under the two strikes law for certain narcotics charges are Black, despite the fact that Blacks are only 10 percent of the county’s population).

⁶¹ Stanberry & Montague.*supra* note 58, at 249.

⁶² *Id.*

to build railroads, now inmate work crews maintain prison facilities, clean state and county buildings, paint over graffiti, and maintain parks.⁶³ Counties in Georgia save more than \$2 million dollars per year by using inmate labor instead of hiring people to do the same work since inmates in Georgia are not paid for their labor and do not require medical benefits. While inmates go unpaid, the counties and state collect twenty dollars per prisoner per day from inmate work crews.⁶⁴ Though inmate labor is cheap to utilize and brings income to prisons, mass incarceration remains an expensive system to maintain, partially drawing money from inmates themselves. Jail booking-fees, jail per diems, court costs, child support drug testing, and “various expenses related to their incarceration” create a system of debt that perpetuates incarceration because of prisoners’ inability to pay the fees and fines, incurring more time in custody.⁶⁵

Mass incarceration also strictly limits post-conviction employment through the stigma of criminality compounded by race. Sociologist Devah Pager created an experimental study to test the stigma of criminality when seeking employment by having white and black men with and without criminal records and equal qualifications apply for the same jobs. Pager’s results reveal that criminality acts as a negative credential while seeking work, reducing the chances of employment by fifty percent for whites and sixty percent for black applicants.⁶⁶ Looking at the effects of race and crime as intersecting exposes that “the powerful effects of race rival even the strong stigma conveyed by a criminal record. In this study, a white applicant *with a criminal record* was just as likely to receive a callback as a black applicant *without* any criminal history.”⁶⁷ The criminalblackman image makes race a potential proxy for criminality in the hiring process, dramatically decreasing any opportunities for black employment since “employers may (consciously or unconsciously) treat all black men as though they have a criminal record.”⁶⁸

From slave codes to black codes, convict lease and mass incarceration, the prison system has been intertwined with prisoner labor that is largely exploited for the maintenance and growth of the prison

⁶³ David Wickert, Gwinnett Reviving Inmate Work Crews, but Prison Fate Remains Uncertain, *Atlanta Journal-Constitution*, Aug.9, 2010, available at <http://www.ajc.com/news/news/local/gwinnett-reviving-inmate-work-crews-but-prison-fat/nQjFk/>

⁶⁴ Gwinnett County saved \$2.6 million and Clayton County saved \$2.3 million in 2009. *Id.*

⁶⁵ Alexander, *supra* note 12, at 151-152.

⁶⁶ Devah Pager, *Marked: Race, Crime and Finding Work in an Era of Mass Incarceration*, (Chicago: University of Chicago Press, 2007), 67-9.

⁶⁷ *Id.* at 90-1.

⁶⁸ Alexander, *supra* note 12, at 149. See also Pager, *supra* note 66, at 160.

system. With the financial incentives provided to law enforcement agencies and states, the dominant narrative of law and order provides a profitable solution to the criminalblackman image. In exchange for easing white racial fears of the criminalblackman, prisons are financially supported through predominantly black, exploited labor that is disenfranchised from voting against policies that would increase the duration of stay or the way their labor is used. The system of incarceration remains deeply entrenched in Georgia's political economy as pressing budget crises have not lead to a decrease in state spending on prisons. Instead Georgia has experienced an increasing prison population because of harsh sentencing laws, fueling a billion dollar prison industry with a prison population that is 63% black when African Americans account for only 30% of the state's population.⁶⁹

IV. The Georgia Prisoners Strike

So what happens when those oppressed start to fight back? Riots at Attica or Lucasville prisons raised public attention but do not undermine mass incarceration practically or ideologically. The story of a riot conjures images of violence and—considering the disproportionate percentage of black men in prison—feeds back into the narrative of the criminalblackman that stokes white racial fears. Georgia presents a prisoners *strike*, a non-violent resistance to mass incarceration by those most directly affected. The means of organizing and the implications of the strike present a counterstory to systems of oppression by indicting the criminalblackman narrative from the perspective of those incarcerated through nonviolent resistance. However this same context also keeps the strike on the back stage, away from national discourse on mass incarceration and perpetuating a hegemonic acceptance of prisons as necessary to public safety.

A. *Cells and Cellphones*

Most accounts and analysis of prison riots have pointed to similar histories of abuses, labor exploitation, and general tensions in prisons before a riot occurs. Prison uprisings in Attica, New York in 1974 and Lucasville, Ohio in 1993 appear to have started spontaneously and localized to a single prison.⁷⁰ However, The Georgia prisoners strike was

⁶⁹ Porter, *supra* note 9, at 2.

⁷⁰ See : Staughton Lynd, *Lucasville: The Untold Story of a Prison Uprising*, 29 (Philadelphia: Temple University Press, 2004); New York State Special Commission on Attica, *Attica: The Official Report of the New York State Special Commission on Attica*, 111 (New York: Praeger Publishers, 1972).

a coordinated, non-violent work stoppage in prison facilities across the state. After a statewide ban on cigarettes was implemented in September 2010, prisoners saw an opportunity to overlook differences and began to organize across racial distinctions, religious differences, and gang affiliations, preparing for a strike in the winter months.⁷¹ The coordinated time frame was intended to exploit the cooler weather of the winter months in an effort to lower the chance of individuals losing their temper against guards while giving inmates time to gather food supplies. It also afforded prison gangs time to discuss the strike with individual members and spread the word to other institutions through cell phones.⁷²

Cell phones are contraband within prison facilities as the prisons cannot monitor calls or text messages and have prompted governmental concern. The United States Senate passed a resolution in 2010 to investigate the use of cell phones within prisons. The initial Senate investigation examined the connection of cell phones to crime and fear for the public safety, emphasizing the role of phones on increasing inmate crime and lowering the safety of prison officers.⁷³ However guards and those distributing cell phones to prisoners at exorbitant rates went without penalty in the Cell Phone Contraband Act of 2010 that made possession of a cell phone while incarcerated in a federal prison a felony; compounding the sentences of those found with cell phones, continuing a spiral of criminalization and disenfranchisement. The Cell Phone Contraband Act was signed into law by President Obama on August 12 of 2010, less than four months before prisoners would use contraband phones to organize the largest prison strike in United States history.

B. Inmates assert their rights

With voting rights of inmates disenfranchised, they turned to an alternative that allows their demands to be heard and presents their issues before the system and the public. Work stoppages are not a new phenomenon in strikes against unfair labor conditions. However, with the Georgia prisoners strike, the self-imposed lockdown not only stops work but it appropriates a system of power that is traditionally used as

⁷¹ Rhonda Cook, “Inmates Discuss Planning, Details of Ongoing Prison Protest,” *Atlanta Journal-Constitution*, December 14, 2010, final edition; Amy Goodman, “Prisoner Advocate Elaine Brown on Georgia Prison Strike: ‘Repression Breeds Resistance,’” *Democracy Now*, interview, December 14, 2010.

⁷² *Id.*

⁷³ *Contraband Cell Phones in Correctional Facilities: Public Safety Impact and the Potential Implications of Jamming Technologies: Hearing Before the S. Comm. on Commerce, Sci., and Transp.*, 111th Cong. (2009); Cell Phone Contraband Act of 2010, PL 111-225, August 10, 2010, 124 Stat 2387.

punishment.⁷⁴ Inmates were aware of strikebreaking methods used by prison authorities, planning early to avoid measures that would create disunity by disconnecting television sets in common areas and placing them by doors to be taken away.⁷⁵ Using connections outside of prisons, the inmates issued a press release with their list of demands to the public, first picked up in black owned and operated news sources like the *Black Agenda Report*.⁷⁶ Between the coordinated planning and the list of demands, the strike began a counterstory to the dominant narrative of mass incarceration that touches on the historical exploitation of prisoners' labor and current inequalities in the prison system, attempting to bring the backstage of mass incarceration to the forefront. The list of nine demands reflects the constitutional rights denied to prisoners, as well as general social values on education, families, and living conditions designed to appeal to public sensibilities.

The first and foremost demand of prisoners was for a living wage for work: "In violation of the 13th Amendment to the Constitution prohibiting slavery and involuntary servitude, the DOC demands prisoners work for free."⁷⁷ While the convict lease programs and chain gangs exploited the loophole in the language of the constitution that permits slavery and involuntary servitude "except as punishment for crime whereof the party shall have been duly convicted,"⁷⁸ the present system of mass incarceration makes prison labor a condition of incarceration. As discussed earlier, the exploitation of prisoner labor occurs while prisoners are being punished through incarceration; therefore the labor itself is not a form of punishment but rather an activity required during an inmates' stay. Later in the press release the inmates explicitly refer to prison labor as slavery,⁷⁹ calling on historical feelings toward slavery as unjust in order to bring support and emphasizing their status as oppressed, predominantly black, laborers.

The second demand for increased educational opportunities and the seventh demand for vocational training have implications for post-release employment and prisoners' desire for learning: "For the great majority of prisoners, the DOC denies all opportunities for education beyond the GED, despite the benefits to both prisoners and society."⁸⁰ The lack of education may drastically reduce employment opportunities following

⁷⁴ Davis, *supra* note 10, at 49.

⁷⁵ Cook, *supra* note 71.

⁷⁶ Dixon, *supra* note 4.

⁷⁷ *Id.*

⁷⁸ U.S. CONST. amend. XII, § 1.

⁷⁹ Dixon, *supra* note 4.

⁸⁰ *Id.*

release. Georgia only provides scant GED programs and a program that trains inmates to become Baptist ministers. Demanding educational rights goes beyond advocating for enhanced economic opportunity, but places emphasis on the value of education by noting “the benefit to both prisoners and society.” By stating that mass incarceration has denied inmates education, the strike undermines the criminalblackman stereotype that would pathologize incarcerated individuals as disdainful of social values. The demand for vocational and self-improvement opportunities⁸¹ similarly targets post-release employment by trying to remove some of the barriers that limit post-release employment—though the stigma of race and criminality can still undermine any program.⁸²

In demands three through six, the prisoners indict the system of mass incarceration for cruel and unusual treatment under the Eighth Amendment citing inadequate medical care with high fees,⁸³ prison brutality,⁸⁴ poor living conditions⁸⁵ and malnutrition.⁸⁶ Reports from Georgia’s Department of Corrections and Health Services indicate that the system is incredibly understaffed as the prison population continues to increase and budget cuts have restricted corresponding increases in staff—often cutting staff to create budget savings.⁸⁷ These Eighth Amendment claims were brought against the Georgia penal system decades earlier in *Guthrie v. Evans*.⁸⁸ The *Guthrie* court held the substandard conditions of the Georgia State Prison in Reidsville, Georgia required medical, mental, nutritional and recreational needs of inmates be met by the system⁸⁹—yet Reidsville was a one of the many prisons involved in the strike.

⁸¹ “The DOC has stripped its facilities of all opportunities for skills training, self-improvement and proper exercise.” Dixon, *supra* note 4.

⁸² Pager, *supra* note 66, 145.

⁸³ “In violation of the 8th Amendment prohibition against cruel and unusual punishments, the DOC denies adequate medical care to prisoners, charges excessive fees for the most minimal care and is responsible for extraordinary pain and suffering.” Dixon, *supra* note 4.

⁸⁴ “In further violation of the 8th Amendment, the DOC is responsible for cruel prisoner punishments for minor infractions of rules.” *Id.*

⁸⁵ “Georgia prisoners are confined in over-crowded, substandard conditions, with little heat in winter and oppressive heat in summer.” *Id.*

⁸⁶ “Vegetables and fruit are in short supply in DOC facilities while starches and fatty foods are plentiful.” *Id.*

⁸⁷ Public Works, LLC, *Understanding Georgia’s Correctional Standards: What Policymakers and Stakeholders Need to Know: A Report to the Georgia Department of Corrections*, 5, (2009).

⁸⁸ *Guthrie v. Evans*, 93 F.R.D. 390 (1981)

⁸⁹ Bradley Stewart Chilton, *Prisons under the Gavel: The Federal Court Takeover of Georgia Prisons*, 108(Columbus, OH: Ohio State University Press, 1991).

The final demands for access to families⁹⁰ and just parole decisions⁹¹ further indict the systemic problems of mass incarceration that pose financial barriers to inmates and affect the criminalblackman image. Private telephone companies charge prisoners “exorbitant rates to communicate with their loved ones,” furthering a cycle of debt extending from prisoners to their families not incarcerated.⁹² Yet by demanding access to families, inmates are challenging stereotypical associations of black masculinity that create the image of the bad black father, presenting a counterstory from the perspective of those incarcerated: lack of communication with children, spouses and partners stems from financial barriers and burdens as well. Demanding just parole decisions not only attacks a systemic effect of mass incarceration that has been severely limited in Georgia due to the Two Strikes law passed in the 1990s but also potentially points to the role of racism in the parole process. Considering the racial population of the Georgia penal system is over sixty three percent black,⁹³ this demand raises questions concerning the role of the criminalblackman stereotype in receiving parole eligibility as overt or covert expressions of racism that can manifest in the uneven application of on-face neutral laws.

C. *The Media Cycle*

As the strike continued, the list of demands began to circulate throughout news media and social media like Facebook and Twitter. By December 12th, reports appeared in the *New York Times* and *Atlanta Journal-Constitution*, including cell phone interviews with inmates on lockdown.⁹⁴ Prisoners spoke on condition of anonymity due to fears of guard retaliation⁹⁵ and the fact that having a cell phone in prison is a felony. In the interviews with print media, the prisoners on strike revealed their communication network through contraband cell phones that were used to forwarding text messages warning fellow striking inmates about prison guard activity, giving support, alerting inmates on future actions and creating solidarity under threat of exclusion.⁹⁶ Reports in the *Atlanta*

⁹⁰ “The DOC has disconnected thousands of prisoners from their families by imposing excessive telephone charges and innumerable barriers to visitation.” Dixon, *supra* note 4.

⁹¹ “The Parole Board capriciously and regularly denies parole to the majority of prisoners despite evidence of eligibility.” *Id.*

⁹² Alexander, *supra* note 12, at 219.

⁹³ Porter, “*Incarceration Trends*,” *supra* note 9 at 2.

⁹⁴ Cook, *supra* note 71; Wheaton *supra* note 4.

⁹⁵ Cook, *supra* note 71; Wheaton, *supra* note 4.

⁹⁶ Cook, *supra* note 71.

Journal-Constitution and *New York Times* indicated a more decentralized network of inmate organization leading up to the strike that decreased the potential for leaders to be rounded up and dealt with by prison authorities.⁹⁷ The only identifiable public face of the strike was given to former Black Panther Elaine Brown, who was interviewed in each news story and on internet news program *Democracy Now*. Though the *New York Times* would be the only national newspaper to pick up on the story, the accounts of the prisoners revealed tactics by prison authorities to try and break the strike. Prison guards went into individual cells and “removed doors to each inmate’s locker where they store personal items and their purchases from the prison commissary” to entice “inmates to steal from each other.”⁹⁸ Public statements from the Department of Corrections declined to comment on the strike specifically, but did cite a commitment to “maintaining safe and secure facilities” and claiming the lockdown was imposed by the prison.⁹⁹

What emerges from the rhetoric of the prisoners interviewed over cell phones and the statements of the press are two opposing narratives: a lockdown to create public safety and a lockdown for liberty self-imposed by prisoners to strike for rights. Like narratives of law and order that helped to define the system of mass incarceration through the War on Drugs, the safety narrative invokes a violent criminality present in the criminalblackman stereotype to garner public support. The counterstory of the strike presents an oppositional narrative that undermines the criminalblackman racial fears by invoking constitutional rights and citing claims to manhood rights. In a *New York Times* interview, an anonymous prisoner’s statement that “we’re men”¹⁰⁰ evokes what historian Steve Estes describes as “masculinist rhetoric” to lay claim to traditional understandings of manhood to equivocate the rights of oppressor and oppressed within a patriarchal society.¹⁰¹ Demands for access to families strike a similar note in asserting the desire of inmates to fill traditional roles of sons, fathers and husbands within their family, countering the pathological demonization of black masculinity by asserting patriarchal manhood.

After seven days of remaining on self-imposed lockdown, inmates reached an agreement with prison officials to lift their strike to further negotiations on the list of demands issued and gain access to law libraries

⁹⁷ Cook, *supra* note 71; Wheaton *supra* note 4.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ Wheaton, *supra* note 4.

¹⁰¹ Steve Estes, I AM A MAN!: RACE, MANHOOD, AND THE CIVIL RIGHTS MOVEMENT, 8 (2005).

to file suit against the prison system. On December 16, stories appeared in the *New York Times*, *Atlanta Journal-Constitution* and on *National Public Radio* raising the issue of prison labor one last time before the mainstream news cycle moved on. Some inmates continued to boycott their jobs, others remained on strike, and a final anonymous report from “Mike” in the *New York Times* and *Atlanta Journal-Constitution* warned that demands would need to be met by prison officials or “the next way, it’s not going to be nonviolent.”¹⁰² “Mike” told the *Journal-Constitution* that if demands were not met, desperation may push some prisoners to violent backlash: “They feel like if they go past the guards and to the warden they will be taken more seriously. . . . These guys have nothing to lose. They’re going to spend their lives in prison.”¹⁰³

By January of 2011, accounts of backlash from the prison system had not ended. Accounts emerged of prison guards beating inmates involved with the strike. Georgia DOC officials declined to issue a public statement, but in a comment to the *New York Times* a spokesperson asserted “[w]e are a law enforcement agency and do everything possible to uphold, not break, laws.”¹⁰⁴ An investigation was launched by the Georgia branch of the National Association for the Advancement of Colored People (NAACP) over allegations of prisoner beatings at Macon State Prison in late December after the strike had ended, but the results have yet to result in a lawsuit. Further stories emerged in March, 2011, in black publications of the *Black Agenda Report* and *San Francisco Bay View* about healthcare being withheld from inmates suspected of organizing the prisoners strike.

Conclusion

In 2007, six black male youth in Jena, Louisiana were tried on trumped up charges for fighting with white youth over the hanging of nooses from a tree in the schoolyard. Civil rights advocates and news media descended on Jena, Louisiana to defend the wrongfully accused Jena six against unjust incarceration over the emblem of lynching and old fashioned racism; briefly bringing racism in to the national discussion.¹⁰⁵ “Nooses, racial slurs, and overt bigotry are widely condemned by people

¹⁰² Wheaton, *supra* note 7, “Some Georgia Inmates Return to Work.”

¹⁰³ Cook, *supra* note 71.

¹⁰⁴ Robbie Brown, “Georgia N.A.A.C.P. Says Guards Beat Prisoners,” *N.Y. Times*, January 3, 2011.

¹⁰⁵ See generally Gabriel J. Chin, *The Jena Six and the History of Racially Compromised Justice in Louisiana*, 44 HARV. C.R.-C.L. L. REV. 361 (2009) (summarizing the prosecution of the “Jena Six” and noting historical and ongoing racial discrepancies in punishment for Black and White offenders).

across the political spectrum; they are understood to be remnants of the past, no longer reflective of the prevailing public consensus about race.”¹⁰⁶ Little was said in national media about mass incarceration and the prosecution of Black youth.¹⁰⁷ The shootings of Black youth, Oscar Grant in 2009 and Trayvon Martin in 2012, again raised national discussions of race, particularly the racialized suspicion of Black men, mass incarceration, and systemic racism in the criminal justice system¹⁰⁸—however these conversations rarely appeared in national news media.¹⁰⁹

Media accounts of the Georgia prisoners’ strike did not note a singular instance or symbol of racism that could spark public consciousness. The strike was the result of a historical process of mass incarceration—a racial caste system—that has a deep historical legacy that is not packaged in sound-bites for quick public consumption. Interrogating the very factors of criminality, historical labeling of blackness as criminal, the growing War on Drugs filling Georgia prisons and Georgia’s own history of exploiting convict labor are part of a complex discussion that does not easily translate into headlines. What nearly turned the “Lockdown for Liberty” into a non-event are the very factors which caused the strike to occur in the first place: the view of crime as a racialized trait, the system of mass incarceration and the appearance of legal neutrality.

As politically, economically and socially stigmatized members of society, the inmates involved in the Georgia prisoners’ strike are not a part of the key constituency of media attention or politicians. Lacking the ability to vote in elections at any level, politicians nationally and in Georgia do not have to concern themselves with the rights of those in prisons in order to secure reelection. Even those released feel a stigma that keeps them and their families from using the ballot to effect change.¹¹⁰ The same disenfranchisement that inspired the strike also

¹⁰⁶ Alexander, *supra* note 12 at 211.

¹⁰⁷ See Chin, *supra* note 105.

¹⁰⁸ See Cynthia Lee, *Making Race Salient: Trayvon Martin and Implicit Bias in a Not Yet Post-Racial Society*, 91 N.C. L. REV. 1555 (2013) (analyzing the racialized implications of “reasonableness” defenses when invoked against young Black men); Theodore Regina Berry & David O. Stovall, *Trayvon Martin and the Curriculum of Tragedy: Critical Race Lessons for Education*, 16 *Race, Ethnicity and Educ.* 587 (2013) (presenting a counterstory and “curriculum of tragedy” for education); Donald F. Tibbs, *Who Killed Oscar Grant?: A Legal-Eulogy of the Cultural Logic of Black Hyper-Policing in the post-Civil Rights Era*, 1 *J. RACE, GENDER AND POVERTY* 1 (2010) (analyzing the intersection of race, policing, and the law in entrenching socio-economic disparities in the United States).

¹⁰⁹ Stories have appeared outside news media, particularly in the film *FRUITVALE STATION* (Significant Productions 2013), depicting the final day of Oscar Grant’s life.

¹¹⁰ *Id.* at 156.

promotes the silence surrounding the racial and economic disparities in mass incarceration. Common sense rhetoric and law and order narratives make it so that public safety can only be achieved through one logical outcome: mass incarceration. Politicians must appear “tough on crime” and any sentencing leniency or support for federally funded assistance programs is sidelined in order to maintain mainstream political viability. Mass incarceration, as a racial caste system, makes it so that large portions of the black electorate are disenfranchised through policies and law enforcement grounded in racial stereotypes and fears of the criminalblackman.¹¹¹ “Despite the jaw-dropping impact of the ‘get tough’ movement on the African American community, neither the Democrats nor the Republicans revealed any inclination to slow the pace of incarceration.”¹¹²

Even though the demands of prisoners and masculinist rhetoric tap into United States’ social values present in the Constitution, legal scholar Derrick Bell’s concept of interest convergence reminds us that social justice in legislation only occurs when those in power benefit.¹¹³ Because the system of mass incarceration, in Georgia particularly, generates large economic benefits through the warehousing of men of color, there is little financial or political incentive for a predominantly white political system to acknowledge or end the exploitation of predominantly black prisoner labor. Stereotypes of the “criminalblackman”¹¹⁴ persist at all levels of the criminal justice system despite facially neutral legislation, promoting a racial caste system that feeds on racial stereotypes. National media coverage during and following the prisoners’ strike was sparse. None of the newspaper accounts—outside of the black press—acknowledged the racial disparities in prison. These reports noted race only to mark the interracial coalition that formed between prisoners. The interracial, interfaith coalition that drew prisoners together may have formed quickly in Georgia prisons after cigarettes were taken away, but the persistence of racism and racial fears of the criminalblackman make coalition building to indict the racial caste system of mass incarceration incredibly difficult outside prison walls. A nationwide cigarette ban is not going to spark an uprising against mass incarceration.

Countering the criminalblackman image presents more difficulties in the present post-racial narrative that dominates conversations on race and racism. As Michelle Alexander notes,

¹¹¹ Russell, *supra* note 15, at 71.

¹¹² *Id.* at 55.

¹¹³ Bell, *supra* note 30 at 524.

¹¹⁴ Russell, *supra* note 15, at 71.

The carefully engineered appearance of great racial progress strengthens the ‘colorblind’ public consensus that personal and cultural traits, not structural arrangements, are largely responsible for the fact that the majority of young black men in urban areas across the United States are currently under the control of the criminal justice system or branded as felons for life. . . . Mass incarceration depends for its legitimacy on the widespread belief that all those who appear trapped at the bottom actually chose their fate.¹¹⁵

Returning to Ervin Goffman’s notion of impression management; black exceptionalism and Katheryn K. Russell’s concept of the “criminalblackman”¹¹⁶ operate as two sides of the same coin. In the front stage, black exceptionalism touts the successes of black individuals as the end of racism. With racism supposedly defeated, the criminalblackman is made to appear as fact; disabling claims for racial justice with neutrally worded laws that lack overt racist language. Black exceptionalism similarly reduces encounters with racial profiling as individual instances rather than systemic inequalities, promoting a false sense of racial healing by looking at individual abuses of power rather than systemic white supremacy. The fact that discourse on the prisoners’ strike in major news accounts went silent until the NAACP investigated prison guard abuses is no accident, but rather stems from the black exceptionalism narrative that only identifies racism as an individual act of meanness that mirrors Jim Crow era manifestations of overt racism.

With the ongoing legal investigation into guard abuses after the prisoners’ strike and the inmates preparing a lawsuit over their list of demands, the inmates’ counter story still has potential to effect change. Legal victories to mass incarceration are elusive since the evidence of racial disparities in arrests, sentencing and parole have been consistently disregarded; litigation alone will not correct the systemic problems that caused the strike. In order to fully address the prisoners’ demands, the counter story presented by the prisoners strike must be retold and reaffirmed through continued social action. Organizations such as The Sentencing Project and grassroots movements like All of Us or None can utilize the strike as a starting point for broadening civil rights discourse. The Georgia prisoners’ strike represents collective resistance within the system of mass incarceration that must be met with a growing social movement in and outside of prisons if the system is to be dismantled.

¹¹⁵ Alexander, *supra* note 12 at 236.

¹¹⁶ Russell, *supra* note 15, at 71.