

Bowling Green State University
The Center for Family and Demographic Research

<http://www.bgsu.edu/organizations/cfdr>

Phone: (419) 372-7279 cfdr@bgsu.edu

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**AN AMERICAN DILEMMA REVISITED:
RACIAL STRATIFICATION AND U.S. CRIMINAL JUSTICE SYSTEM**

Michael E. Roettger
Bowling Green State University

Demetrius S. Semien
Berea College

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Abstract:

Forty years after the passage of the Civil Rights Act, why do racial inequalities exist in the U.S. criminal justice system? In this paper, we attempt to answer this question by provide a theoretical frame that links empirical research in criminology and U.S. racial stratification. Our theoretical frame ties together classical work by W.E.B. Du Bois and Gunnar Myrdal on race with theories of societal deviance established by Emile Durkheim and Kai Erickson. The resulting theory may be used to contextualize racial disparities observed in criminological research, while synthesizing traditional race and ethnic theory with deviance occurring at the societal level.

Introduction

Recently the American Sociological Association has called attention to the need to “disentangle complex interactions among . . . criminal offending, socioeconomic status, and race/ethnicity.” (Rosich, 2007, p.22) In this vein, this article proposes a framework to integrate historical theory-based research on race and ethnicity with current empirical research on the criminal justice system. While current research and theory has begun to more fully integrate theories of race and ethnic studies to inequality in the U.S. (Western and Wildeman, forthcoming), current research in criminology does not fully make use of insights offered from both theory and empirical research from the field of race and ethnic studies.

The lack of integration within criminology parallels the view of both academics and the general public, where a common perception exists that racism has declined to minute levels following the Civil Rights Movement (Blanton and Jaccard, 2008; Bonilla-Silvia 2001, 2003; Darity and Mason, 1998; Lamant, 2000;). Yet, if this perception is true, why does persistent disparity still seem evident? As a recent review of the empirical literature suggests, the traditional black/white ‘color line’ in the U.S. has been replaced by a black/nonblack color line (Lee and Bean, 2007). The black/nonblack color line highlights a “paradox of disparities,” or the set of pervasive inequalities existing between U.S. African Americans and whites on numerous economic indicators, health measures, education levels, incarceration rates, and other demographic measures forty years after the Civil Rights Act of 1965. Given racial inequalities existing even with recent criminal

justice reforms, this article ties together empirical research on racial disparities within the criminal justice system with relevant theory existing in race and ethnic studies.

Current literature in race and ethnic studies, with a few notable exceptions (e.g., Manning, 1987, Wacquant, 2000; Collins, 2005), incorporate historical research on race and ethnicity. This paper begins to bridge this gap by 1) tying together theories of racial inequality and theoretical underpinnings in societal deviance and 2) applying the results to current research in criminology and race and ethnic studies. To accomplish this task, we first review race and ethnic studies of W.E.B. Du Bois and Gunnar Myrdal. We then proceed to review current empirical research on inequalities associated with the criminal justice system. After this review, we proceed to discuss how trends in racial inequality may be explained by combining general theories societal deviance with the work of Du Bois and Myrdal. We then recast the classical models of Du Bois and Myrdal to the contemporary U.S. criminal justice system.

Du Bois and Myrdal on Caste and Class in the U.S.

Du Bois on Caste and Class

Examining the effects of slavery and sharecropping on African Americans in the early 1900's, Du Bois analyzed class and "color line" dynamics. While Du Bois believed Marxian theory was successful in explaining European class systems, he found Marx largely failed in accounting for the social position of African Americans in the U.S. African Americans were largely proletariats or laborers. "Of every thousand working Negroes, less than a hundred and fifty belong to any class that could possibly be considered bourgeois. And even this more educated and prosperous class has but small connections with the exploiters of wage and labor." (Zuckerman 2004, p.132) Du Bois

argued that class effects within the black community allowed the black bourgeoisie to have an economic advantage over the mass of black laborers. However, the black bourgeoisie lacked the same privileges and economic advantages of the white bourgeoisie who controlled the vast majority of capital and dominated society.

However, with the “color line”, the black/white caste system existing in the U.S., black laborers were distinct from and largely discriminated against by white laborers.

And while Negro labor in America suffers because of the fundamental inequities of the whole capitalistic system, the lowest and most fatal degree of suffering comes not from the capitalists but from fellow white laborers. It is white labor that deprives the Negro of his right to vote, denies him education, denies him affiliation with trade unions, expels him from decent houses and neighborhoods, and heaps upon him the public insults of open color discrimination. (Zuckerman 2004, p.132)

Thus, nearly all African Americans encountered discrimination from the black and white bourgeoisie and, due to their low social position in the racial caste system, in addition to racial discrimination from white laborers. “The Negro is exploited to a degree that means poverty, crime, delinquency and indigence. And that exploitation comes not from a black capitalistic class but from the white capitalists and equally from the white proletariat (Zuckerman, 2004, p.132).” Black laborers were at the bottom of society.

*****FIGURE 1 ABOUT HERE*****

In the Du Bois model (Figure 1), white bourgeoisie in the U.S. held the supreme social and economic position as traditional European bourgeoisie. This group existed at

the top of the racial caste system, possessing nearly all economic capital and power. In the middle of the model, the black bourgeoisie were almost equated with white proletariats. The black bourgeoisie had higher class advantages, but white proletariats had greater racial privileges. Most blacks, under the systems of slavery and sharecropping, were society's base laborers at the bottom of the racial caste system. These black laborers struggled at the margins of U.S. society, painfully aware of how they were marginally perceived and treated by other U.S. citizens.

Myrdal on Caste and Class

Myrdal (1944/1945) settled on the terms "caste" and "class" to describe stratification of blacks and whites in mid-twentieth century America. Describing the "color line" as a caste system, Myrdal wrote "a man born a Negro or a white is not allowed to pass from one status to the other as he can pass from one class to the other. In this important respect, the caste system of America is closed and rigid, while the class system is, in a measure, always open and mobile." The importance of the caste system for Myrdal was not merely a theoretical point, important because "being a Negro means being subject to considerable disabilities in practically all spheres of life." Furthermore, Myrdal used caste in a "relative" sense that "[did] not assume invariability in space and time in the culture, nor absolute identity with similar phenomena in other cultures." Rather, the caste system captured the unequal "*relation*" or "*color line*" between blacks and whites in U.S. society. [Myrdal 1944/1945, pp.667-669]

For Myrdal, given the caste/color line, class played the role of differentiating blacks and whites within the U.S. caste system. Observing the rise of professional blacks, Myrdal notes "Negros had to be ministered to, their educational institutions had to

be manned, their corpses had to be buried, and, as white people did not wish to take on these tasks and as Negroes gradually found out their own needs and chances, a Negro middle and upper class developed to perform these functions, and thus drew its vitality from the very fact of American caste [pg. 690].”

*****FIGURE 2 ABOUT HERE*****

Adopting the framework of W. Lloyd Warner, Myrdal depicted the U.S. class system within the caste context of “the color line.” Graphically, this system is depicted in Figure 2. The color line, represented by the black dotted line, denotes the segregation of blacks and whites within the U.S. Those classified as white benefit from increased status and opportunity, while those classified as black have upward mobility within the constraints of the color line. Given economic positions, those classified as white also benefit from increased status from the caste system. At the bottom, the status and economic position of “underclass” also becomes a reality.

Discrimination After the Civil Rights Movement

Labor Market Discrimination

In the United States, labor markets are identified as a primary stratifying mechanism for social class (Duncan and Blau, 1967; Kalleberg 2008). In U.S. labor markets, race played a major role in labor market discrimination prior to the Civil Rights Act of 1964. A large body of research has documented African Americans, Asians, Hispanics, and Native Americans being denied jobs outside of ethnic communities and relegated to low-skilled labor, manufacturing, or domestic work in this period (Darity and

Mason, 1998; Drake and Cayton, 1945; Edwards, 1976; Heckman, 1998; Myrdal, 1944/1945; Roediger, 1999, 2005; Sowell, 1982; Takaki, 1987; Waldinger, 1996). However, in the post-Civil-Rights Era, many argue that differential labor market outcomes and hiring are a reflection of skills and abilities, instead of discrimination (Heckman, 1998; Neal and Johnson, 1996; Neal, 2005; Sowell, 1982).

In the 1970's, work by Richard Edwards (1976) and Edna Bonacich (1972) put forth economic and sociological arguments that a segmented or split labor market operated in the U.S, in which minority ex-felons typically are marginally employed. The issue of the secondary labor market becomes increasingly important when historically comparing African American labor market experiences relative to other racial groups. For the 1980's and 1990's, Darity and Meyers (1998) and Holzer and Offner (2006) have found that less-educated black men [ages 25-34] earned 20% less than non-blacks, while labor force participation rates fluctuated from 10-25% below those of non-blacks. Labor force participation rates and wage calculations exclude institutionalized populations, implying black men outside of prison experience relative disparities in both wages and employment.

Audit studies on employment (Holzer et. al, 2004; Pager, 2001; Pager and Western, 2005), measures of skin tone on economic outcomes (Goldsmith et. al, 2006), and empirical research on wages and employment (Darity and Mason, 1998; Western, 2006) show that blacks are treated differentially than whites in hiring and economic issues. Harris (1997) has finds that an increase in African Americans within a neighborhood triggers "white flight" and declines in property values. Research by qualitative researchers, such as Waters (1999), Bonilla-Silvia (2001), and Brodtkin

(1998), cite that, while whites express ideals of equality with blacks, whites do not include blacks in friendship networks, view black economic gains as resulting primarily from affirmative action, and hold negative perceptions of blacks as violent and lacking moral values. Such findings point to the fact that racism continues in current U.S. society and counter neoclassical economic arguments. Water's "structural racism" and Bonilla-Silvia's "color-blind racism" are terms used to describe such covert racism.

Integration of Blacks and Other Ethnic Groups

Another major feature of black/white inequality is the assimilation of ethnic groups based on skin color. In the 19th and 20th centuries, European ethnic immigrants advanced politically and economically while blacks remained entrenched at the lower economic levels of society (Lieberson, 2005; Roediger, 1999, 2005; Steinberg, 1989). African Americans experienced differential outcomes relative to South-Central-Eastern (SCE) Europeans in the early twentieth century (Lieberson, 1980) and, later, migrants from Asia and Central and South America after the Immigration Act of 1965 (Alba and Nee, 2003). David Roediger (1999, 2005) found that European immigrants in the early twentieth century began work in jobs similar to those of blacks, but experienced upward mobility and developed discriminatory attitudes as later generations assimilated into the racial category of "whiteness."

This trend continues in the current U.S. Waters (1999) and Lamont (2000) find that working class blacks report difficulties in obtaining jobs and promotions, with employers frequently favoring whites. Waters (1999) cites that "blatant" or "old-fashioned" racism experienced by African Americans where race is explicitly given as a reason for non-hiring is a rare occurrence, but that "subtle" racism occurs much more

frequently. Among coworkers, racial tension also creates significant tension in the workplace, with many whites feeling directly threatened by blacks. Among black educators living in New York city and originating from the Southern U.S., Waters notes that many teachers found “it was easier to be black in the South than in the North because they attended segregated schools and lived their lives in such a way that they rarely encountered whites. This was not possible in New York, especially as a middle class person working with whites (pg. 169).” This finding is consistent with work by Waldinger (1996) examining the historical outcomes of African American migrants to New York during the Great Migration. Lamont (2000) also finds similar outcomes among white and black male laborers in the U.S., with white workers perceiving reverse discrimination as a direct threat, even though only 12% reported directly knowing of any such case.

The differential treatment, economic segregation, and suspicion of non-blacks lingering in the Post-Civil-Rights-Era have significant impacts on employment patterns, opportunities, and lifestyles. As Bordeau (1990) and McLeod (1995) have argued, persistent disparity arises from a lack of “cultural capital” characterized by substandard school systems, low levels of parental education, poverty, lack of opportunities for quality jobs and education in later life, and social isolation from mainstream U.S. culture. The evolved urban “ghetto,” as a location in urban centers where many African Americans live and reside amidst high levels of segregation, poverty and lack of opportunity, has functioned in this context for over a century (Anderson 1990, 1999; Drake and Cayton 1945; Du Bois, [1896] 1998; Massey and Denton, 1993; Wilson 1987, 1996).

The gains of some African Americans in the last forty years, however, must not be dismissed, including the breakdown of segregated public schools and colleges, gains in earnings and employment, and greater social acceptance in mainstream U.S. society (Wilson, 1987, 1996; Lareau, 2003). These gains, however, do not fully mitigate risks associated with increased wellbeing. As Mary Patillo (1999) has discussed, existing disparities lead to increased risk of poverty, lack of familial resources, and an inability to recover from traumatic events [such as incarceration]. The social isolation of blacks is exemplified by continued classification by hypo-descent (Bonilla-Silva, 2001), residential segregation leaving African Americans 80% socially isolated in census tracts from other racial groups (Iceland et al., 2004), muted wages for blacks both with and without a criminal record (Western, 2002; Pager, 2003; Johnson, 2003), one-fourth of all African Americans residing below official poverty levels (Iceland, 2006), and social segregation that separates blacks from other racial groups even in “integrated” school districts (Mouw and Entwisle, 2006). As discussed above, dark-skinned immigrants, classified as ‘black’ in U.S. society, converge to demographics of African Americans over generations, instead of generally assimilation into “white” generally experienced by lighter-skinned immigrants (Gans, 1997; Waters, 1999; Portes and Raumbaut, 2003).

Segregation & Prisons

The continuing black/non-black applies directly to prisons in the U.S. Based on the models of Du Bois and Myrdal, we argue that there is a racial caste-like barrier present in U.S. society that should be incorporated into criminological research. Audit studies, employer surveys, and research on labor market outcomes continue to find that race continues to play a major role in differential hiring and treatment of African

American men (Darity and Mason, 1998; Holzer et al., 2004; Pager, 2003; Pager and Western, 2005; Goldsmith et al., 2006). However, in an era when equality of opportunity and treatment remain legal norms, indirect or “color blind” discrimination becomes a newer version of the system of racialization (Omi and Winant, 1994). Even accepting research suggesting that racial disparities are a result of skills or human capital (Heckman, 1998; Neal and Johnson, 1996, 1998; Neal, 2005) and collateral consequences of incarceration (Western, 2002; Western and Pettit, 2005; Western, 2006), what is the probability that discriminatory practices widespread in the 1960’s have disappeared from U.S. society? This question is more than rhetorical—evidence from segmented assimilation of immigrants, studies showing discrepancies in beliefs and practices among whites and employers, and disparities in incarceration rates suggest otherwise.

Hence, “color-blind” and “systemic” racism appear to be modern forms of a black-white caste system that are more than an anachronism of past decades. This persistence of racism begs the question: why does racism still exist in any form? We suggest the reason for this social fact may be found in sociological work on deviance, a characteristic observed across societies and social groups. We examine the literature on the social phenomenon of deviance offered by Emile Durkheim and Kai Erikson to see how it may explain the persistence of racial disparities, especially with regards to the criminal justice system.

Synthesis: Du Bois, Myrdal, & Societal Deviance

The sociological theories of Durkheim and Erikson argue that deviance is useful to society. Society benefits from deviance through the strengthening of social bonds as

non-deviant members of society conform to social norms. As Durkheim notes, “Society insists upon its citizens displaying all these basic resemblances because it is a condition for its own cohesion (Durkheim, 1933, p.61).” As acts of deviance or crime are labeled and addressed by society, the boundaries of morality take shape and social solidarity occurs. “Thus, we may state generally that the characteristic of moral rules is that they enunciate the basic conditions of social solidarity. Law and morality represent the totality of bonds that bind us to one another and to society, which shape the mass of individuals into a cohesive aggregate (Durkheim, 1933, p.331) .” Social solidarity binds the individual to society.

Applying Du Bois and Myrdal, if the U.S. is a social system based on racial caste dynamics, then the social understandings of our society, or, in Durkheim’s terms, our “collective conscience,” has been shaped by these dynamics. “A product of historical development, [the collective conscience] bears the mark of those circumstances of every kind through which society has lived during its history . . . there are certainly many that serve no purpose, or that cost more than the benefits they bring.” (Durkheim, 1933, p.61) Following Durkheim’s argument, racial prejudice as a remnant from our historic past may presently be part of our society’s collective conscience. Given this, collectively we may act upon these racial prejudices or “sentiments,” even though such prejudices act against our self-interests or rational actions. “Whatever the origin of these sentiments, once they constitute a part of the collective type.... They [may have] had no usefulness but, having survived, it becomes necessary for them to continue despite their irrationality (Durkheim, 1933, p.62) .” These “sentiments” exist in the collective conscience and may

lead us to perpetuate racial caste dynamics, even in the “subtle” form of “color-blind” racism.

Wayward Puritans (1966) by Kai Erikson further extends Durkheim’s theoretical work on deviance. Erikson defines deviance “as conduct which the people of a group consider so dangerous or embarrassing or irritating that they bring special sanctions to bear against the persons who exhibit it. Deviance is not a property *inherent in* any particular kind of behavior; it is a property *conferred upon* that behavior by the people who come into direct or indirect contact with it.” (p.6) Societies create systems of social control – formal and informal sanctions – to keep deviants in their place. The community declares “how much variability and diversity can be tolerated within the group before it begins to lose its distinctive shape, its unique identity.” (p.11) The idea of the maintenance of “deviant groups” resonates with the caste-like effects discussed by Myrdal and Du Bois with respect to race relations in the U.S.

Like Durkheim, Erikson also asserts that deviance may benefit society. Deviant behavior may be “in controlled quantities, an important condition for preserving the stability of social life.” (p.13) Defining deviance and moral order, a society may develop its own sense of social identity. Deviance may “supply the framework within which the people of the group develop an orderly sense of their own cultural identity.” (p.13)

Erikson argues that societies need to create and maintain a level of deviance in the form of a visible group that is often separated from the rest of society. “The people of a community spend most of their lives in close contact with one another, sharing a common sphere of experience which makes them feel that they belong to a special ‘kind’ and live in a special ‘place.’”(p.9) Applying the models of Du Bois and Myrdal, the high levels of

segregation of blacks and whites in modern U.S. times may lead to social cohesion and collective experiences that reinforce ideas of “specialness.” This “specialness” may be felt by both blacks and whites. However, as the historically dominant group, whites benefit more from the economic and social benefits derived from this “specialness.” Also, middle and upper class blacks, who service the needs of the black working-class and poor, may also derive benefits from a degree of “specialness” created by class and caste effects and segregation. (Myrdal, 1944/1945; Zuckerman, 2004)

By identifying the “deviant” groups – i.e., “ex-offenders” or “black males” – and containing them – i.e., in secondary labor markets or inner cities, respectively – society creates bounds of morality and normality for the rest of the population. Most of society, including those who have been released from prison and African Americans, wants to exist within these bounds of morality and normality. However, “carnival mirrors” of deviance are socially created by “moral” agents in society and act through the criminal justice system to keep designated “deviants” outside the bounds of the “moral” population (Reiman, 2007). As a result of the consequences of incarceration, low-income African American men are impacted much more than any other racial or ethnic or socioeconomic group in the U.S. (Collins, 2005; Mauer, 2003). Echoing Myrdal and Du Bois, this class and caste-like social position perpetuates historic discrimination encountered by African Americans.

The large racial disparities in the criminal justice system correlate with decreased opportunities of African Americans. Given arrests and prison stays fracture families, drain familial resources, and reduce future labor-market opportunities, the prison system is associated with greatly decreased opportunities of African Americans (Braman, 2004;

Blank, 2001; Wacquant 2000). Some theorists even argue that the U.S. penal institution is modern economic slavery in that it creates an arena where labor can be bought and sold cheaply at huge profits (Davis, 1997; Marable, 1987; Wacquant, 2000). Wacquant (2000), in particular, argues that mass incarceration is the mechanism society has used to subjugate blacks over the last few decades.

Since the 1980's, most manufacturing jobs that once provided these men with stable incomes and the ability to support families have largely disappeared (Darity and Meyers 1998; Holzer and Offner, 2006; Wilson,1987). Remaining manufacturing jobs have been moved from urban centers to suburban areas, creating a dislocation effect between the available jobs and the means of transportation to acquire them. (Mouw, 2000) Thus, African American men have largely become separated from "good jobs" and relegated to low-paying, low-skilled service industry jobs. (Neckerman and Kirschenman, 1991). Due to hypersegregation African Americans, as a whole, live and exist in worlds that are much more separate from the mainstream population. This degree of segregation is much more severe than experienced by almost any other racial or ethnic minority groups (Hacker, 2003; Massey and Denton,1994).

Once those who have been incarcerated are released, they are further stigmatized by the mainstream culture with the label and status of being "ex-offenders." Being stigmatized further reduces life chances and increases social isolation (Durkheim, 1933; Erikson, 1967). Thus, formerly incarcerated people, disproportionately African American men, serve their sentences and then face a set of constraints because the mainstream culture continues to hold these men at fault for the rest of their lives. In

essence, those who have been incarcerated for crimes serve two sentences – one in prison and one as a devalued member of society once they are released from prison.

Incarceration and Blacks

Within a society racially stratified around the criminal justice system, the creation of the social bounds of deviance and morality resonates with the class and caste-like effects discussed by Du Bois and Myrdal. Their work is relevant today both for explaining persistent disparities between 1) blacks and whites and 2) ex-offenders, who are disproportionately African American, and non-offenders. The label, or social marking, of “ex-offender” or “blackness” constitutes a modern label for deviance. Blacks and ex-offenders are perceived as social deviants or undesirables (Pager, 2003; Uggen et al., 2006). This is evident from the preponderance of media images and popular stereotypes that tend to conflate these two social statuses so that most people picture a black male when envisioning a stereotypical ‘criminal’ (Collins, 2005).

*****TABLE 1 ABOUT HERE*****

Current research demonstrates (see Table 1) a highly disproportionate impact of the U.S. criminal justice system by race and class. Currently, one-third of black, one-sixth of Hispanic, and 5% of white males will spend time in state or federal prison (Bonczar, 2003). Uggen et al. (2006) have estimated that 5.5 million black men, one-third of all adult black males in the U.S., possess a felony record. The effects of incarceration also disproportionately impact less educated or low-skilled black men. Pettit and Western (2004) estimate that sixty percent of black male high school dropouts and thirty percent of blacks without post-secondary education spend one year in state or

federal prison by age 45. Pettit and Western find that black men are almost twice as likely to spend time in prison than to complete a bachelor's degree (22% vs. 12%) and are also more likely to be incarcerated than to serve in the U.S. armed forces (22% vs. 17%). Hence, incarceration and contact with the criminal justice system are common events in the life-course of less-educated black men.

At the societal level, incarceration and involvement with the criminal justice system have been linked to a broad array of social inequalities. Empirically, incarceration is linked to decreases in the earnings and employment of offenders (Western and Pettit 2005; Pager 2003; Edleman et al., 2006). Incarceration also leads to adverse outcomes for children and families (Johnson and Waldfogel 2004; Roettger & Swisher, 2008; Western et al. 2004). Further, Uggen and Manza (2002) demonstrate that a number of U.S. Senate and presidential election outcomes may have been significantly altered due to the loss of voting rights among ex-felons, who are disproportionately black and poor.

A myriad of research also finds adverse impacts to families and communities for those with criminal records. Braman's (2004) ethnographic study suggests that loss of household income, breakdown of family structures and instability due to father-absence, and loss of social control in communities due to lack of older role models are significant strains. Braman's findings have been generally confirmed by quantitative research (Lopoo et al., 2004; Lynch and Sabol, 2004; Roettger & Swisher, 2008; Wilson, 1996). By age 14, Wildeman (forthcoming) estimates that 25% of black children will have a parent spend time in jail or prison, compared with 5% of white children. The impact of father's incarceration is magnified across generations. For those whose father has

undergone incarceration, Roettger & Swisher (2008) estimate that one-third of blacks and one-fifth of whites and Hispanics between the ages of 18-25 will be arrested as an adult. These factors indicate substantial inequality for individuals, families, and communities where black ex-offenders work and live.

Incarceration trends have also impacted African Americans disproportionately. Western (2006) found that blacks were incarcerated at six to eight times those of whites throughout the twentieth century. Brehens et al. (2003) have shown that felon disenfranchisement laws were passed as black populations increased in states prior to the Civil Rights Era. In 2000, over two million formerly incarcerated black males were politically disenfranchised due to incarceration (Uggen and Manza, 2002). While unemployment among black men has been roughly double those of white males since the 1950's (Wilson, 1987; Edelman et al., 2006), the exclusion of incarcerated black men from official statistics significantly decreases disparities in official government statistics for black male labor force participation and unemployment relative to non-minorities (Western and Beckett, 1999). Western (2002) and Johnson (2003) find that a history of incarceration significantly reduces earnings. As mentioned above, black children of incarcerated parents are disproportionately impacted relative to whites and Hispanics.

The effects of "color blind" racism through the criminal justice system apply directly to labor markets. Due to the legality of labor market discrimination based on history of incarceration, employers may disproportionately remove African Americans from the labor market relative to whites by using criminal background checks. While many situations may warrant background checks, such as screening for sex offenders at elementary schools or for financial fraud by banks, potential employers screening for

criminal histories generally exclude type and severity of offending (Holzer et al., 2004; Pager and Quillian, 2005). Consequently, such may act as a proxy for labor market discrimination disproportionately impacting African American men. As with “overt discrimination” before the Civil Rights Era, educational training and skills likewise become inconsequential in determining wages and unemployment for those with criminal records. Hence, when firms use criminal records as a proxy for “race” for employment screening [as audit studies suggest], this amounts to racial discrimination based on perceived issues associated with having a criminal record.

Treated as social pariahs, those with criminal records also serve a second sentence individuals serve upon released. A conviction confers a permanent status of “criminal” upon defendants. After sentencing by a jury of peers, the “criminal” serves his or her time in prison. Upon release, the label of “ex-offenders” carries this “second sentence.” This second sentence includes a loss of citizenship rights as they are disenfranchised (Uggen and Manza, 2002), lack viable employment options (Pager, 2003), experience costs to children, family and social networks (Braman, 2004), and encounter a host of other social penalties and barriers of discrimination.

Du Bois, Myrdal, and the U.S. Criminal Justice System

Caste and class effects argued by Du Bois and Myrdal relate to persistent disparities between blacks and whites, especially with regard to blacks who have been incarcerated or penalized by the criminal justice system. Du Bois and Myrdal show how class and caste-like effects act to privilege blacks who are in a higher class over blacks of lower class social, while generally experiencing lower class social standing relative to whites. The social label of “blackness” confers a set of associations and understandings

that, both historically and currently, act as a primary deviance status. For example, with the Du Bois' classical framework where white proletariats were socially paired with black bourgeoisie in terms of social power due to race and class markings, whites with criminal records empirically are similar to blacks who have no criminal record. (Pager, 2003, 2007) Further, for blacks who have been incarcerated, the social label of "criminal" operates as a secondary status of deviance. Thus, this "deviance interpretation" results in the stigmatization of blacks who have been incarcerated on two social levels. The master status of "criminal" or "ex-offender" is mapped onto the master status of "blackness" that is affected by the class and caste-like effects suggested by Myrdal and Du Bois.

*****FIGURE 3 ABOUT HERE*****

Figure 3 depicts how the Du Bois model may be adapted to represent how class and caste effects interact with the modern labor market and the criminal justice system. In the model, "primary labor market" is substituted for "bourgeoisie" and "secondary labor market" and "incarceration" are substituted for "proletariat". With respect to their position in the labor market as a whole and because they experience the highest rates of incarceration, low-income African American men are affected much more severely than any other racial and ethnic or socioeconomic group in the U.S. (Mauer, 2003; Collins, 2005). For African American men this is one more modern link in the chain of historic discrimination and racism they have encountered:

The history of the American Negro is the history of this strife,—this longing to attain self-conscious manhood, to merge his double self into a better and truer self. In this merging he wishes neither of the older selves to be lost. He would not Africanize America, for America has too much to teach the world and

Africa. He would not bleach his Negro soul in a flood of white Americanism, for he knows that Negro blood has a message for the world. He simply wishes to make it possible for a man to be both a Negro and an American, without being cursed and spit upon by his fellows, without having the doors of Opportunity closed roughly in his face. (Du Bois, 1903)

This history continues in terms of the modern racial disparities encountered by blacks.

Since the late 1970's, African Americans generally continue to suffer substantially as they contend with racial disparities across health, education, employment, and other life indices. (Darity and Meyers, 1998; Feagin, 1991; Hacker, 2003)

Consequently, African Americans as a racial group are disproportionately poorer than other racial and ethnic groups. Given that poverty is largely linked to crime (Mauer, 2003; Reiman, 2007) and faced with few livable wage job options and the need to take care of their families, many low-income African American men commit crimes.

Once those who have been convicted, incarcerated, and released, black males are further stigmatized by the mainstream culture with the label and status of being “ex-offenders.” Being stigmatized further reduces life chances and increases social isolation. (Durkheim, 1933; Erikson, 1966). Thus, formerly incarcerated people, disproportionately African American men, serve “second sentences” in society. These men, like their ancestors during Du Bois’ and Myrdal’s times, struggle to be accepted, painfully aware that their social and economic position places strong limitations on how equal they are perceived and treated by other U.S. citizens.

As with the application of Du Bois in Figure 3, the practice of discrimination by race and incarceration history may be illustrated in Myrdal’s (1944/1945) portrayal of how a caste or “color line” occurs alongside a class system. Adapting this class structure

with a formal racial barrier to low-skilled labor markets, Figure 4 illustrates a theoretical structure for differential hiring by employers based on race and history of incarceration. Consistent with the historical emphasis on labor market discrimination from audit studies and research (Darity and Mason, 1998), race remains a central factor in determining status in the labor market, with white males generally given preference over African American males. Preferential hiring is practiced towards white men, who disproportionately occupy most jobs located in the primary and secondary labor markets.

*****FIGURE 4 ABOUT HERE*****

Consistent with progress in the post-Civil-Rights-Era, some less-skilled African American men occupy positions in the primary and secondary labor markets along with white men. As depicted by the diagonal line separating less-skilled black and white men, African Americans remain disproportionately underrepresented in these areas. Consistent with segmented labor market theory (Edwards, 1976; Bonacich, 1972), black men are more likely to fill positions in the secondary labor market which constitutes subsistence wages, lack of job security and benefits, hazardous work conditions, and “temporary” work status.

In addition to differential sorting by race, history of incarceration may be viewed as a secondary mechanism sorting workers within racial groups, giving preference to workers without a history of incarceration. Consequently, among both less-skilled black and white men, those without a history of incarceration obtain higher status jobs in the primary and secondary labor markets. For those with criminal records, work comes from secondary labor markets, with greatly increased likelihood of unemployment due to most employers not hiring individuals with criminal histories. In cases where African

Americans and whites with criminal histories compete for jobs, white males in aggregate are preferentially hired for work in primary and secondary labor markets, while being less likely to be chronically unemployed. Black men with a history of incarceration may obtain some jobs in the primary and secondary labor markets, but are more likely to enter the ranks of those chronically unable to find work (Anderson, 1990, 1999; Duneier, 1999; Wilson, 1987, 1996;). As ethnographic work by Anderson (1999) and Duneier (1999) suggests, black men possessing a criminal record may enter informal or illegal labor markets for subsistence.

As Du Bois and Myrdal's models also suggest, the racial distribution of jobs also significantly alters life chances. For less-skilled white men, their chances for jobs in the primary labor market remain much higher than among less-skilled black men. The greater availability of jobs within the primary labor market offers white men relatively greater opportunities to experience heightened earnings and status. In contrast, across class lines, the scarcity of jobs in primary labor markets for black men substantially limits their ability to experience upward mobility in earnings and employment. The differences in opportunity for advancement and available work and wages may stimulate individuals to commit crime (Becker, 1968; MacLeod, 1995), leading to racial inequalities in the criminal justice system. Given that work is also empirically linked to desistance from crime (Sampson and Laub, 1993, 2003; Uggen, 2000), white males remain more likely than black males to find employment in primary and secondary labor markets that aid in the desistance process.

Conclusion

Since Du Bois and Myrdal wrote specifically on black-white inequalities, their class and caste analysis focused on blacks and whites. Consequently, this article has primarily focused on how to apply their models to these two populations. We acknowledge that this is a major limitation of our current work. Future applications of the Du Bois and Myrdal models will need to be restructured in order to include Asian refugees (e.g., Vietnamese), Arab immigrants, Native Americans, and other racial and ethnic groups where similar experiences make caste-class status.

A key limitation of this paper is a focus on men. This is due, in part, to the fact that 90% of incarcerated individuals in state and federal prison are men. There is also a lack of empirical research focusing on women and the U.S. criminal justice system. Thus, while beyond the scope of this paper, a more comprehensive analysis would also include women.

Racial issues examined in the sociological literature on crime do not connect racial disparities to the historical racial frameworks offered by Du Bois and Myrdal. This article offers a way to tie the historical research on race and ethnic relations to the current empirical research examining racial disparities in the criminal justice system and general social inequalities in the U.S. Our article is a theoretical piece meant to place two bodies research dialogue in order to make clearer why racial disparities, especially in the criminal justice system, continue to persist. We believe the theories of Myrdal and Du Bois are important to contextualizing the social inequalities of the black/non-black color line present in contemporary criminal justice system

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Figure 1: Du Bois' Classic Model for U.S. Class and Caste System

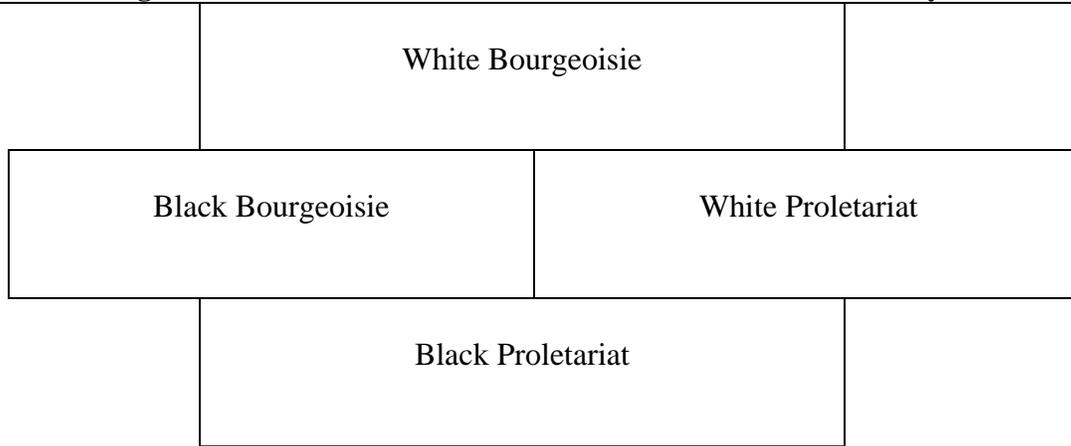


Figure 2: Myrdal's Classic Model for the U.S. Class and Caste System

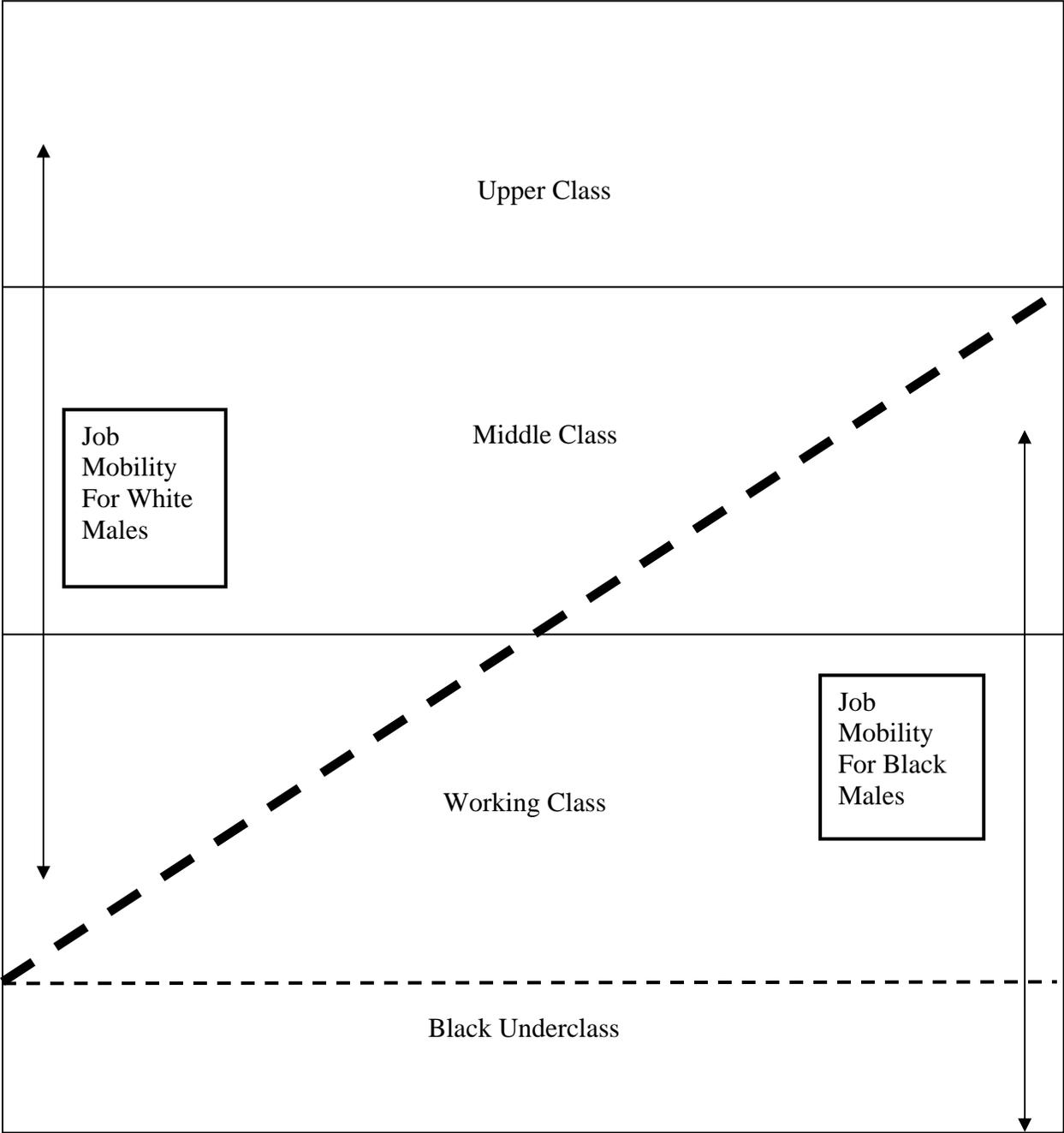


Table 1: Select Statistics for Individuals and the U.S. Criminal Justice System			
BJS Criminal Justice Statistics			
<i>Racial Category</i>	All Offenders	White	African American
<i>2005 Incarcerated Population (Percent of Total Offenders) (Harrison and Beck, 2006)</i>	1,947,800	695,800 (35.7)	842,000 (43.2)
<i>Lifetime Likelihood of Going to State or Federal Prison (Bonczar, 2003)</i>	11.3%	5.9%	32.2%
Likelihood of Incarceration By Age 40 Given Educational Attainment (Pettit and Western, 2004)			
<i>HS dropout</i>		11.2%	58.9%
<i>High School Graduate</i>		3.6%	18.4%
<i>College Graduate</i>		0.7%	4.7%
Proportion of Population with Felony Conviction [Uggen, Manza, and Thompson, 2006]			
<i>Proportion of Adult males in U.S. with a Felony Conviction</i>	12.8%	7.3%	33.4%
Proportion of Children with a Father Ever Incarcerated By Age 14 [for children born in 1990] (Wildeman, forthcoming)			
<i>Proportion of Children with A Father Ever Incarcerated at Age 14</i>		25%	4%
Predicted Likelihood of Being Arrested As an Adult [Ages 18-25] (Roettger & Swisher, 2008)			
<i>Predicted Likelihood of Being Arrested As an Adult With if Father Has Served Time in Jail or Prison</i>		32%	22%

Figure 3: Du Bois Model with Current Segmented Labor Market and Incarceration

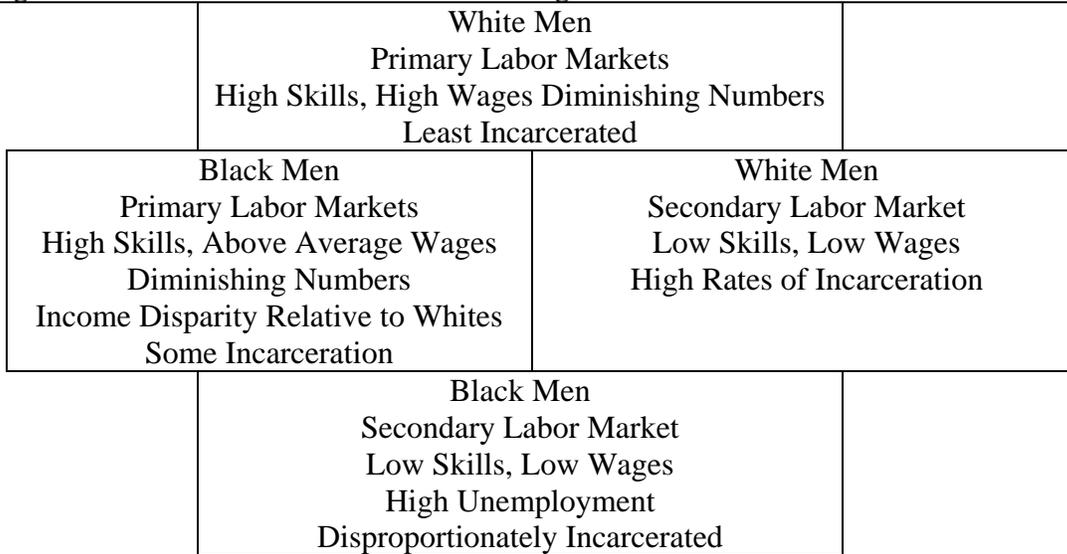


Figure 4: Job Mobility for Low-Skilled Workers Based on Race and Criminal Record Using the Warner Model Adopted by Myrdal

