MSL ACADEMIC ENDEAVORS

Cultural Encounters, Conflicts, and Resolutions

Volume 4 | Issue 1 Article 4

2020

The New Debt Peonage in the Era of Mass Incarceration

Timothy Black
Case Western Reserve University, tsb25@case.edu

Lacey Caporale
Case Western Reserve University, lacey.caporale@case.edu

The New Debt Peonage in the Era of Mass Incarceration

Abstract

In 1867, Congress passed legislation that forbid the practices of debt peonage. However, the law was circumvented after the period of Reconstruction in the south and debt peonage became central to the expansion of southern agriculture through sharecropping and industrialization through convict leasing, practices that forced debtors into new forms of coerced labor. Debt peonage was presumable ended in the 1940s by the Justice Department. But was it? The era of mass incarceration has institutionalized a new form of debt peonage through which racialized poverty is governed, mechanisms of social control are reconstituted, and freedom is circumscribed. In this paper, we examine the mechanism of the “new debt peonage” and its consequences in the lives of 30 men, mostly African American, released from an alternative incarceration facility in Cleveland, Ohio. Debt for these men included court fines and fees, restitution costs, motor vehicle fines and reinstatement fees, parole and probation supervision fees, child support debt, as well as education and medical debt. Median debt at the time of community reentry for these 30 men was $9,700. These debts affected men’s strategies for community reentry and impeded community reintegration, and it imposed a new form of labor subordination and social control.

Keywords

Racism, Incarceration, Debt, Capitalism

Cover Page Footnote

We would like to thank the St. Lukes Foundation and the Social Justice Institute at Case Western Reserve University for funding this research, as well as Damian Calvert, Brian Polk, and Casey Albitz for their contributions to the research.

The New Debt Peonage in the Era of Mass Incarceration

Timothy Black & Lacey Caporale
Case Western Reserve University

Abstract:

In 1867, Congress passed legislation that forbid the practices of debt peonage. However, the law was circumvented after the period of Reconstruction in the South, and debt peonage became central to the expansion of Southern agriculture through sharecropping and industrialization through convict leasing, practices that forced debtors into new forms of coerced labor. Debt peonage was presumably ended in the 1940s by the Justice Department. But, was it? The era of mass incarceration has institutionalized a new form of debt peonage through which racialized poverty is governed, mechanisms of social control are reconstituted, and freedom is circumscribed. In this paper, we examine the mechanism of the "new debt peonage" and its consequences in the lives of 30 men, mostly African American, released from an alternative incarceration facility in Cleveland, Ohio. Debt for these men included court fines and fees, restitution costs, motor vehicle fines and reinstatement fees, parole and probation supervision fees, child support debt, as well as education and medical debt. Median debt at the time of community reentry for these 30 men was $9,700. These debts affected men's strategies for community reentry and impeded community reintegration, and it imposed a new form of labor subordination and social control.

Keywords: racism, incarceration, debt, capitalism

1. Introduction:

Punishment for debt is as old as human civilization. The use of incarceration to punish debtors is documented as early as 457 B.C. among the first laws established by the Romans in the Twelve Tables (Sobol, 2016). Debtors' prisons existed throughout the Middle Ages and were later popularized in Charles Dickens' characterization of the brutal era of 19th century industrialization in England (Dickens, 1836; 1849; 1855). The punishment of debt illustrates the relations of power across historical times and spaces (Graeber, 2014).

In the U.S., debt peonage was outlawed in 1867 by Congress. And yet, during and after the period of Reconstruction in the U.S. south, debt peonage underwrote both the reorganization of the agricultural economy through sharecropping and the rapid expansion of the manufacturing economy through convict leasing, as White supremacy was reconstituted in the era of Jim Crow. Absent the promises made by Radical Republicans after the Civil War to distribute land, support Black economic autonomy, and secure political representation through Black suffrage, debt peonage became a central mechanism to institutionally reinvigorate a temporally suspended racial hierarchy. Without the promised "40 acres and mule" and without the capital to purchase land, Black farmers were forced to lease land from White landowners and contractually required to share their proceeds. Control of seeds and materials, living supplies, and commodity pricing by southern Whites, enforced through White vigilantism, imposed spiraling debt on sharecroppers that kept them tethered to the post-slavery southern agricultural economy (Foner, 1988).

More horrifically, Jim Crow criminal justice in the South institutionalized convict leasing, in which heavy fines and fees were assessed to Blacks for a wide range of criminal offenses often associated with Black legal codes that prohibited Blacks from changing employers, riding freight cars, and engaging in any loosely construed sexual activities with White women. Unable to pay these fines and fees, Blacks were sold into forced labor to iron and steel work companies, mines, farms, sawmills, and the railroad. Convict leasing ensured capitalists a ready supply of strikebreakers to eviscerate the growing power of White labor unions, provided an unending supply of expendable, cheap labor, paid the salaries of local sheriffs, created a speculative "futures market" on the return on fines and fees, enforced compliance from Black populations, and industrialized the south (Blackmon, 2008).

Debt peonage provided the foundation for "slavery by another name," as the 13th Amendment allowed for the continuation of "involuntary servitude" as punishment for a crime. Moreover, convict leasing enjoyed a long legacy in the South, with complicity from the North, perhaps best illustrated by the financial bailout and reorganization of U.S. Steel in 1907, under President Theodore Roosevelt's administration, that expanded convict leasing in Alabama. The practice was not abolished until 1941, when the Department of Justice issued a decree that ordered convictions on an expanded definition of slavery to include involuntary servitude (Blackmon, 2008). Debt peonage was a key mechanism through which capitalism and White supremacy were reorganized to maintain social class and racial hierarchies that relegated Blacks to the lowest social-economic status and prohibited class mobility and wealth accumulation, processes which remain structurally evident today.

2. The New Debt Peonage:

Debt provided the foundation for sharecropping and convict leasing during Jim Crow in the South as both a form of labor subordination and of social control. After the Great Migrations to the north, the confinement of Blacks to urban ghettoes preserved racial hierarchies (Wacquant, 2000). Further, the political-economic transformation to neoliberal capitalism in the 1980s restructured the relationship of the state and the economy, augmenting the paternalism of state welfare and the punitive and disciplinary character of criminal justice (Soss et al., 2011; Wacquant, 2009). Central to the expansion of the criminal justice system, the War on Drugs that emerged in the 1970s and expanded through the 1980s and 1990s fell heavily on Black urban communities (Alexander, 2012; Parenti, 1999). The proliferation of law enforcement and massive investment in prison expansion that had its roots in conservative elites' reactions to ghetto uprisings and liberal elites' preoccupation with Black urban pathology ascended into the largest penal confinement of a nation's population in the world (Hinton, 2016). Racial disparities in incarceration rates had remained around a 3-to-1 Black-to-White ratio for most of the 20th Century, until after 1976, when the ratio increased to 6-to-1 in the ensuing 20 years (Murakawa, 2014). If the punishment of debt, however, reflects the organization of power across historical times and spaces, as David Graeber (2014) has illustrated, then what have been the configuration and practices of debt in the context of mass incarceration?

Today, debt remains integral to the criminal justice system and a mechanism of labor subordination and social control (Harris, 2016; Wamsley, 2019, Zatz, 2016). Nearly everyone convicted of a felony today incurs financial penalties (Harris et al., 2010). What distinguishes the U.S. from its peer countries in Europe is not only the extraordinary differences in incarceration rates, but also that the assessment of fines and fees is in addition to imprisonment rather than in lieu of incarceration (Martin et al. 2018). What is referred to as Legal Financial Obligations (LFOs) include fines, restitution costs, and fees—fines for the purpose of punitive sanctions, restitution to reimburse victims of crime, and fees associated with the purpose of reimbursing the public cost (Levingston & Turetsky, 2007). This debt is not dischargeable through bankruptcy, and failure to pay can result in imprisonment or requisite unpaid labor (i.e., community service) (Am. Civ. Lib. Union, 2010; Bannon et al., 2010; Beckett & Harris, 2011; Wamsley, 2019; Zatz, 2016).

With the explosive growth in the criminal justice system over the past four decades—including a 500 percent increase in incarceration (Western, 2019) and a 239% increase in probation and parole supervision (PEW, 2018)—fees that offset taxpayer costs and support an "offender-funded" system ensure complicity among the public. These fees accumulate at all stages of the process—at presentencing (e.g., booking fees, finger printing, lab testing, jury fees, application for a public defender, bail fee); at sentencing (e.g., investigatory reports, public defender and prosecutor reimbursements, court administration); during incarceration (e.g., room and board, telephone costs, medical services, programming); and after release (e.g., probation and parole service fees, electronic monitoring, mandatory treatment and aftercare classes, and drug testing) (Alexander, 2016; Bannon et al., 2010; Sobol, 2016).

In addition, fines and fees for traffic violations that disproportionately target communities of color is another mechanism through which debt accumulates and municipal governments fund their own operations, as was publicly exposed in Ferguson (Bender et al., 2015; Dunn, 2009; U.S. Department of Justice, 2015). When we consider that one of the key sanctions for drug felonies adopted during the War on Drug era was suspension of driver's license, traffic stops targeting Black and Brown drivers in segregated urban communities result in scores of local residents driving with suspended licenses. The ramifications for this include jail time, fines, and the discovery of arrest warrants, which more deeply ensnares this population in the criminal justice system and in a context of ballooning debt (Bannon et al., 2010). In these instances, a cycle often develops in which drivers unable to afford the fines, accrue fees for nonpayment that increases their debt further, prohibiting them from obtaining licenses. This then results in subsequent arrests for driving without a license, with each subsequent arrest resulting in a higher fine. For felons already in debt for the variety of court costs described above, motor vehicle debt adds to their insolvency (Dorn, 2019).

Besides court costs, supervision fees, and motor vehicle debt, child support debt also increases dramatically while fathers are incarcerated (Black & Keyes 2021; Haney 2018). Around one-half of all prisoners in the U.S. have open child support cases, and in one-fourth of states their incarceration is defined as "voluntary unemployment," so modifications of child support orders are not permitted (Levingston & Turesky, 2007). In other states, where modification is allowed during incarceration, the burden is on the inmate to initiate the proceedings, fill out and mail paperwork, and rely on child support courts and agencies to respond. In a 14-state study of incarcerated fathers, Roman and Link (2017) found that, in their sample, none of the men incarcerated in Ohio had applied for modification, so no child support adjustments had been issued by the state. More generally, they concluded that "inmates in very few states appear to have and understand the tools for managing and modifying child support orders while incarcerated" (2017, p. 911).

The new debt peonage, in the form of combined court fines, fees, restitution costs, supervision fees, motor vehicle debt, and child support arrears, impedes post-release reintegration efforts (Bannon 2010, Evans, 2014; Haney, 2018; Harris 2016, Pleggenkuhle, 2018), keeps a poor, disproportionately Black population under the control of state authorities (Harris 2016; Wamsley, 2019), pacifies and neutralizes personal defiance (Wacquant 2009), maintains a racially segmented labor force (Pager, 2007), and provides a steady stream of surplus labor available for precarious, underpaid employment (Black & Keyes, 2021).

2. Methods:

In June 2014, we began making ethnographic observations of a fatherhood class in an Alternative Incarceration Facility (AIF) in Cleveland, Ohio. The AIF is an alternative to state prison and county jail, and provides residents of the facility with up to six months of intensive programming, mostly cognitive-behavioral, substance abuse, and fatherhood programs. In February 2016, we began our own study circles group within this facility. Each week, our research team met with residents for two hours who voluntarily chose to participate in the group.

The study circles group was facilitated by a member of the research team who had served 18 years in state prison and who was, consequently, personally steeped in the issues of both "doing time" and citizen reentry. The group provided a space for men to discuss issues that concerned them as they prepared to return to their homes and communities. From the study circles group, we recruited men to participate in our post-release study. The men who agreed to participate had developed strong relationships with us and wanted to continue meeting with us to remain focused on making changes in their personal lives. Through this process of self-selection, we were able to identify the more motivated men at the AIF, which we believed would enable us to see more clearly the structural barriers to citizen reentry. We began interviewing in June 2016 and continued our study through March 2018.

We conducted life history interviews with 33 men at the AIF, and then interviewed them immediately after their release and every two months thereafter for at least six months. We also maintained contact through bi-monthly phone calls and recorded notes on these calls. The interviews were semi-structured and covered a range of issues, including relationships with children and their mothers, employment, debt, probation and parole, mandated post-release programs, further problems with the law, and issues concerning masculinity and fatherhood. The audio-recorded interviews were conducted by three research team members, and then transcribed. All participants gave written consent to participate in the study circles group and then again prior to each interview. They were paid $30 for the first post-release interview and $20 for every subsequent interview.

Interview transcripts were reviewed for accuracy; after which, three members of the research team analyzed them. Data on debt were compiled into a table, and we examined the transcripts for how the men talked about their debt and the strategies they used to address it. Due to inadequate data on this issue, three men were removed from the study, leaving a total number of 30 study participants.

Nearly two-thirds of study participants were Black, one-third were White, and one participant was Puerto Rican. Ages varied from 19 to 54, with a median age of 36.

3. Monetary debt:

There was considerable variation in the amount of debt that each of the men in our study had accumulated. Combining motor vehicle debt (fines and reinstatement fees), court and restitution costs, parole and probation supervision fees, and electronic monitoring fees, debt ranged from no debt in one instance to $11,800, with a median of $1,850 (see Table 1). In a few cases, restitution costs pushed up individual debt considerably. There was also significant variation in motor vehicle debt due to differing histories of driving suspensions and accumulated tickets, fines and warrants. Court costs also varied because these costs are assessed according to judge's discretion, and some judges routinely waived these costs for indigency, but others did not. In fact, when court costs were discussed in group situations, the men would typically ask one another, "Who's your judge?"

Table 1: Monetary Debt Ordered by the Courts

Type of Debt	Number	Mean	Median	Range	Total Debt
Motor Vehicle Debt	23 (77%)	$1,169	$500	$25-5,000	$26,880
Court Costs	25 (83%)	$1,750	$800	$125-11,800	$43,750
Parole/Probation Supervision Fees	12 (40%)	$726	$630	$280-2,400	$8,716
Electronic Monitoring Fees	5 (17%)	$922	$720	$300-2,150	$4,610
Total	29 (97%)	$2,895	$1,850	$125-11,800	$83,956

When we added child support, along with educational and medical debt, these figures increased significantly. For the 30 men, individual debt ranged from $910 to $157,725, and total debt was calculated at $732,821 (see Table 2). Child support debt accounted for much of this variation, with one-half owing more than $1,000 in arrears, one-fifth owing more than $10,000, and four men owing more than $20,000 (with one owing $70,000 and another $150,000). A few instances of high medical and educational debt also increased these totals, with four men owing more than $20,000 for one or the other. Still, despite spiking individual cases of debt, the median was $9,700.

Table 2: Monetary Debt Including Child Support and Miscellaneous Debt

Type of Debt	Number	Mean	Median	Range	Total Debt
Motor Vehicle Debt	23 (77%)	$1,169	$500	$25-5,000	$26,880
Court Costs	25 (83%)	$1,750	$800	$125-11,800	$43,750
Parole Probation Supervision Fees	12 (40%)	$726	$630	$280-2,400	$8,716
Electronic Monitoring Fees	5 (17%)	$922	$720	$300-2,150	$4,610
Child Support Arrearages	17 (57%)	$20,041	$7,000	$600-150,000	$340,700
Misc. Debt	14 (47%)	$20,726	$4,270	$225-100,000	$290,165
Total	30 (100%)	$24,427	$9,700	$910-157,725	$732,821

This debt had profound constraints on the lives of these men, ultimately shaping their post-release strategies for paying off debt and sustaining themselves. For example, the magnitude of this debt often limited housing opportunities, which many times resulted in relying on family or intimate partners for housing. The inability to repay motor vehicle debt meant that men had limited employment opportunities, searching for work in walking distance or on a major bus route. In order to find and maintain employment, a handful of men drove without their licenses, sometimes driving cars they had registered in other people's names, risking the possibility of being caught, violating probation or parole, being returned to jail, and deepening their debt.

The pressure to pay back this debt, reinforced through the oversight of probation or parole officers, required many of these men to work multiple jobs, often on- and off-the-books. About one quarter of the men (23%) had less than a high school degree and a little more than one-half (57%) had only a high school degree or a GED, which limited gainful employment opportunities.[1] More than one-half (53%) of the men relied on temporary employment, which was approved, and often encouraged, by their probation or parole officers.[2] These on-the-books jobs were proof to the court that the men were employed, with the potential of paying back their debts. Automatic deductions of child support from the men's paychecks decreased already low wages to paltry sums, sometimes lowering wages to one-half of the minimum wage, far beneath their living costs. As a result, more than one-half of the men in our study (57%) worked under-the-table jobs, with one-third working both on- and off-the-books jobs in order to pay back their debt and have enough income to live day-to-day.

The strategies the men used to address their debt illustrates the constraints this debt places on them. Below we discuss these strategies to illustrate how debt shapes the lives of this population, and we profile three of the men as case studies. For many, their debts could not be paid off in a lifetime. With only a few exceptions, these men were saddled with low wages and temporary employment, were dependent on families or intimate others for housing, struggled with drug and alcohol dependencies, and had few transportation options. The levels of debt appeared absurd and assured these men's vulnerability to state surveillance and punishment for long periods of their lives.

4. Work and debt:

Not surprisingly, the most important goal for virtually all of our study participants upon release was finding employment. However, finding employment that would be self-sustaining was nearly impossible for them, even before we consider their debt. Mostly, these men relied on the temporary work industry, which has become essential employment agencies for returning citizens, albeit not regulated like public agencies (Black & Keyes, 2021; Gonos, 1997). Temp agencies are useful to local

[1] The other 20% were classified as having post-secondary credentials—one had a bachelor's degree and the other five had either an associate's degree or a trade credential.

[2] Around the same percentage of Black men in the study relied on temp jobs (56%). Men who had only a high school education or a GED were most likely to rely on temp work (71%), while the men employed in temp work tended to be slightly younger (median age of 33) than those who did not (38.5).

employers whose "just-in-time" production needs depend on an expendable surplus labor force, but the profits of these agencies come from extracting a large part of the wage from workers (Gonos, 2001). These jobs typically paid minimum wage and locked men into these temporary arrangements until they worked a contractual number of hours—contracts that had been agreed to in advance by the company and the agency. Two-thirds of the men in this study who worked on-the-books jobs were employed through a temp agency at some point during their post-release period. However, none of these men were hired on by the company at the end of their temp contract. In most cases, as Douglass explained, the companies insisted "there was a mix-up in some kind of way."

In this regard, temp agencies play a central role in meeting the needs of employers, while maintaining a subordinated labor pool. Together, temp jobs and under-the-table work accounted for nearly all of the jobs that men were able to get after release, in part because many other employers discriminate against applicants with criminal records. Debt added to the wage inadequacies of already inadequate wages. Men developed strategies for addressing this, but the constraints stemming from debt and probationary requirements made finding and sustaining work challenging, even in the bottom tier of the labor force. Strategies depended upon the men's living circumstances and their type of debt.

4.1. Motor vehicle debt and suspended licenses:

Driver license suspensions occur in Ohio for a number of reasons, including driving under the influence of drugs or alcohol, having too many driving violations, driving without car insurance, failing to pay a fine or to show up to court on a misdemeanor charge, accumulating child support arrears, or being convicted of a drug felony offense.[3] Most of the men in our study had their driver's licenses suspended from a court order for unpaid tickets and/or fines (8 men), or due to an alcohol or drug suspension (7 men). In addition, a handful of men never had a license (5 men).

Driver's licenses cannot be reobtained until debt from fines and fees are paid in full at the court house where the infractions occurred and corresponding reinstatement fees are paid to the Bureau of Motor Vehicles (BMV).[4] Many of the men in our study owed money to several municipal

[3] In Ohio, conviction of a drug felony resulted in a mandatory one-year suspension of a driver's license until 2016, when the law was changed to provide for judicial discretion.
[4] The BMV does offer a program that bundles a person's reinstatement fees into a monthly payment plan after they have paid their court fines and fees.

courts. Some were unclear about how much they owed, and some owed for violations that had occurred many years in the past. For instance, Faruq, a 39-year-old African-American man, had fines and fees under four different jurisdictions, for driving without a license and for unlawful use of his own car (registering his car in his girlfriend's name). To get his license back, he needed to travel to each of these four municipal courts to pay fines and fees that totaled $1,200 before he could then go to BMV to pay a reinstatement fee for each of these offenses. Justin, a 34-year-old White man, had lost his license seven years before our first interview for two drug charges and driving under the influence. During this time, Justin continued driving and said that he had accumulated 28 driving-under-suspension charges, resulting in $3,400 in debt.

Motor vehicle debt had serious consequences for men's job prospects. Either they had to find work that was within walking distance or on a bus line, rely on family and friends to drive them to and from work, or drive illegally. Many of the available jobs were located in the suburbs, considerable distance from where men lived, so walking to work was not an option, and depending on family or friends was costly in gas money and an imposition of time. This left men with the option of either taking the bus or driving illegally, and when we consider the multiple probation stipulations that placed time demands on these men (e.g., meetings, programs, urine tests, etc.), even riding a bus was not always feasible. In these instances, men opted to drive illegally in order to work, which made them vulnerable to future arrest and to probation violation. Isaac's case illustrates.

Isaac, a 33-year-old African American man, experienced his first case, grand theft auto, when he was 22 years old. Since then, he had accumulated additional charges for drug trafficking, as well as a domestic violence case. A father of two, Isaac raised his daughters and lived in the same house with them until they were 4- and 5-years-old, when he and their mother split up. At the time of his first interview at the AIF, he was paying $85 a month toward Child Support. At the time of his second interview, Isaac was employed through a temporary work agency, making $9.00 an hour working in shipping and receiving. Isaac's debt totaled $3,469. He owed $589 in court costs, $280 in supervision fees, and $600 in child support arrears, but the majority of this debt, $2,000, was owed for motor vehicle violations, which included court fines and fees for driving related charges, as well as a license reinstatement fee. As a part of his probation, Isaac was also required to work 100 hours of community service, to attend a three-hour weekly "aftercare program" run by the same organization that managed the AIF, and to report to his probation officer weekly during work hours. When asked how he intended to pay back his debt, Isaac explained, "I'm just gon' take it little by little and pay it before I get off probation. I got two years on probation."

Isaac relied on his sister for housing on the east side of Cleveland. His job, located in an industrialized suburb, where several of the men were employed through temp agencies, required an hour-and-half bus ride to work. His meetings, with his probation officer and aftercare class, required return trips to Cleveland—a two-hour bus ride from work. Moreover, these meetings, as well as his community service mandate, meant that Isaac had to leave work at different times of the day to take these long bus rides.

Isaac's intention was to be hired permanently by the company, which would pay $15 an hour upon completion of his 90-day temporary work arrangement. His success, however, required a tolerant and understanding boss. Isaac found these circumstances untenable, so he began using his sister's car to drive to work and his appointments, despite not having a license. Isaac explained, "Most of the time I'm really driving my sister car but I make sure I be very careful—my seatbelt, completely stops at all stop signs, and you know what I mean?" Isaac acknowledged the risk of driving without a license, but, like many of the men in this study, found that saving time on transportation was worth the risk of being caught. Paying the $2,000 owed in motor vehicle debt was not possible, and so he admitted that getting his license reinstated was "the least of my worries." Nonetheless, as Isaac's 90 days approached, his boss could no longer tolerate his absences from work, and he lost his job. For the next several months, Isaac donated blood for income, before landing a part-time, minimum wage job stocking shelves at a large grocery store.

Seven months after Isaac's release from the AIF, he was reincarcerated for two weeks on a probation violation, after not showing up to a probation officer meeting**.** Upon his release, Isaac's probation was extended and he was required to take another 6-week intensive outpatient class. Despite having on-the-books employment through a temp agency and relying on his sister for housing and driving expenses, Isaac was only able to pay back a small portion of his debt. One year after his release, Isaac had paid off the $600 he owed in child support arrears; however, his overall debt had increased due to the extension of his probation and the monthly supervision fees he paid for these involuntary services.

Isaac's story is similar to others who were strapped with motor vehicle debt, among other forms of debt, which placed constraints on employment opportunities. In fact, fifteen men indicated to us that they relied on public transportation due to motor vehicle debt. Isaac's story illustrates the difficulties that motor vehicle debt, probationary requirements, and sustaining low-wage temp work create. Debt kept him tethered to the arm of the state, while strict probationary demands placed constraints on his time and left him feeling vulnerable. Further, debt and probationary work requirements assured that he would remain a part of the precarious workforce of underpaid labor.

4.2 Community service:

Community service is unpaid labor. It may be issued as a form of punishment or offered as form of debt repayment. The ideology that supports community service views it as moral rehabilitation—a form of giving back to the community, as well as a strategy to keep returning citizens occupied and out of trouble, and as a mechanism of community reintegration (Taxman & Maass 2016; Zatz, 2016) These arguments are dubious, however, as community service can also further stigmatize a population, add an additional burden of time that keeps people out of the paid labor force, and result in incarceration if it is not carried out (Harris, 2016). Moreover, as a form of coerced, unpaid labor, it is constitutionally suspect, spared only by the 13th Amendment that permits slavery or involuntary servitude as punishment for a crime (Zatz, 2016).

Five men (17%) in our study were given community service as a part of their punishment. They were required to complete this part of their sentence under the threat of probation violation. Two of these men, and three additional men, also *volunteered* to complete community service hours in lieu of monetary debt in order to work off court costs and probation supervision fees. Work is calculated at minimum wage and the hours are determined then by the amount of debt owed. Most of the men refused this option, since they did not see how they could add community service hours to their already time-depleted schedules. Between work, family obligations, probation officer meetings, urinalyses, and court required post-release classes, most of the men did not see community service as a viable option. Douglass was an exception.

A 47-year-old African American man, Douglass was one of the few men in our study who was married at the time of the interviews. His community service work was both voluntary and involuntary—200 hours were required as part of his punishment and he agreed to work 100 additional hours to pay off some of his debt. Douglass had a total debt of $2,620, including $500 in motor vehicle debt, $1,400 in court and restitution costs, and $720 in ankle monitor fees. Douglass and his wife had been together since they were 17-years-old, and married for 26 years, but did not have children. His wife provided continual emotional and financial support for Douglass, assisting him through past drug addiction relapses and providing financially during times when Douglass was unemployed.

Douglass, a certified welder, was self-employed as a home remodeler prior to his incarceration. He was incarcerated for stealing tools from a neighbor's garage, which turned out to be a costly mistake—and seemed to discourage Douglass from returning to his prior self-employment as a home remodeler. The situation surrounding the case was messy, as Douglass claimed that the tools he took from his neighbor's garage were actually his own, left in the garage after he remodeled his neighbor's home, who had since died. Douglass said he pled guilty under the impression that it would result simply in supervised probation. Instead, Douglass was incarcerated at the AIF, and his probation conditions included wearing an ankle monitor for 90 days, attending after-care classes once a week, and completing 200 hours of mandatory community service. In addition, he was required to pay heavy court and restitution costs, supervision fees, and ankle monitor fees. Further, with the loss of his income, his wife had to move out of their apartment a few months after Douglass was incarcerated. When she left the apartment, she moved their belongings into storage, and moved in with a family member; however, when she missed a payment on the storage bin, their belongings were confiscated and sold at auction, providing more obstacles for them post-release.

Initially, Douglass and his wife resided with her mother after his release, but by the third interview, they had moved into a small third floor apartment in a house. Douglass worked some side jobs, painting and doing yard work, while he relied mainly on his wife's part-time income as a nurse's aide, along with food stamps and a Section-8 housing voucher for their apartment. This allowed Douglass to devote his time to community service, which went toward paying his debt. Douglass explained:

> Basically, my debt is halfway knocked out, because I had started my community service ... because I didn't have the money to pay for this ankle bracelet or some of the court costs and stuff because of the situation we were in. And so, I worked it out with them [the court] that if they give me the hours, I would work it off ... and right before I broke my toe, I was down to like 100-something hours left.

Douglass worked community service as though it were a full-time job, and he depended on his uncle for transportation to work. He explained, "Yeah, I really hit it. I was there almost every day. Well four days a week from 7 in the morning 'til about 4 or 5 in the afternoon." Douglass was under the impression that these hours would pay off his total debt; however, by our fifth interview, the hours of community service he had worked only relieved him of the $1,400 he had in court and restitution costs, but not the motor vehicle and ankle monitor debts.

Douglass fully embraced community service as a debt reduction strategy. After he completed his community service, he worked with an employment agency to get a welding job. Douglass was already a certified welder, so the agency enrolled him in their job readiness program to help him find a welding job. He had delayed all of these plans for seven months in order to complete his community service. Of all the African American men in the study, Douglass seemed to be best prepared for achieving gainful employment. He was a high school graduate who had experience in the workplace and was a certified welder.

At the final interview, which was conducted almost a year after his fifth interview and a year and a half since he had been released from the AIF, Douglass and his wife were still living in the same apartment, and he still owed $500 for his motor vehicle debt and $720 for his ankle monitor. The employment agency was unable to find him a welding job, so he had worked for a temp agency at a factory for $9 an hour. He completed his 90-day probationary period, but the company did not hire him. He took a second temp job, but had to quit because the van that provided transportation was cancelled, and he did not have an alternative means. He had recently taken another job, driving a tow motor forklift in a warehouse. His eyes widened and his voice raised when he told us that he was going to get health insurance, a life insurance policy, and two weeks of vacation a year, after he completed his probationary period. Still, he was making $9 an hour. Despite Douglass' advantages compared to others in our study, after 18 months, he was still carrying $1,220 in debt and appeared stuck in the bottom tier of the work force. Douglass was caught in the web of contemporary debt bondage: underemployed in an economic substratum organized through temporary work, underinsured, and under the eye of a criminal justice system that maintained labor discipline through the threat of probation revocation. This may not have been sharecropping or convict leasing, but the reorganization of the state and economy in late capitalism created new mechanisms for maintaining intersecting racial and class hierarchies.

4.3 Child support debt and on-and-off the books employment:

As we saw in Table 2, the majority of men in our study owed child support arrearages. Child support debt is integral to the criminal justice system because incarceration compounds this debt, and failure to pay can result in additional criminal charges (Pleggenkuhle, 2018). Unlike debtors' prison of the past, when insolvents were imprisoned for past debts, today, debt accrues while fathers are imprisoned (Levingston & Turetsky, 2007). It is not a coincidence, therefore, that the ballooning increase in child support arrears to more than $100 billion nationwide has occurred simultaneously with mass incarceration (Haney, 2018). This occurs in two ways: 1) failure to modify child support payments at the time of incarceration results in debt accumulation that is irreversible, and 2) if the loss of income in the family upon incarceration leads the mother to receive public assistance, the state immediately opens up a child support case on the father. This liability is then divided between the state and the mother, and so the father leaves prison in debt to both. Further, child support obligations are prioritized over all other legal financial obligations in both state and federal law (Evans, 2014). As such, the collection of child support is aggressive and occurs in several ways: by garnishing wages, suspending driver's licenses, withholding tax returns, and encumbering bank accounts (Mincy et al., 2015).

As many scholars have pointed out, wage garnishment creates a disincentive to work, and pushes fathers into the informal, and sometimes illicit, economy (Beckett & Harris 2011; Haney, 2018; Holzer et al., 2003). If these men are still on probation, however, they are confronted with a contradiction. Although they may be inclined to pursue under-the-table work to protect their wages, off-the-books jobs do not satisfy probationary work requirements. So, men may have to choose one or the other, or decide to do both. In the latter case, work in the formal sector, often at minimum wage, is used to pay child support debt and meet the demands of probation officers, while off-the-books jobs provide a flow of cash to live on that is removed from the reach of the state. More than one-half (53%) of the men in our study reported working both on- and off-the-books jobs.[5] Frames' case illustrates.

A 32-year-old African American father of two, Frames had an overall debt of $75,022, due to an enormous amount of child support arrearage ($70,000). Frames explained that his child support arrears for his two children accumulated over the years, especially during his time of incarceration. Upon his release, he first lived with his girlfriend and later his brother, and worked at a packing plant for a temp agency, which paid $9.50 an hour. He acquired the job before leaving the AIF, but he was unable to accumulate much savings while incarcerated. This was because he was required to pay the temp agency for his transportation to and from work and was required to pay one-fifth of his paycheck to the AIF for room and board.

Frames was a talented artist, often showing us intricate sketches that he created while he was locked up that were inspired by his craft as a tattoo artist. Upon release, he began building his tattoo business under-the-table,

[5] Off-the-books jobs included painting, roofing, construction, and carpentry jobs.

when he was not working at his temp job. Child support was deducted from his paycheck, leaving him with little money after paying taxes. He paid a little more than $300 a month in child support payments for two children, but he claimed that the state was garnishing about twice that to apply to his arrears. He fumed about one check:

> I had a paycheck one time, man. I almost wanted to slap the boss, I was so angry at the world. I almost shot up the parking lot. I was going crazy. I worked 47 hours at 13.75 an hour [for overtime]. Do you hear me? Overtime. My check, it was close to 700, 800 dollars. It was looking real nice. I put them hours in. I got back my check, that muthafucka said $121.

Frames joked about the futility of his debt:

> I need to hit the lottery [chuckling]. For real, man. I owe too much money. They can't get it, unless I hit. So, if I could talk to the Lottery Commissioner or something, we could all work out something. ... It's gon' be all right, though, you know. I don't know where they gon' get it from, but it gon' be all right, though.

Frames' tattoo business kept a steady stream of cash available for living expenses.

In addition to his child support arrearages, Frames owed $650 in motor vehicle debt, $872 in court costs, and $3,500 in student loan debt. Despite working on- and off-the-books in order to address some of his debt and pay for living expenses, Frames expressed his frustration with the criminal justice system: "It's set up for me to fail. I don't have the money. ... So, if I don't pay them, guess what? I get violated."

While Frames joked about the lottery, it may have been one of the few ways he could avoid a lifetime of debt. He had figured out a way to sustain himself, while paying toward his child support obligations. However, he was left betwixt and between the law, his craft, child support, his probation officer, precarious work, and his debt, all of which fostered a permanent state of vulnerability.

5. Discussion and conclusion:

Even though debt peonage was presumably ended by Congress in 1867, it remained central to the reorganization of capitalism and White supremacy in the Jim Crow South. It provided a steady supply of low-wage Black labor that sustained the agricultural economy and industrialized the South. It disciplined Blacks, while providing revenue streams for state and local governments. Furthermore, the brutality of convict leasing secured class exploitation, as it decreased jobs for Whites, kept wages low, and imposed a racially segmented labor force, in which poor Whites' only claim to status and dignity was that they were not Black.

The New Debt Peonage is also central to the reorganization of capitalism and White supremacy. In accordance with the values and principles of neoliberalism, it creates a revenue stream that shifts a portion of the costs of the criminal justice system onto the offender (Harris, Evans, & Beckett, 2010). It disciplines and controls an economically marginalized population through surveillance, the threat of reincarceration, and a lifetime of debt, while it undermines their reintegration into civilian life (Evans, 2014; Haney, 2018; Pleggenkuhle, 2018). Less noticed by scholars, it also provides a surplus labor force that meets the economic needs of just-in-time production through the institutionally entrenched mechanism of temporary work agencies. Finally, it disproportionately affects the Black population (Alexander, 2012; Harris, 2016; Levingston & Turetsky, 2007; Pager, 2007; Wamsley 2019).

The discrimination against Blacks at every stage of the criminal justice system has been well documented. Blacks are more likely to be arrested for crimes, to be convicted and sentenced, and are overrepresented inside prisons (Sentencing Project, 2013). Pettit and Western's seminal article demonstrates that Black men without a high school education becoming adults in the late 1980s had a near 60 percent chance of spending time in jail by the end of the 20th century, compared to 11 percent for White adults (Pettit & Western, 2004). Moving up the timeline and expanding the analysis to all men, the Sentencing Project (2018) stated that one in three Black men and one in six Latinos born in the first year of the new millennium could expect to spend time in jail during their lifetime, compared to one in seventeen White men.

In Ohio, in 2010, Blacks made up 12 percent of the total population, but 43 percent of state prisoners (Wagner & Aiken, 2016). In Cuyahoga County, where our study took place, African Americans make up 30 percent of the population, but 73 percent of prisoners released from the Cuyahoga County Jail in 2017 were African American (Clark & Sottile Logvin, 2017).

Racial disparities in incarceration rates carry over into post-release, because nearly all prisoners leave prison at some point (Travis, 2005). Moreover, there are twice as many men and women under criminal justice supervision today than there are prisoners (Jones, 2018). Black adults make up about 30 percent of all adults under probation and parole supervision, 3.5 times higher than Whites. In urban areas, the percentage is often much higher (Horowitz & Utada, 2018).

The decarceration movement that has gained some steam over the past decade and is starting to have results must now expand its vision to include the prisoner reentry industry (PRI) and the central role that debt plays within it. There was a 300 percent increase in PRI organizations between 1995 and 2010. Most people released from prison are poor and leave prison with varied forms of debt (Harris, 2016). These debts are shared by family members and intimate networks creating a tax on the poor (Kazenstein & Waller, 2015) and extracting even more income from these communities. Upon release, most men in our study relied on family members (90%) and women (80%), including wives, girlfriends and friends, for monetary assistance, especially for housing and transportation.

As we saw from our case studies, debt, combined with probation and parole surveillance, impedes work (Ortiz & Jackey, 2019). Motor vehicle debt accumulates as men are caught in a cycle of driving illegally to obtain work and to meet their post-release obligations. Involuntary and voluntary community service postpones achieving paid employment, constrains men within the surplus labor pool, stigmatizes them as members of the dishonorable lumpen proletariat, and increases their dependency on family and women. Finally, accumulations of child support arrears that many men are unlikely to pay off in a lifetime, and that would only partially benefit their children, force men to assume on- and off-the-books jobs to meet their probationary requirements and to provide a modicum of income for themselves.

Regardless of the strategies that Black men adopt to address the constraints imposed by debt and state surveillance, they remain in a state of hyper-vulnerability to further arrest and incarceration that would subsequently deepen their debt and economic marginalization. Two-thirds of those who leave prison are re-arrested within three years, and the long arm of the state increases the chances for being returned to prison on technical violations (i.e., drug use, breaking curfew, missing meetings) (Barnes et al., 2012; Doleac, 2018). Of the 30 men in our study, 57% were reincarcerated within two years of their release from the AIF, and 35% of these men were incarcerated due to a probation violation.

The new debt peonage opens a vein of revenue to support the debt collection regime (Katzenstein & Nagrecha, 2011); it reproduces and disciplines a segmented labor force; it imposes and legitimates institutional social control and governance; it modernizes racial and class hierarchies; and it provides a surplus labor force through temporary work agencies for just-in-time production needs. The predominance of racial subjugation in the U.S. today remains located within the organization of capitalism and White supremacy.

References

Alexander, M. (2012). *The New Jim Crow: Mass incarceration in the age of colorblindness.* The New Press.

American Civil Liberties Union. (2010). *In for a penny: The rise of America's new debtors' prisons.* ACLU. https://www.aclu.org/report/penny-rise-americas-new-debtors-prisons.

Bannon, A., Nagrecha, M., & Diller, R. (2010). *Criminal justice debt: A barrier to reentry.* Brennan Center for Justice.

Barnes, G. C., Jordan, M. H., Ahlman, L. C., & Kent, D. T. L. (2012). The effects of low-intensity supervision for lower-risk probationers: Updated results from a randomized controlled study. *Journal of Crime and Justice 35*, 200-220.

Beckett, K., & Harris, A. (2011). On cash and conviction: Monetary debt and misguided policy. *Criminology and Public Policy, 10*(3), 509-537.

Bender, A., Bingham, S., Castaldi, M., Della Piana, E., Desautels, M., Herald, M., Richardson, E., Stout, J., & Zhen, T. (2015). *Not just a Ferguson problem: How traffic courts drive inequality in California.* Lawyers' Committee for Civil Rights of the San Francisco Bay Area. https://lccrsf.org/wp-content/uploads/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California-4.20.15.pdf

Black, T. & S. Keyes (2021). *It's a setup: Fathering from the social and economic margins.* Oxford University [forthcoming].

Blackmon, D. A. (2008). *Slavery by another name: The re-enslavement of Black Americans from the Civil War to World War II.* Anchor Books.

Clark, J., & Sottile Logvin, R. (2017). *Enhancing pretrial justice in Cuyahoga County: Results from a jail population analysis and judicial feedback.* Pretrial Justice Institute. https://www.acluohio.org/wp-content/uploads/2017/10/Cuyahoga-County-Jail-Population-Analysis-Report-PJI-2017_final.pdf

Dickens, C. (1836). *The Pickwick papers*. Chapman & Hall.

Dickens, C. (1849). *David Copperfield*. Bradbury & Evans.

Dickens, C. (1855). *Little Dorrit*. Bradbury & Evans.

Doleac, J. L. (2018). Strategies to productively reincorporate the formerly-incarcerated into communities: A Review of the literature. SSRN. https://dx.doi.org/10.2139/ssrn.3198112.

Dorn, S. (2019). License suspensions disproportionately imposed on poor Ohioans, trapping them in debt. *Cleveland Plain Dealer* https://www.cleveland.com/metro/2017/03/license suspensions_disproport_1.html

Dunn, R. A. (2009). Measuring racial disparities in traffic ticketing within large urban jurisdictions. *Public Performance & Management Review, 32*(4), 537-561.

Evans, D. N. (2014). *The debt penalty: Exposing the financial barriers to offender reintegration*. Research & Evaluation Center, John Jay College of Criminal Justice, City University of New York.

Foner, E. (1988) *Reconstruction: America's unfinished revolution*. Harper & Row.

Gonos, G. (1997). The Contest over 'employer' status in the postwar United States: The case of temporary help firms. *Law and Society Review, 31*(1), 81-110.

Gonos, G. (2001). Fee-splitting revisited: Concealing surplus value in the temporary employment relationship. *Politics & Society, 29*(4), 589-611.

Graeber, D. (2014). *Debt: The first 5,000 years*. Melville House.

Haney, L. (2018). Incarcerated fatherhood: The entanglements of child support debt and mass imprisonment. *American Journal of Sociology, 124*(1), 1-48.

Harris, A. (2016). *A Pound of flesh: Monetary sanctions as punishment* *for the poor*. Russell Sage Foundation.

Harris, A., Evans, H., & Beckett, K. (2010). Drawing blood from stones: Legal debt and social inequality in the contemporary United States. *American Journal of Sociology, 115*(6),1753-1799.

Hinton, E. (2016). *From the war on poverty to the war on crime: The making of mass incarceration in America*. Cambridge, MA: Harvard University.

Holzer, H. J., Raphael, S., & Stoll, M. A. (2003). Employment barriers facing ex-offenders. *Urban Institute Reentry Roundtable*. New York University Law School.

Horowitz, J., & Utada, C. (2018). *Community supervision marked by racial and gender disparities: African-Americans, men overrepresented in probation and parole population*. The Pew Charitable Trusts. https://www.pewtrusts.org/en/research-and-analysis/articles/2018/12/06/community-supervision-marked-by-racial-and-gender-disparities

Katzenstein, M. F., & Nagrecha, M. (2011). A new punishment regime. *Criminology & Public Policy, 10*(3), 555-568.

Jones, A. (2018). *Correctional control 2018: Incarceration and supervision by state*. Northampton, MA: Prison Policy Initiative. https://www.prisonpolicy.org/reports/correctionalcontrol2018.hml

Levingston, K. D., & Turetsky, V, (2007). Debtors' prison: Prisoners' accumulation of debt as a barrier to reentry. *Journal of Poverty Law and Policy, 41*, 187-197.

Martin, K. D., Sykes, B. L., Shannon, S., Edwards, F., & Harris, A. (2018). Monetary sanctions: Legal financial obligations in U.S. systems of justice. *Annual Review of Criminology, 1*, 471-495.

Mincy, R., Jethwani, M., & Klempin, S. (2015). *Failing our fathers: Confronting the crisis of economically vulnerable nonresident fathers*. Oxford University Press.

Murakawa, N. (2014). *The First civil right: How liberals built prison America.* Oxford University Press.

Ortiz, J. M., & Jackey, H. (2019). The System is not broken, it is intentional: The prisoner reentry industry as deliberate structural violence. *The Prison Journal, 99*(4),484-503.

Pager, D. (2007). *Marked: Race, crime, and finding work in an era of mass incarceration.* University of Chicago.

Parenti, C. (1999). *Lockdown America: Police and prisons in the age of crisis*. Verso.

Pettit, B., & Western, B. (2004). Mass imprisonment and the life course: Race and class inequality in U.S. incarceration. *American Sociological Review, 69*, 151-169.

PEW Research Center. (2018). *Probation and parole systems marked by high stakes, missed opportunities*. PEW. https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/09/probation-and-parole-systems-marked-by-high-stakes-missed-opportunities

Pleggenkuhle, B. (2018). The financial cost of a criminal conviction. *Criminal Justice and Behavior, 45*(1), 121-145.

Roman, C. G. & Link, N. W. (2017). Community reintegration among prisoners with child support obligations: An examination of debt, needs, and service receipt. *Criminal Justice Policy Review, 28*(9), 896-917.

Sentencing Project. (2018). *Report of The Sentencing Project to the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance: Regarding racial disparities in the United States Criminal Justice System.* https://www.sentencingproject.org/publications/un-report-on-racial-disparities

Sentencing Project. (2013). *Report of The Sentencing Project to the United Nations Human Rights Committee: Regarding racial disparities in the United States criminal justice system.*

https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=267113

Sobol, N. L. (2016). Charging the poor: Criminal justice debt & modern-day debtors' prisons. *Maryland Law Review, 75*(2), 486-540.

Soss, J., Fording, R. C., & Schram, S. F. (2011). *Disciplining the poor: Neoliberal paternalism and the persistent power of race.* University of Chicago.

Taxman, F. S., & Maass, M. (2016). What are the costs and benefits of probation? In F. McNeil, I. Durnescu, & R. Butter. *Probation: 12 essential questions* (pp. 179-196). Palgrave Macmillan.

Travis, J. (2005). *But they all come back: Facing the challenges of prisoner reentry.* Urban Institute Press.

United States Department of Justice (2015). *Investigation of the Ferguson Police Department.* Civil Rights Division. https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf

Wacquant, L. (2009). *Punishing the poor: The neoliberal government of social insecurity.* Duke University.

Wacquant, L. (2000). The new 'peculiar institution': On the prison as surrogate ghetto. *Theoretical Criminology, 4*(3), 377-389.

Wagner, P., & Aiken, J. (2016). *Racial and ethnic disparities in prisons and jails in Ohio.* Prison Policy Initiative. https://www.prisonpolicy.org/graphs/disparities2010/OH_racial_disparities_2010.html

Wamsley, D. (2019). Neoliberalism, mass incarceration, and the US debt-criminal justice complex. *Critical Social Policy, 39*(2), 248-267.

Western, B. (2019). Poverty, criminal justice, and social justice. *IRP Focus 35*(3), 3-13.

Zatz, N. (2016). A new peonage? Pay, work, or go to jail in contemporary child support enforcement and beyond. *Seattle University Law Review, 39*(3), 927-955.