

# United States: Institutional Racism & the Thirteenth Amendment

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## Contents

- [Roots of Systemic Bias](#)
- [The Mass Incarceration State](#)
- [The African-American Museum](#)
- [Colin Kaepernick's Example](#)

*“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.”* Formally abolishing slavery in the United States, the 13<sup>th</sup> Amendment was passed by the Congress on January 31, 1865, and ratified by the states on December 6, 1865.

WHEN BARACK OBAMA was elected in 2008 as the first U.S. President of African descent, many believed that racism was on the decline. Some on the right wing argued that institutional racism was no longer an issue in modern U.S. life.

Nearly eight years later at the end of the Obama presidency, the issue of overt racist acts and institutional racism are at center stage. There is a steady rise of video-recorded police violence and murders of Black men. Police shooters, protected by the brass and so-called union bosses, are put on leave with full pay while the family members and protesters demand justice.

At the 2016 vice presidential debate in October, Republican Indiana Governor Mike Pence said to talk about “institutional racism” is a smear against police “who protect us.” In the Black community, they’re seen as a threat to life and safety.

Neither Pence nor Democratic Virginia Senator Tim Kaine discussed the role of the four-year-old Black Lives Matter movement that has heightened exposure of “Blue” racism and violence.

Prominent conservatives defend violence by cops as self-defense (only cops determine what’s a personal threat) and see the Movement for Black Lives as a threat to freedom. Tennessee Congresswoman Marsha Blackburn said after another murder of a Black man: “Everyone should be very careful, it is imperative that everyone supports the thin blue line. It is what separates us . . . from anarchy.”

She and Donald Trump support “stop and frisk” and unlimited police action in Black communities to “restore law and order.” Another extremist congressman from Virginia, David Brat, explained that institutional racism is caused by — taking the Bible out of public schools.

The people rioting in Charlotte, he said, were radical groups “funded by George Soros” or just “confused people.” If “Obama and Hillary[Clinton] want to talk about institutionalized racism,” he added, “I just mentioned the source of it. It’s their own policies. That’s where the institutional racism is, right?”

“When you don’t tell people what is ethically good and bad, right, if you cannot even define what a morally good life is anymore and you block the Bible and you block the Judeo-Christian tradition and you block the Baptist church, which is fundamental in the African-American community, from being the voice of power and the only hope you give is a broken federal system of government . . . .”

## **Roots of Systemic Bias**

Institutional racism is not about the Bible, or individual prejudice or bias (which is common). It is the twisted belief that Blacks are to blame for what happens to them.

Underlying that view is the assumption that Blacks are not equal citizens to whites — who expect the governmental and corporate institutions to enforce racial bias. It is how, and why, African Americans are still denied fair housing and market values and how employment can still be based on the color of their skin, not their qualifications.

As the Trump Organization did in refusing to rent apartments to Blacks in Cincinnati and New York in the 1970s and '80s, managers were told to put a capital letter “C” on the top of those applications. Trump’s group was sued to change that practice.

The origins of institutional racism — a real and present danger to equality and freedom — lie within the Constitution itself, even though Chief Justice John Roberts and the conservative faction argue that the Constitution is “colorblind.” (“The way to stop discrimination on the basis of race is to stop discriminating on the basis of race,” said Roberts as the basis of the 5-4 majority ruling gutting the Voting Rights Act in 2014.)

The original Constitution, including the Bill of Rights, did not need to mark “C.” Slaves and people of African descent were property and considered ineligible for citizenship. Even slaves who won their freedom and moved North had to carry papers proving their legal status. As the movie 12 Years a Slave showed, even a free Black man could be captured and denied his freedom.

A Civil War, the Second American Revolution in 1861-65, overturned that violation of freedom in the original Constitution. The constitutional change by revolution, however, was not accepted by most southern whites, nor by many in the North.

Because of that reality, whites and Blacks have always been treated differently by state institutions. In fact Black cops act just as violently as white cops and often display the same implicit attitudes towards Blacks on the streets. The irony is that these same Black police face racial profiling when out of uniform.

The significance of the 13<sup>th</sup> Amendment is dual: a recognition of the end of slavery by war, and an olive branch to the defeated Confederates and white supremacists with the clause, “except as a punishment for crime whereof, the party shall have been duly convicted.” That clause has undermined racial relations for more than 100 years.

## **The Mass Incarceration State**

A result is the mass incarceration state. African Americans are imprisoned disproportionately to all other ethnic groups. As documented by Michelle Alexander in *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, some 40% of Black men will spend time in prison or jail (or on probation).

The total is higher than the number of Blacks enslaved in 1850. As Michelle Alexander points out in her introduction to *The New Jim Crow*:

“Denying African Americans citizenship was deemed essential to the formation of the original union. Hundreds of years later, America is still not an egalitarian democracy. The arguments and rationalizations that have been trotted out in support of racial exclusion and discrimination in its various forms have changed and evolved, but the outcome has remained largely the same.”

A new documentary film by Ava DuVernay (director of *Selma*), discusses the same issue. The 13<sup>th</sup> opened the 54<sup>th</sup> annual New York Film Festival in September. The Netflix film, according to IndieWire, chronicles the history of racial inequality in the United States, examining how the country has the highest incarceration rate in the world, with a hugely disproportionate percentage of prisoners being African American.

DuVernay traces the history of racism in the United States and how fear and division facilitate a system that drives mass criminalization. Using a mix of archival footage and testimonies from politicians, activists and formerly incarcerated men and women, DuVernay unearths an untold history for the world to watch.

Institutional racism is a key reason why President Obama received low white support in southern states; why many whites are open about being white nationalists first and Americans second; and why it was so easy for longtime Dixiecrats to turn Republicans overnight after the civil rights laws were adopted in the 1960s.

The Republican Party of President Lincoln had been the enemy of those white nationalist “values.” There are no singular Lincoln monuments in the South. Confederate flags and monuments for former Confederate generals and officials are prominently displayed.

## **The African-American Museum**

The new National Museum of African American History and Culture in Washington DC, opened in September 2016, is significant. Part of the Smithsonian, it took over 100 years to build (from its first proposal after the Civil War) until Congress passed a law to do so in November 2003 (which President George W. Bush signed). Much of the early funds came from individual contributors (like myself).

The museum tells the story of oppression and institutional racism, as well as the advantages of being white, from the eyes of African Americans from slavery, Jim Crow and the lynchings of 4000 Blacks by white mobs to housing discrimination and segregated military through World War II, to contemporary issues.

The museum shows the level of terror against Blacks and the great contributions made by African Americans in science, education, sports and culture. The segregationists in the South sought to stop the museum and delayed its approval for decades.

Modern day white nationalists continue to push back the march of progress. The bigotry of businessmen/politicians like Donald Trump (“Make America Great Again”) is their hope. They are confident that the gains won legally by Blacks can be eroded and eventually rolled back. Many gains won in the civil rights revolution of the 1960s, such as affirmative action programs and school desegregation efforts, have been crippled if not overturned.

The rise of the Black Lives Matters movement is narrowing the gap among upper-class Blacks and the vast majority of working-class and poor African Americans. The new generation of Black activists organizing militant anti-police shooting protests are leading the way in this cross-class community solidarity that has also created multiethnic unity.

### **Colin Kaepernick's Example**

San Francisco 49ers quarterback Colin Kaepernick shows how resistance to white supremacist ideas and institutional racism can come from unexpected places.

Kaepernick is a biracial man who grew up with his white adoptive parents in a white community in northern California. He experienced personal racism in college and educated himself about historical racism and discrimination as he watched the police brutalize Blacks for being Black and in the wrong place.

He spoke up in his Twitter account and decided not to stand for the national anthem. He did so quietly until a reporter noticed him sitting on the bench and later putting a knee down. Outrage poured in that he was "unpatriotic."

The support for the First Amendment right to free speech, including his action, spread to the point that his number 7 jersey is the bestselling 49ers jersey. Others have joined him, including college and high school student athletes, and women professional basketball and soccer players.

Kaepernick has pledged one million dollars of his salary to community organizations. He knows that he could lose his professional career and millions of dollars of future income.

Kaepernick's refusal to bend has also led to a new look at the person who composed the anthem and his complete poem. Francis Scott Key, who famously wrote "The Star Spangled Banner" during the war of 1812 with Britain, was a slaveholder and lawyer.

Key strongly opposed the abolitionist movement. The third verse of his poem that became the national anthem is never sung, but reads:

"That band" refers to runaway slaves who fought on the side of the British when promised their freedom. After the war, many migrated to Canada to live.

Many abolitionists did not celebrate Independence Day either, because of slavery. Frederick Douglass boldly proclaimed in 1852 to a white audience, "What, to the American slave, is your 4<sup>th</sup> of July? I answer; a day that reveals to him, more than all other days in the year, the gross injustice and cruelty to which he is the constant victim."

Institutional racism is in the blood and bones of the United States. It must be exposed and rooted out by legal and other means. The government must provide real compensations for descendants of slaves. How the reparations are paid can be discussed by establishing an independent Truth and Reconciliation Commission with executive authority.

History has shown that many goals thought unobtainable were won by revolutionary war and mass struggles. The victories were eventually codified by Constitutional Amendments and fundamental changes in new laws.

The struggles against the institutions of oppression and racism, and demands for a radical new criminal justice system, are today's winnable fight. Understanding the 13<sup>th</sup> Amendment, and the 14<sup>th</sup>

and 15<sup>th</sup>, is important to know why full equality is still to be won.

The written words on paper (including the Bill of Rights) must be validated — by force if necessary — to defeat those who want the return to unchallenged white and male domination.

**Malik Miah**

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\* Against the Current n° 185. November-December 2016:

<http://www.solidarity-us.org/site/node/4803>