

Race & Policy - How Policies Have Played a Role in the Systematic Oppression of African Americans (2020)

<https://www.youtube.com/watch?v=ruFKD8sZKsQ&t=3s>

Hello, my name is Sarah Owens, and I'm a program manager with the Equity Engagement and Evaluation team at the Center on Education and Training for Employment at The Ohio State University. Today I'm going to be talking about race and policy and how policies have played a role in the systematic oppression of African Americans. So, before we get started, I want to share with everyone who's watching this presentation that with the most recent presidential election and still very highly political atmosphere, my presentation is in no way politically motivated, or political in nature. But I will be discussing laws and policies over a period of time. My focus will be on laws created to systematically oppressed marginalized populations and not any specific lawmakers.

So, I want to talk about the importance of policies and laws and how impactful they can be, especially their impact on African Americans. The question is do old laws still matter? I found a number of old outdated laws that are technically still a record of law but aren't necessarily used or enforced. Like in Connecticut, it's illegal for a barber to hum a tune while cutting your hair. In Louisiana, it's illegal to send someone a surprise pizza because it's considered harassment. And in Arizona, it's illegal for a donkey to sleep in a bathtub. Because somewhere in Arizona, a donkey was whisked away in a bathtub after a dam broke and died. So somewhere along the line lawmakers thought it was important enough to create a law, a statute or an act, to ensure that these things wouldn't happen again. In Virginia, a recent uncodified act stated that no child shall be required to attend an integrated school. This act supports school segregation. The act was changed by lawmakers in May this year 2020. In Alabama since 1901 state law required segregated schools, poll taxes, and a statewide ban on interracial marriage. This racist language was on the ballot this year. And on November 3, Alabama voters passed Amendment 4 to change the language on the official document.

What are Laws Supposed to do?

So, what is the purpose of laws? What were they created for? The Judicial Learning Center says that laws and policies are created to protect our general safety and your rights as citizens against abuses by other people, by organizations and by government itself. But what if the people in charge of creating laws have their own agenda? What if laws were not created to protect but rather to control? I initially planned on starting this presentation following the Civil War and the ratification of the 13th Amendment. But I

found that all the codes and laws that I was going to share with you were based on slave codes. And it's important to acknowledge where these laws came from, and where they were converted from so that we can understand their impact on Black people and Black families over the course of 350 years. So, I created a timeline to show you some of the major policies that I'm going to walk you through. We're going to briefly go over slave codes, and then we're going to work our way through Black Codes and pig laws following the Civil War, and then Jim Crow laws up through the Civil Rights Act, and then today.

Slave Codes

So, let's get started. Slave codes were created in the late 1600s, early 1700s, in order to control slaves who might try to rise up against their white slave masters and plantation owners. Slaves were restricted from traveling in large groups without a white person present or traveling off the plantation where they lived without permission. If a slave did leave the plantation, they had to have documentation to prove where they were going and why. Slaves were not allowed to learn to read or write. Slaves were not allowed to marry other slaves because if one of them was sold, they may want to go live with their spouse, they may try to escape with them. And each Black person represents a dollar amount to their white slave owners. And if one of them were to run away, that was a loss of property to them. Just like learning to read, having ownership of something might make a slave feel empowered, so that was forbidden as well. Slaves were not allowed to have weapons or firearms and could be killed for this. Other punishments included whippings, being tied to posts like an animal and being branded or imprisoned. Resisting slavery or running away was a death sentence if they were caught. Another slave code punishable by death was hitting a white person or being accused of hitting a white person.

Black Codes (1860s)

So, immediately following the end of slavery, slave codes transitioned into Black Codes. Black Codes were used in southern states in order to control former slaves, now free men and women. Black Codes made it possible for Black people to get arrested for doing just about anything, and I've listed some here. Black Codes included vagrancy laws, which equated Black people with laziness and idleness. Vagrancy laws targeted Black men over the age of 18. Any job held by a Black person had to be legitimized by a white person, and it had to be proven by showing a labor contract whenever it was asked for. Labor contracts were often the only way to prove that you weren't a vagrant. And if Black people were found sitting around or traveling without a labor contract, they

could be arrested or fined. Children of vagrant parents were taken and contracted out to white families and could be held up until their 18th birthday and would be performing house chores and field labor, essentially being held as a slave like they were previously. It was illegal for Black men to preach to Black congregations.

It was illegal for interracial marriages. That means my parents relationship would have been illegal and my marriage would be illegal. Freed men could not assemble in large groups. Black people could not testify against a white person in court unless the white person gave them permission. Voting rights were restricted, firearms were still restricted, Black people restricted on where they could buy or lease land. And peonage was enacted, which forced Black people into another form of slavery. If charged with a crime and fines were imposed for committing any of the offenses that I've listed above, if someone wanted to pay that debt for them, the offender would work for that person to pay off that debt. Another Black Code I have listed here is sharecropping, which I'm going to get into on the next slide. So sharecropping was used to keep former slaves in a cycle of poverty. Black people did not have the luxury of purchasing land after they were freed, former slaves did not have any income, and some were able to take over some abandoned farms or land after the Civil War, but in many cases, they were forced to go back to the farms that enslaved them in order to work as a sharecropper or laborer. Meaning that they worked the land for a share of the crop. This image shows you that process, walks you through. The landowner makes a deal with a sharecropper laborer to provide supplies, seed and land, in exchange for a portion of the crop. The sharecropper is buying everything that they need, basically on credit, the sharecropper plants and harvests the crop and then gives that harvest to the landowner to sell. the sharecropper gets a portion of the earnings based on the agreed upon amount that the landowner sets minus any cost of tools and materials that they acquired over that time. The sharecropper is usually told that their profits were insufficient to pay the debt. And because many slaves were kept from learning how to read and write, they had no way to defend their work and prove that they were owed the money for their work. In order to pay the debt, the sharecropper had to give more and more of the harvest to the landowner every year, reducing their profit until they were basically working for free. Many families worked in agriculture, because it was all they knew when they were slaves. Over time sharecropping and the cycle of poverty continued to contribute to the lack of wealth accumulation of Black families and the wealth gap between Blacks and whites. This is also why Black families were unable to pass on wealth to their future generations, leaving a majority of Black families just as poor as they were after the reconstruction era.

Pig laws were a part of Black codes, but they got their name from the theft of livestock, which was a stereotyped trait of Black people. Pig laws allowed judges to give excessive punishments for low level crimes, such as petty theft of food, stealing farm animals and other minor crimes that resulted from poverty. Pig laws changed the amount of grand larceny to \$10. So, if you had a pig that was worth \$10 to the owner, the person who stole it or was accused of stealing it could receive a five-year prison sentence. Pig laws and Black Codes caused prison rates to quadruple in states where it was enacted. In Alabama for example, the percentage of non-white prisoners jumped from 2% in 1850 to 74% in 1870. This leads to my next topic of felony disenfranchisement.

Felony Disenfranchisement

Felony disenfranchisement is also known as another form of slavery. Section one of the 13th Amendment states that neither slavery nor involuntary servitude, except as a punishment for crime, where as the party shall have been duly convicted shall exist within the United States or any place subject to their jurisdiction. I'm going to repeat the highlighted portion on my screen, except as a punishment for crime, where a party has been duly convicted. This was essentially a loophole that allowed states to use convicts for free labor. After slaves were freed, there was no one to work in the fields. Many farms and plantation owners did not want to pay regular wages for crop work after receiving a free labor for so long so a compromise for them was to make contracts with prisons at exceptionally low prices. So, states started to lease out inmates to work farmlands, coal mines, railroads, they cared for cattle, farmed timber and cotton.

Kentucky was the first state to start leasing out convicts. In 1866, Texas began leasing state prisoners to private companies and Texas's first agreement was for 250 convicts for two railroad companies for \$12.50 a month. In 1868, Mississippi's first convict lease was for 241 prisoners who worked on a cotton plantation. And in 1871, Tennessee began leasing convicts. Their first lease was for nearly 800 prisoners to a Tennessee coal, iron and railroad company. And children were not exempt from being leased out. This is a picture of orphaned and juvenile offenders who were brought in to work on state owned farms. This practice took place between 1865 and 1940. This leads us to Jim Crow laws.

Jim Crow Laws (1876-1965)

So, even though the 14th Amendment to the Constitution, which passed in 1868, granted former slaves citizenship and equal rights, the Supreme Court case Plessy v. Ferguson upheld segregation constitutionally. So, segregation is not equal rights. This is second-class citizenship. And second-class citizenship is described as a person or

persons systematically discriminated against who was denied social, political or economic benefits of citizenship. Private businesses could discriminate and refuse service to anyone that they wanted because of the color of their skin. Public Services continued to be separate, claiming that they offered equal level of service. Black people were forced to sit behind white people on trains and buses. There were separate seating areas at restaurants. Schools were subpar compared to white schools. And voting restrictions were imposed, which I'll talk a little bit more about later. Black people could not even shake the hands of a white person because it implied that they were of equal status. And buying and leasing land was still restricted at this time.

So, some towns refused to allow Black people to move into their towns and sometimes drove all the Black people out with force and then used local laws that stated that Blacks could not purchase a home or rent a home in their town or come in after dark. And these were known as Sundown towns. Many towns in Ohio were considered Sundown towns, including Fairborn, Green Hills, Marion, Niles, Reading, Shelby, Waverly, and Chagrin Falls. In Reading, Ohio the census records show that no Black person lived in that town from 1860 to 1960, which is a span of 100 years. Marion, Ohio, in the mid to late 1800s, had multiple safe stops as part of the Underground Railroad, became a Sundown town in 1919, when a white woman was attacked, and a Black man was accused of the crime. The entire Black community was then forced out of Marion and for a period of time, Marion was known as the Sundown Town.

Exclusionary Zoning Laws

So, we learned about Sundown towns forcing Black people out of the smaller towns and counties and into larger cities like Columbus. Owning a home meant security. It meant a piece of wealth that you could pass down to your children. Owning a home in a desirable area was denied to many Black families due to exclusionary zoning laws. Exclusionary zoning laws kept Black people out of suburbs by placing strict policies on lot sizes, the cost to build square footage minimums and how many people could live on a property. This forced Black people to live in poverty-stricken areas and in many cases industrial areas of the inner city. In 1917, a Supreme Court case that began in Louisville, Kentucky, found that ordinances enforcing racial segregation violated the rights granted by the 14th amendment. Landowners then worked with banks using other methods to ensure that their properties were not sold or rented to Black families. Ways of doing this included writing covenant or using a gentlemen's agreement. As you can see in the image on your screen in Kansas City, Missouri, this was a new development, a country club district that was going to be built and hoping would attract buyers. And as you can see, on the sign it says highly developed and protected

residence property. Often this was language used to inform white families that, you know, Black families, Hispanic families would not be moving into this area.

Written Covenants

So, racial ownership restrictions were written into deed paperwork in the form of a covenant which I mentioned on the last slide. This written covenant was drafted in 1929 by a property owner in Santa Barbara, California, who set a restriction for their property on what the property could be used for. So, what type of building was built on a lot, how many homes could be built on the property, and setting a minimum amount of how much this home would cost. Also, in states that cannot purchase property I'd like to bring to your attention number five, "the lot nor any part thereof, shall not be sold to any persons either of whole or part blood of the Mongolian, Malay or Ethiopian races. Nor shall the same, or any part thereof be rented to persons of such races." So to be clear, in this document Mongolian means people from Asia or a Polynesian or Native American descent. Malay was used to describe people from Malaysia or Indonesia, and Ethiopian was Black people. These covenants were not only used by individual property owners, but they were often used by a group of property owners, subdivision developers, real estate operators, prohibiting areas to be sold to specific races. If one person in the group broke the covenant, they would be subject to fines, so that didn't happen often. While covenants continue to be used, redlining was introduced with the Housing Act of 1934.

Redlining

Here is an image of Columbus, Ohio, and its redlining districts from 1936. So, redlining was a discriminatory practice that mortgage companies and real estate agents did to map out areas of high risk or declining areas of cities. Lenders refused to grant mortgages in these areas. High risk was outlined in red and declining areas were outlined in yellow. Banks and realtors used this map to determine where not to approve mortgages or where not to sell. And often this map was used to determine where Black families could settle. If a Black person wanted to look at a home a realtor would not take them to the blue or green areas, so mortgages were not approved for Black families in those areas. As you can see on this map, the blue arrow is pointing to a large area red and yellow, which west of downtown Columbus and as known as the Bottoms and the start on the Hilltop area. The red and yellow areas south of downtown with the red arrow, that is west of the Scioto River, includes Marion Village and parts between Route 23 South and Alum Creek Drive, areas that are still very much poverty stricken today.

Exclusionary zoning laws, written covenants and redlining continue to keep Black communities in poverty stricken and highly toxic areas, which over time had contributed to lower health outcomes, health disparities among Blacks, economic inequality and income segregation. These practices may have been deemed unconstitutional or illegal but even after they changed the law, they are still affecting these communities. A 2015 study found that Columbus, Ohio was the nation's second highest level of economic segregation and the eighth highest for income segregation in the United States. This trickles down to less access to health care and dental care, poor schools, run down homes and neighborhoods, high infant mortality rates, homicide rates go up, opioid deaths go up and now COVID-19 impacts are greater.

Segregated Schools

Another Jim Crow law included segregating schools. For Black children, schools were created starting around 1863 and at first, they were very scarce. Remember that Slave Codes stated that it was illegal for slaves to learn to read and write. And 27 years after slavery the federal census bureau reported a literacy rate for Black adults in 1890, at slightly more than 40%. Now, Black kids were allowed to go to school, but their schools weren't supported. They have fewer books, or outdated books. They had hand me down books and less resources, less financial support from the government, dilapidated buildings and teachers with minimal education, less training and who are paid considerably less than teachers in white schools. Black schools mainly taught students how to do jobs that they were known for at the time, like labor positions, agricultural work, domestic service positions like housekeepers and cooks. In the early 1900s only 2% of the Black community workers teachers or doctors. Desegregation took place in 1954 with *Brown v Board of Education*.

The Virginia Museum of History and Culture archived these two photos of schools in Halifax County, Virginia. I put them here to show you the differences. The school on the left is a Black school and the one on the right is a white school. Obviously, you can see the stark differences. In the picture on the right you've got big windows, a well put together building made of brick. It looks inviting, it looks like a place that you would want to go to school. The picture on the left is looking like a shack and it has boards over many of what looked like windows. It doesn't look inviting. In 1954 *Brown v the Board of Education* changed the law, allowing desegregation of all schools. As you heard earlier, Alabama and Virginia are two states that didn't feel the need to remove that language from their state's constitution.

Voter Suppression

We recently had a CETE Learn about voter suppression and voting. And previous voter suppression tactics included only allowing white landowners the right to vote. After the 14th amendment, Black people could vote but laws were passed to make that very difficult. Voters had to pass literacy tests to prove that they could read and write before being allowed to register to vote. And remember how reading and writing was once illegal. This was a system built to take advantage of the fact that many Black people could not read or write or if they had learned, they were subject to poor schooling. If they were able to pass a literacy test another obstacle imposed was polling taxes; having to pay a tax in order to register to vote. This eliminated numerous Black people from being able to exercise their constitutional right. Collection of poll taxes and literacy tests in national elections was prohibited by the January 23, 1964, ratification of the 24th Amendment to the Constitution. The passage of the amendment effected voting in Alabama, Mississippi, Arkansas, Texas, and Virginia.

The last suppression tactic on here is poll location intimidation. So, here's a photo showing a number of Black voters arriving at their voting precinct at a courthouse in August 1963. In the photograph, you can see a number of white uniformed police officers watching voters as they walk in as well as two different white men taking photographs of them as they go inside. One in the foreground here in the striped shirt and another who looks like he's wearing a police uniform. This is an obvious form of voter intimidation to scare people from entering for fear of what might happen to them. Photographs were used to find Black voters after the fact to inflict punishment for voting or to create fear of voting in the future.

Gerrymandering

So, while we're on the topic of voting, I want to talk about gerrymandering. Every 10 years the US Census is conducted in order to measure any population changes that may have taken place over the previous years. The U.S. Supreme Court states that all districts should have roughly the same amount of people in order to make a district fair. This is referred to as one person one vote. Congressional districts are redrawn the year after the census is complete in order to account for people who have moved in and out of the districts. So gerrymandering is a manipulation of political districts in order to ensure that a district will favor one political party over the other. And I want to be clear both Republicans and Democrats have used this tactic when they have had the power to do so. The problem this causes is reduces voter choices. More rural districts with less people living in them can still be drawn because of prisons located in the district.

Everyone in a prison is counted in the census just like everyone else. The only problem is in Ohio and in most states, prisoners cannot vote while they're incarcerated. Now, why is the census so important? The census counts the number of people in each state and each state's electoral college is dependent on that number of people counted.

So, how are these changed laws interpreted today? Structural racism. In the picture to the left Black citizens are in line waiting to register to vote in 1965. In the picture to the right, Union City, Georgia residents wait in line to vote. According to the 2010 census Union City, Georgia was 81.5% Black and 8.6% white. Current tactics include voter purchase, which would require you to re-register in order to vote again. In Ohio, if you don't vote every two years you are sending notification asking you to verify your home address. And if you don't answer, if you don't get that notice in the mail, and you don't vote in the next four years, you are purged without notification. Strict voter ID and ballot requirements, like what forms of ID are acceptable, voter intimidation and harassment, poll closures and long lines. As you can see in the picture, there's a long line of people waiting to vote. In many cases, these people have jobs. They have families, children that can't stand outside for hours and hours. And what happens when that line doesn't move fast enough, and it comes time to get to work or to get home to take care of your children; they leave the line before being able to vote. Other tactics include malfunctioning voting equipment, or not having all the voting booths open and available for voters, disenfranchisement of justice involved individuals and gerrymandering, like I had described earlier. In Georgia 53,000 voter registrants, 70% of whom were Black, were placed in pending status by the Secretary of State because of minor misspellings or missing hyphens on the registration forms. A judge in 2018, four days before the election, had put a halt to that practice. And if they had not done that, those 53,000 voter registrations would not have been able to vote.

Vagrancy laws turned into criminalizing the homeless, targeting black people, and other people of color, to force them into continued poverty with incarceration fines or probation. I worked for a company called TAP, the Training Assessment Placement project which helped ex-offenders and veterans get employment in manufacturing jobs. And I had met a young man who wasn't even 25 who had been to prison three times. He had never worked a job besides fast food and his parents weren't in his life. He was raised by his aunt and when he turned 18 years old, his aunt kicked him out of the house and he was homeless, had no job. At night he would try to find the warmest place that he could sleep which meant park benches and abandoned buildings or houses. The police found him sleeping and woke him up, and seeing flashing lights and scared like anyone would be who was living on the street, he reacted and was arrested for

trespassing and resisting arrest. It was his first charge, and he was released, but still facing the same problem as before, he has homeless, no job, no food, and no one to help him; and now he has a record. Two more times he was awoken at night by police and arrested, but to add to his trespassing and resisting arrest charges, he got additional charges of assaulting a police officer because he woke up scared and felt that he needed to defend himself. This meant more fines, more prison time, which meant more time to learn how not to live. This is just one example of many that I've heard where being homeless is criminalized.

Slave codes restricted gathering in groups, black codes restricted gathering in groups and black people assembling as a group is still today seen as dangerous and met with armed police. They are called troublemakers, dangerous riders and thugs. The picture on the left, Memphis, Tennessee 1968, a group of black men are protesting together and met with armed guards. In Los Angeles, California in 2020, protesters have gathered and are met with armed police as well.

Unequal segregated schools during Jim Crow laws have transformed into unequal low-income inner-city schools. The suburbs are anywhere from 80 to 90 percent white and struggling inner-city schools located in highly impoverished areas have a majority of Black student populations. Schools in racially and economically isolated neighborhoods have considerably less funding. Inner city schools employ more beginning teachers, they had lower enrollments, fewer library books, and computers. One in four students in the ninth grade in 2009 did not graduate from high school in four years. Black students were almost twice as likely to receive an out of school suspension as white students, and low-income students and students of color were less likely to enroll in a high scoring elementary and middle school than those who were more affluent or were white.

Structural Racism

Convict leasing and peonage has turned into flourishing prison labor. The United States has the largest number of incarcerated people in the world. According to a 2019 briefing from the United States Commission on Civil Rights, the number is 2.2 million people incarcerated. Angola State Farms has been around for 200 years. The plantation in Louisiana was named after the African country Angola where most of its slaves had been kidnapped and transported from. Following the 13th amendment which states that slave labor is illegal except for punishment of a crime, led the owners of Angola state farm to take part in convict leasing. The picture on the left shows in 1901, Angola Plantation with a multitude of black former slaves, and on the right Angola Plantation, now known as "the farm", Louisiana State Penitentiary in 2011 not looking much different. Angola is

considered one of the largest maximum-security prisons in America. Housing more than 6,000 inmates in 2018, 75% of those inmates were black, 73% of the sentences imposed were life sentences, the average sentence was 90.9 years. The men in the photo are required to work a 40-hour work week making .20 cents per hour. Angola still makes a profit off of the crops that are grown here, producing 4 million pounds of vegetables, caring for cattle and building furniture.

Incarceration (2.2 million)

Other current suppression tactics for the incarcerated include voting. Only two states never removed voting rights for the incarcerated even while serving their sentence. Sixteen states removed voting rights while serving their sentence, and twenty-one states removed voting rights while serving their sentence as well as parole or probation following their sentence. So, the barriers of a criminal record are voting, serving on a jury, securing employment, obtaining housing, receiving public assistance, owning a firearm, getting a driver's license, and attending college and qualifying for financial aid.

Pig Laws have turned into habitual offender acts or three strikes or outlaws, which allows prosecutors to seek life sentences for minor crimes because of the previous crimes on their record. Mr. Fair Wayne Bryant, who is pictured here in Louisiana, was convicted in 1997 and serving life in prison for stealing hedge clippers. All of his previous crimes had included some type of theft, and all his appeals were denied. The Chief Justice Johnson, the only female and Black chief justice, wrote in a single dissent vote that such petty theft is frequently driven by the ravages of poverty or addiction, and often both. It is cruel and unusual to impose a sentence of life in prison at hard labor for the criminal behavior which is most often caused by poverty or addiction. She also stated that 80 percent of people's sentence in Louisiana under the habitual offender act were Black. The parole board released Mr. Bryant on October 15th of this year after 23 years in prison. So, how does this information affect CETE? How does it affect you and your company? It affects all of us because people in these pictures that you see are teachers that we work with, they are families and parents of kids that we work for, they are inmates being taught by the teachers that we educate, they are grandparents that we advocate for with school officials, they are skilled trades people that we train and learn from, they are community partners and sponsors that we work with, and every single one of them matters. So, do old laws still matter? Yes, they do. Each and every person in this photograph has been affected by the systematic racist laws, that I've discussed, in some way or another.

Call to Action

This is a call to action. Continue to educate yourself. Learn about other people and their cultures. Learn about implicit bias and stereotypes. Be aware of your own implicit bias. Be a role model and educate others and address racist acts when you see them. Thank you.

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