

## Ava DuVernay's *13th* Is a Shocking, Necessary Look at the Link Between Slavery and Mass Incarceration

By [Julia Felsenthal](#)

Filmmaker Ava DuVernay's new documentary, available to stream this Friday via Netflix, is called *13th*, as in the 13th amendment, the one that formally abolished slavery in the United States, and, at least in theory, granted freedom to all Americans. "Neither slavery nor involuntary servitude," [it reads](#), "*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."

That bit in italics is what concerns DuVernay, a clause that has long offered a massive loophole to those who seek to exploit it. It's no secret that the United States is a world leader when it comes to putting its people behind bars. As President Obama reminds us (...) this country is home to five percent of the world's population and 25 percent of the world's prisoners. Around 2.3 million Americans are currently incarcerated. Of that number, 40.2 percent are African-American men. That fact is more shocking when you consider that African-American men make up only about 6.5 percent of the U.S. population. Or, to put a finer point on it, "Right now, we now have more African-Americans under criminal supervision than all the slaves back in 1850s." {says New Jersey Senator Cory Booker} DuVernay's film looks at how we got from there to here, tracing a line from the abolition of slavery to the present day, (...) and convincingly makes the case that mass incarceration has replaced institutionalized slavery as a nationally supported way of subjugating and disenfranchising African-Americans.

Criminalizing blackness in America has long been a means of political oppression—most felons, after all, can't vote while in prison or on parole, and some never reclaim the right. But if you look for them, DuVernay suggests you'll find plenty of financial incentives as well.

In the aftermath of the Civil War, films like *The Birth of a Nation* helped to cement the association of dark skin with criminality.. Reconstruction saw the country's first prison boom, and the growing numbers of convicts were, like slaves of the generation before, a pool of free labor to help rebuild the post-abolition Southern economy. It would prove a harbinger of things to come.

DuVernay quotes a Nixon official who broke down the strategy the Republican president used to appeal to racist southern whites and voters fearful of the lefty hippies of the late '60s. "We knew we couldn't make it illegal to be either against the war or black. But by getting the public to associate the hippies with marijuana and blacks with heroin and then criminalizing both heavily, we could disrupt their communities."

Reagan, turned Nixon's rhetorical war into a literal war on drugs, particularly on crack cocaine, which was criminalized in a way powder cocaine was not, decimating black communities: When it came to prison sentencing, one ounce of crack was equal to a hundred of powder.

Ironically, it was the Democrat Bill Clinton who arguably did the most to birth the current prison industrial complex (...). Clinton won the presidency as a new law-and-order Democrat, after watching Michael Dukakis lose to George H. W. Bush, in part over a racially coded campaign attack ad that asserted Dukakis was dangerously soft on crime. Clinton overcorrected a federal crime bill that allowed a huge expansion of the prison system. The bill incentivized states to adopt truth-in-sentencing laws, which required that prisoners serve at least 85 percent of their sentence. Along with Reagan-era mandatory minimum sentencing for drug crimes, these added up to more people, disproportionately people of color, in prison for longer periods of time.

Flash forward to the present day, when tragic stories like that of Kalief Browder—the Bronx 22-year-old who [hanged himself](#) after wallowing for three years in jail awaiting trial when he refused to take a plea bargain for a crime he didn't commit—remind us of the cost of all these laws. (In a nutshell: Poor people are incentivized to plead guilty for lesser sentences instead of going to trial.) And what happens to all those prisoners once they've served their time? A robust prison system leads to huge numbers of ex-convicts, a permanent population of second-class citizens. (...) As author Michelle Alexander puts it: "So many aspects of the old Jim Crow are suddenly legal again once you've been branded a felon. And so it seems that in America we haven't so much ended racial caste, but simply redesigned it."

The film also recasts the conversation about race in this country in terms that are appropriately shocking. (...) A system that puts black men in chains and asks them to work for free on behalf of the countless corporations that depend on prison labor and profit from mass incarceration? That's slavery by a different name.