



CONVICT LEASING

Justifications, Critiques, and the Case for Reparations

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*Оковы тяжкие падут,
Темницы рухнут - и свобода
Вас примет радостно у входа,
И братья меч вам отдадут.*

*Your heavy shackles will fall,
The prisons will crumble – and freedom
will accept you joyously at the door,
and your brothers will give back your sword.*

Aleksandr Pushkin, 1827

The first prisoner received by the State of Florida into the convict leasing system was an African-American man named Cy Williams. He was officially entered into prison records as “No. 1.” rather than by his name. Williams did not know his own age upon arrival, but one prison official’s memoir states that the boy had been convicted “when he was a mere pickaninny.” Though not large enough to mount a horse, Williams nevertheless attempted to steal one and the authorities caught him while he was trying to lead it off by the halter. For his crime, a judge “duly sentenced” Williams to twenty years imprisonment. Malachi Martin, the warden of the work camp at the time, unsure at first how to put such a small prisoner to work, eventually came up with an idea. He placed a pile of two bricks at each of end of the prison yard while giving “the black baby” two more. The warden then ordered Williams to carry

his two bricks to one of the piles at either end of the yard, place them on the ground, pick up the other two bricks, and carry them to the pile at the opposite end. He continued this process for the entire day, always carrying two bricks at a time. Martin instructed Williams to keep the piles of bricks neat and warned him not to break any of them. If he failed to keep his stack orderly, or if he damaged the bricks, he would be whipped. He continued this activity throughout his sentence and “grew up at the task” until given other labor assignments years later. Through the abrasion from simply picking the bricks up and setting them down, Williams managed to wear out four sets of bricks while carrying out his sentence. The state never considered commuting Williams’ sentence, even after ten years of service as protocol dictated; the proper avenues for commutation were not in place at the camp because of inefficient leadership

and poor organizational structures within the prison system. Eventually, however, Williams received “gain time” and only served seventeen years out of his twenty-year sentence.¹

The experiences of Cy Williams and of the countless other prisoners who passed through convict labor camps in Florida were documented by retired camp Captain J.C. Powell in his memoir *The American Siberia*. In his book, Powell argues that the convict leasing system was an indispensable part of life in Florida. He maintains that convict leasing was necessary due to a lack of free laborers in the state, while also arguing that the conditions and policies of the camp were needed in order to maintain control within the chaotic natural environment of Florida. Critics of the system challenged these views, however, and Powell repeatedly acknowledges staunch opposition to convict leasing within local populations. Across the country, both supporters and opponents of the convict leasing system engaged in a debate about whether it was morally permissible, whether it was economically viable, and whether it was effective from a reformatory perspective. That debate, and the rhetoric utilized within the conversation, is the focus of this paper. While modern scholarship posits that the convict leasing system functioned as a form of racialized control that created racial inequalities in the period

1. All information on Cy Williams pulled from: J. C. Powell, *The American Siberia* (Chicago, IL: H. J. Smith & Co., 1891), 15-16.

between the abolition of slavery and the adoption of Jim Crow laws, it is my contention that contemporaries of the system—both supporters *and* critics—understood it instead as primarily a system of economic control that created social and labor inequalities.

“Slavery By Another Name”

Areas within the southern United States primarily utilized the practice of convict leasing. Though the ratification of the thirteenth amendment of the Constitution abolished slavery and involuntary servitude within the country, it allowed for one important exception: forced labor as punishment for being duly convicted of a crime.² Because of this exception, states subjected convicted persons to forced labor even after the general end of slavery. Though some northern states devised contracts for convicted criminals and required labor within the field of product manufacturing, systems of convict labor were more notorious and more pervasive in the states of the South.³ In southern states, convicts labored under the supervision of private companies without pay. In turn, these companies or lessees were responsible for providing clothing, food, and living accommodations for their leased prisoners. This

2. U.S. Constitution. Amend. XIII, Sec. 1. Passed by Congress on January 31, 1865. Ratified on December 6, 1865.

3. John Roberts, “History of Prisons,” *World Encyclopedia of Police Forces and Correctional Systems* (Farmington Hills, MI: Gale Publishing, 2006) 74-86.

arrangement allowed southern states to deal with growing prison populations without making the necessary adjustments to infrastructure in order to support them. Convicts were mainly put to work at privately owned factories, mines, logging camps, and plantations.⁴ By the turn of the century, convict leasing had become an increasingly lucrative but significantly abused system of punishment. For example, prisons provided black prisoners to companies for forced labor more often than white inmates, who instead tended to serve their time within penitentiaries or jail cells.⁵ Additionally, leasing subjected convicts to hazardous working conditions due to a lack of legal safeguards.⁶ As a result of growing opposition from numerous fronts, the practice was officially discontinued in the 1920s.

Purpose of Research

My research will contribute to the existing literature on convict leasing by delving into how certain contemporaries of the system—prison officials, employers, social organizations, and laborers—critiqued or defended its implementation, its place in Southern society, and its final dismantlement. This paper addresses how rhetoric was utilized by different supporters of the convict leasing system

4. Ibid.

5. Robert Atkinson, "Prison Labor Benefits Inmates and the Economy." *How Should Prisons Treat Inmates?* Ed. Kristen Bailey, (San Diego, CA: Greenhaven Press, 2005). At Issue. Opposing Viewpoints in Context.

6. Ibid.

to legitimize it as beneficial and necessary, and how detractors of the system rationalized their discontent. My work also illustrates changes in sentiment regarding theories of punishment. The debates over the convict leasing system examined in this paper encapsulate differences in opinion over the scope and ultimate goal of imprisonment. Free laborers and progressive social organizations critiqued the system because it created competition for employment and did not provide an acceptable standard of living. Leaders within the system and within other more conservative spheres of society defended it as an improvement over both former systems and other possible alternatives. My paper also traces divisions in theories of punishment from the perspective that hard labor serves a reformatory purpose to the notion that isolation is a better means of punishment. I aim to expand upon these historical and philosophical perspectives pertaining to questions of race, labor, and morality as they relate to convict leasing.

Historical Perspectives

Historians have argued that the changes that occurred within the South's social structure after the Civil War served as catalysts for the implementation of the convict leasing system. Prior to emancipation, slaves occupied the lowest class of society. Reconstruction endowed freedmen with citizenship, which subsequently presented the possibility for African-Americans

to be included within the social structure in terms of both living space and political influence. The creation of Black Codes and the criminalization of black behavior by post-Reconstruction legislatures illuminated white discomfort and indignation toward this development. Legislatures reclassified certain crimes from misdemeanors to felonies when they believed black offenders primarily committed the offenses.⁷ These developments that lead up to the adoption of the convict leasing system addressed a cultural need to reinforce white supremacy after emancipation. Because of this, some scholars consider convict leasing a functional replacement of slavery.⁸ The structure of the convict leasing system, in other words, mimicked the economic and racialized benefits of slavery within the states of the South.

Emancipation additionally altered the social order of the South by dismantling the traditional structure of punishment. Following the Civil War, the South needed an expanded corrections system. Under the previous system of slavery, offenses committed by African Americans would have been punished by masters. After emancipation, these crimes became the concern and responsibility of the state. White southerners, though, opposed devoting tax dollars to carry out

this new state function. They refused to spend money on their former slaves—even in the case of imprisonment. Nonetheless, white communities desired stricter punitive measures that would counter black mobility. Historians argue that a major priority of white southerners was the adoption of a penal system that would be both self-sustaining and a tool for racialized control.⁹ Convict leasing became the system implemented to achieve these goals.

Scholars position the convict leasing system's place in Southern history at the intersection of racialized control and economic benefit on behalf of the state. The implementation of convict leasing responded to the desire of white southerners to establish a penal system that would dole out the maximum amount of punishment at a minimal cost to taxpayers. Convict leasing allowed local and state governments both to discipline newly emancipated African-Americans whose behavior did not adhere to white standards and to yet again reap the benefits of black labor as they had prior to the Civil War. The system dually achieved the goals of discouraging African-American misbehavior and of facilitating public works such as road construction. Convict leasing thus targeted black populations in the South. White communities assumed that an innate criminality existed amongst members of the

7. Matthew J. Mancini, *One Dies, Get Another: Convict Leasing in the American South, 1866-1928* (Columbia, S.C.: University of South Carolina Press, 1996), 21.

8. David M. Oshinsky, *Worse than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (New York, NY: Free Press, 1996), 57.

9. William Cohen, *At Freedom's Edge: Black Mobility and the Southern White Quest for Racial Control, 1861-1915*. (Baton Rouge, LA: Louisiana State University Press, 1991), 221.

African-American race and also nurtured a sense of entitlement to the appropriation of black labor.¹⁰ During a period when whites strove to maintain racial control in politics and in society, the convict leasing system helped to secure this control by threatening black citizens who could potentially challenge white dominance.

While the convict leasing system addressed the problem of how to punish the freedmen without investing tax money, it exacerbated inequalities between those populations that were targeted for imprisonment and those that were not. By the 1880s convict leasing had raised millions in revenue and had funded public works, ensuring lower tax rates for the white citizenry.¹¹ Young, illiterate, African-American males were usually the targets of the system, and their innocence or guilt was typically decided by all-white juries. Defendants would often go through trial without a lawyer and faced prejudice from juries who discounted their testimony. Upon sentencing, defendants tended to receive decade-long sentences in the prison system.¹² In addition to the inequalities present within courtroom proceedings, scholars highlight inequalities between the death rates of different groups of prisoners. For example, in labor camps in Mississippi from 1880 to 1885, the death rate for white convicts averaged at 5.3 percent. The death rate for black convicts within that

same period averaged at 10.97 percent—over twice the death rate of white convicts. In contrast, the average annual mortality in Midwestern traditional prisons that did *not* lease out convicts during the same five year period ranged from .51 to 1.08 percent.¹³ In summary, while the convict leasing system ushered in a new level of economic prosperity for Southern governments, it exacted an extraordinarily heavy toll on imprisoned populations. It was this suffering that raised doubts about the system across the country.

Historians attribute the abandonment of convict leasing to a variety of factors including humanitarian concerns about camp conditions, mounting public pressure as abuses became more frequently publicized, and the general prioritization of social welfare reform that was characteristic of the Progressive Era. Several circumstances, including the consolidation of enough political power in order to counter the interests of those invested in leasing, as well as economic developments that lessened the desire of companies to retain forced labor, made convict leasing more vulnerable to attack.¹⁴ Thus humanitarian motives, coupled with the aforementioned political and economic conditions, worked to dismantle the convict leasing system.

10. Cohen, *At Freedom's Edge*, 227.

11. Oshinsky, *Worse than Slavery*, 56-57.

12. *Ibid.*, 60.

13. Cohen, *At Freedom's Edge*, 226.

14. Mancini, *One Dies, Get Another*, 216, 221.

Justifications for Convict Leasing

Those who supported the implementation of convict leasing justified it as a solution to labor problems. For example, in *The American Siberia*, Captain J.C. Powell argues that convict labor is necessary to cultivate trees in the turpentine woods of Florida.¹⁵ Because of the difficulty of the work, Powell notes the challenge of obtaining sufficient free labor to cultivate a substantial amount of trees. He writes, “The natives follow it more as a make-shift trade than a vocation, and are only too glad to abandon its hardships for any other character of work that comes to hand.”¹⁶ Powell also supports hard labor for convicts, as opposed to other types of activities or employment, because of the inadequacies of the imprisoned population. He writes, “We have little material for skilled labor among the criminals of the South. The bulk of our convicts are negroes who could not by any possibility learn a trade, and how to employ them at anything save the simplest manual toil is a problem not yet solved.”¹⁷ Throughout his memoir, Powell emphasizes the necessity of the convict leasing system in Florida; the aforementioned labor shortages and other labor concerns play a large role in his argument.

Other supporters of convict leasing also cited economic motives for implementing and maintaining the system. John

Gibbons for example, in his book *Tenure and Toil; or, Rights and Wrongs of Property and Labor*, maintains that the leasing system benefits individual convicts by providing them with some sort of employment. Though involuntary, this employment helps to foster a better work ethic within convict populations according to Gibbons. Additionally, Gibbons argues that convict leasing serves to benefit the economy as a whole by creating larger forces of skilled labor.¹⁸ Advocates who supported convict leasing saw it as a viable solution to issues within the economy.

The potential shortcomings of the convict leasing system did not go unaddressed by regulators and advocates. The state legislature of Florida, for example, enacted regulations to ensure a basic level of protection for convicts within the leasing system. Florida law dictated that prisoners could not work prior to sunrise or after sunset. In addition to this, regulations mandated that work days could not be longer than ten hours a day, even on the longest days of the year. The law also set aside Sundays as free days, and it stipulated that convicts receive both a wage and gain time as a reward for good behavior. In addition, convicts were afforded the privilege to write letters, and new regulations called for an acceptable quality of food as well as proper living conditions including bathing and sleeping

15. Powell, *The American Siberia*, 27.

16. *Ibid.*

17. *Ibid.*, 5.

18. John Gibbons, *Tenure and Toil; or, Rights and Wrongs of Property and Labor* (Philadelphia, PA: J.B. Lippincott Company, 1888).

facilities. The use of cruel and unusual punishment was disallowed and all punishment was to be justly and infrequently applied. While all of these provisions existed within the law, the regulations contained no further provisions to ensure enforcement. As Gene Barber notes in his column on Florida history:

*All [provisions] depended on (1) the lessee and his sub-lessee being law-abiding and (2) the captains or convict bosses being humane. As a rule, the lessee and sub-lessee would be too far removed, physically and mentally, to be aware of camp conditions, and the captains would often be too calloused and warped to care.*¹⁹

Captain J.C. Powell does not ignore the inadequacies of Florida's convict leasing system within his memoir. For example, he acknowledges the importance of having guards that would fairly implement the rules and that would not abuse their power or use excessive force. However, he argues that the guard positions are so poorly paid that it is difficult to find competent people to fill them. While he does not ignore the persistent problems within the system, he nonetheless maintains its necessity within his state. Captain Powell describes himself in the introduction of his memoir as "an advocate of the convict-leasing system as one best suited to the present state of

affairs in Florida."²⁰ Consistently throughout the memoir, he posits that the conditions and policies of the camp are necessary to maintain control within Florida's chaotic natural landscape. He writes, "There are many things about it which may seem harsh, stringent and cruel, and would be, in a northern penitentiary, but are stern necessities here. Without them the prisoners could not be kept together for two consecutive days. There is a vast difference, in short, between stone walls and open fields..."²¹ Powell and other advocates of convict leasing did not argue that the system was without fault, but rather maintained that the issues plaguing the system were necessary evils.

Advocates of convict leasing also heralded it as an improvement over former systems. For example, Powell repeatedly recounts the ills of Florida prison camp life before convict leasing was implemented. He writes, "The state was poor, largely unsettled, torn with political strife, and as might have been expected, the prison was run in a rather happy-go-lucky fashion, and the history of its early years is a story of experiments, expedients and make-shifts of which little or no record was kept."²² Powell emphasizes how poor leadership led to disarray within the prison system and how dangerous forms of punishment were used, sometimes with fatal results. One such dangerous punishment,

19. Gene Barber, "The Way it Was: The Convict Lease System." *The Baker County Press* (Macclenny, FL) April 17, 1980.

20. Powell, *The American Siberia*, 3.

21. *Ibid.*, 5-6.

22. *Ibid.*, 8.

referred to as “sweating” in Powell’s memoir, was essentially a variation of solitary confinement. A prisoner was shut into a closed cell without ventilation or light. Another dangerous punishment used under the previous prison system in Florida was referred to as “watering.” According to Powell, watering was a punishment comparable to the torture practices used during the Spanish Inquisition. He writes:

The prisoner was strapped down, a funnel forced into his mouth and water poured in. The effect was to enormously distend the stomach, producing not only great agony but a sense of impending death, due to pressure on the heart, that unnerved the stoutest. When deaths occurred, as they did quite frequently, the remains were wrapped in a blanket and buried in a shallow trench that barely covered the remains from the air.²³

The prison system in the state of Florida faced mounting criticism as a result of the atrocities that occurred from the implementation of these aforementioned punishments. Under the pressure of scandal, authorities reached a compromise that combined elements of the original prison system and the future leasing system. However, according to Powell’s memoir, this compromise was not lasting. Horrible operating conditions and buildings deemed unsuitable for prison purposes forced a change.

23. Powell, *The American Siberia*, 9.

Thus, Powell argues that a full-scale leasing system was turned to as a final resort in Florida, “very much as was the case when Georgia was saddled with that institution.”²⁴ Powell largely advocates for convict leasing because of its improvements over earlier methods of prison management that resulted in chaos and disrepute.

Other sources of support for convict leasing stemmed from popular notions about the nature of punishment. In his book, *Tenure and Toil; or, Rights and Wrongs of Property and Labor*, John Gibbons—while aiming to reconcile issues regarding the right to property, regulation, labor, and social conditions—advocates for convict leasing and the use of hard labor as punishment. He argues that forcing convicts to labor on behalf of the state serves a reformatory purpose. Moreover, his argument addresses the desire to ensure that justice is served. Gibbons maintains the traditional prison setting does not improve prisoners in any way. By keeping prisoners locked up without any activities or work to accomplish, Gibbons believed prisoners were in a worse position than slaves. He emphasizes the negative aspects of traditional prison life, writing that it:

...would not only burden the taxpayers...for the support of these convicts in idleness, but it would be cruel and inhumane in the extreme to enforce such penalty upon them. Only

24. *Ibid.*, 14.

*those acquainted with prison management, and who have time and again heard the piteous appeal of convicts deprived of work to be restored to the same, can form some idea of the terror of the punishment inflicted by the State upon its convicts in keeping them confined in their cells in idleness, and how the maintenance of discipline and the enforcement of the rules for health and cleanliness are made almost impossible under such a state of affairs.*²⁵

Gibbons' argument against the traditional prison structure reflects the notion that condemning prisoners to idleness and isolation in cells not only serves no positive reformatory purpose, but is worse than other available methods of punishment. Gibbons maintains that isolation deprives a prisoner of meaning and purpose in life, while hard labor endows the prisoner with temporary distraction and skills for the future. Thus, some of the support for convict leasing resulted from different theories about how to meaningfully and humanely punish criminals. Advocates upheld the system as a viable and effective method of enforcing hard labor as a reformatory form of punishment.

Racial Overtones within Commentaries on Convict Leasing

Racial sentiments, while not openly present in the reasons given to continue implementing

25. Gibbons, *Tenure and Toil*.

the convict leasing system, did influence those who advocated for it. For example, while J.C. Powell does not explicitly cite racial motives in his arguments supporting convict leasing, he frequently notes racial divides in his memoir. One way in which he does this is by labeling white prisoners as "crackers." Powell differentiates between different classes of white people, marking those in the convict leasing as a type of "other." He emphasizes commonalities between these "crackers" and black prisoners and makes them seem distinct from the rest of the white South. For example, Powell writes, "...I discovered that we had an exceptionally dangerous and desperate class of men to deal with. Most of them were "Cracker" outlaws and cut-throat negroes, sentenced, as a rule, for crimes of the most atrocious character."²⁶ In this example, Powell refers to white convicts as a sort of "other" in terms of morality. He shows white "cracker" convicts to be different from law-abiding whites by grouping them with black convicts and focusing on the atrocities they committed. In this sense, white convicts were described as morally distinct from other white populations. In other instances, Powell characterizes white convicts as physically distinct. Upon beginning his position at the camp, for example, Powell notes while looking at the convicts: "The major part of them were negroes, but it was impossible to tell, as they stood, who were white and who were

26. Powell, *The American Siberia*, 30.

black, so incrustated were they all with the accumulated filth of months.”²⁷ In this description, Powell groups white and black prisoners together by virtue of their blackened appearance. In both instances, Powell touches upon racial divides in that he refers to white convicts as a sort of “other” and focuses on their similarities to black convicts.

Powell additionally notes racial divides by commenting on the behavior of black convicts. He writes, “The guards were often negro convicts, and the old maxim of slavery days, that a black overseer was the cruelest to his race, was proven time and again.”²⁸ Powell vilifies black convicts by presenting intra-racial relations as contemptuous and often violent. He emphasizes that black convict guards were the most frequent perpetrators of violence against other blacks. This claim attempts to present the black members of the prison community as more aggressive while insinuating that the white members were less cruel.

In addition to shifting focus onto the cruelty of black guards, Powell characterized African American convicts as naïve, childlike, and unintelligent. He uses anecdotal evidence to support his claims. For example, Powell frequently includes stories within his memoir that emphasize childish behavior on the part of black convicts. One anecdote focuses on a black convict that cries, hides, and shouts juvenile prayers when a storm approaches. When paraphrasing

²⁷ Powell, *The American Siberia*, 14.

²⁸ Ibid., 9.

the words of black convicts in his stories, Powell writes in broken vernacular and attempts to mimic and mock their patterns of speech. Finally, Powell’s memoir highlights these types of stories by including cartoon illustrations and corresponding captions like “The Darkey’s Prayer.” By presenting African American convicts and their actions in a derisive manner, in addition to using terms like “darkey”, Powell comments on racial divisions and perpetuates stereotypes.

Other commentaries on convict leasing similarly make note of racial divisions within the criminal justice system and society in general, but do not cite racial motives as a catalyst for the implementation of leasing. The article “Social Conditions in the Southern States: Second Article Giving Result of Frances A. Kellor’s Investigations” is one such commentary. The author, Miss Frances A. Kellor from the University of Chicago, presents the findings of her research on criminological conditions within the South. Kellor’s study, which was funded by the Federated Women’s Clubs of Chicago, makes frequent note of Southern race relations. For example, Kellor states:

It is truly said that the negroes’ best friend is the Southern white man, because the negro race has not yet ingrained in it racial integrity and loyalty. This is seen in many ways. The negroes prefer white men upon the juries, because they are fairer. Many negroes are sent to prison through the malice of

*their negro associates. If a negro is undesirable in a locality and does not remove when requested it is no uncommon thing for his neighbors to combine, accuse him falsely, and cause his imprisonment. The negro has been trained to be loyal to the white man, and this still takes precedence.*²⁹

Similar sentiments about Southern race relations are present throughout the rest of the article. On interracial relations, Kellor emphasizes African American dependence on white communities and the historical culture of subservience. Kellor also notes that punishments for African American defendants became more harsh as "...the old generation of slaveholders, who have a warm feeling for the negroes, [were] passing out of the courts of justice and younger men [were] coming in, who do not feel the old ties thus established by slavery."³⁰ In regards to intra-racial relations, Kellor highlights examples of African Americans treating other African Americans harshly. Much like Powell's emphasis on the cruelty of black convict guards in their treatment of other black convicts, Kellor makes arguments about black members of the justice system using their power unfairly. Kellor argues that African American justices often gave more severe sentences, so much so that "white custodians would take the

convicted outside and let them go."³¹ Kellor's commentary on the criminal justice system and on convict leasing in the South, as well as other commentaries on the subject, discuss the racial climate of the South as a significant factor on crime rather than a definitive rationale.

Criticisms of the System

Critics of convict leasing consistently took issue with the deplorable conditions of camp life. Newspaper articles about convict leasing almost universally emphasized mistreatment within the system. An article entitled "Brutality to Convicts: Abuses of the Leasing System in Mississippi", for example, asserts that "God will never smile upon a State that treats its convicts as Mississippi does."³² The article chastises the penal system for allowing beatings, the proliferation of various diseases, starvation, inadequate clothing, and vermin infestation to plague the life of leased convicts. Moreover, the article maintains that a civilized society should not allow people to be treated the way that leased convicts are. The implementation of convict leasing, then, according to some detractors of the system, did not align with the moral structure of American society.

Other critics of the system referenced issues of morality by drawing attention to corruption within state oversight. One

29. "Social Conditions in the Southern States: Second Article Giving Result of Frances A. Kellor's Investigations," *Chicago Daily Tribune* (Chicago, IL), October 21, 1900.
30. *Ibid.*

31. *Ibid.*

32. "Brutality to Convicts: Abuses of the Leasing System in Mississippi," *New York Times* (New York, NY), July 12, 1887.

newspaper article condemning convict leasing's implementation in this respect recounts an impassioned denouncement given by Reverend W.E. Lockter in Alabama against the system. He argued that state officials were conscious of the fact that the system was corrupt and only allowed it to continue because of the financial advantages it afforded them. Furthermore, Lockter maintained that the system perpetuated mistreatment of humans on a level much worse than that of animals. He contended that minor criminal offenses were being used as a means to essentially sell people into bondage as convict laborers. Both his speech and the aforementioned article on Mississippi deem convict leasing a practice that contributes to the moral decay of society. They not only express outrage about the poor quality of camp life, but further chastise the corrupt motives and profit-seeking that underscore the existence of the system. Because convicts within the system were subjected to such awful conditions and cruel treatment, critics with humanitarian motives called for state legislatures to end the practice of leasing.

Pressure to dismantle convict leasing systems across Southern states manifested in public demonstrations by those whose job security was threatened by the availability of cheap convict labor. For example, an article entitled "The Convict Lease Plan: It has resulted in serious trouble in the South" discusses a meeting set to take place to decide the

fate of convict leasing within the state of Tennessee. The article mentions credible fears that free laborers would go to the mines and help release the convict laborers working there. The author of the article encourages the state legislature to think seriously about abolishing convict leasing because of problems stemming from competition for employment. The consistent utilization of convict labor by major employers angered free laborers. This was a major issue that critics took up with the implementation of the convict leasing system.

In addition to discontented free laborers, various women's organizations mounted opposition to the system of convict leasing because of its economic implications. The involvement of the Atlanta Women's Club in the abolition of convict leasing in their state, for example, is detailed in an article entitled "Georgia Women Fighting the Convict Lease." The women's club was formed in 1895 and was led by prominent women within the state—namely, wives and widows of elite Georgians. According to the article, the Atlanta Women's Club became politically involved behind the scenes and used their position to influence prominent state officials like Governor Hoke Smith.³³ While the practice of convict leasing had been controversial in the eyes of

33. "Georgia Women Fighting the Convict Lease: Owing to the Peculiar Conditions Surrounding the System the Fight for Its Abolition Is a Difficult One and Is Being Waged Through Secret Channels," *New York Times* (New York, NY), September 06, 1908.

Georgia's population before the club's involvement, no significant reform was made within the system even after conditions and abuses were made known to the public. After successfully championing reformative causes like prohibition and the abolition of child labor, the Atlanta Women's Club directed their efforts toward bringing an end to convict leasing. The women's club dedicated itself to this cause under the principle that it is inhumane and morally corrupt for a state to profit off of what was essentially slave labor. Though the Atlanta Women's Club actively worked to increase the education budget of the state, they did not want schools funded by profits from alcohol or from convict leasing. The women's club took issue with the practice, then, because leasing violated humanitarian principles in the name of economic profit.

Frances Kellor of the Federated Women's Clubs of Chicago, in the aforementioned sponsored study on Southern society, also took issue with the system of convict leasing. Unlike the Atlanta Women's Club, Frances Kellor does not argue for the system's abolition in her report and she was not a vocal opponent of the practice. She does, however, make critical observations on the maintenance of the system and its repercussions on society.³⁴

One of Kellor's main concerns is with the sanitary conditions of labor camps. The hospitals were

poorly managed, and contagious individuals were not isolated from the rest of the patients. Additionally, the condition of the bathing facilities used by the convicts was deplorable. Kellor also criticizes the working conditions of labor camps. She points out that all prisoners were required to complete a certain amount of labor, regardless of their age or physical wellbeing. The convict laborers worked long hours and suffered whippings if they stop working—even if they fell down as a result of exhaustion. This was especially problematic considering the type of work completed by convicts was largely limited to mining and other physically laborious trades. Finally, Kellor's article expresses concern about the effect of labor camps on children. Children were allowed to work at an early age and labored alongside adult convicts. Kellor argues that labor camp life negatively influenced children; they were exposed to unrestricted behaviors including gambling, cursing, and smoking cigarettes. This exposure, according to Kellor, increased the likelihood of the children turning to crime as adults.

While Kellor's study draws attention to numerous concerns within the leasing systems of the South, she does not consider the abolition of the practice as a solution to issues regarding criminal activity. Rather, Kellor argues that change needed to occur within the economic conditions of the South.

³⁴. "Social Conditions in the Southern States: Second Article Giving Result of Frances A. Kellor's Investigations," *Chicago Daily Tribune*.

She maintains:

Financial and economic conditions have an important bearing upon crime. The possession or lack of money is an indirect cause of crime... The negro has not the standing which financial independence gives. He cannot gratify his desires and, once arrested, he is reasonably certain of conviction. In the North there is a greater capacity for using money wisely. The negro's capacity is often limited to securing money. Of its real value and use he knows but little.³⁵

Kellor, though dissatisfied with the implementation of convict leasing, was not morally opposed to its use within the prison system. She took issue with conditions and operating procedures, but did not argue for the abolition of convict leasing programs. Kellor instead purported that real change needed to occur in the economic opportunities available in the South, especially for African American individuals. This change, she argued, was necessary in order for the region to realize significant reform regarding criminal justice. Unlike later critics of the leasing system, Kellor saw economics as playing a key role in the number of African Americans who ended up in the convict leasing system rather than racialized targeting.

35. "Social Conditions in the Southern States: Second Article Giving Result of Frances A. Kellor's Investigations," *Chicago Daily Tribune*.

Discontinuation of Convict Leasing

Convict leasing persisted at various different lengths within the states of the South, and was abolished only when it became economically or politically unfeasible for states to maintain. Alabama was the last state to ban convict leasing on the state level—while allowing it to continue on a county-by-county basis—in 1928. States across the South disallowed convict leasing for a variety of reasons. While public outrage against the practice factored into its abolition, other factors played a larger role in bringing about the end of convict leasing. Mississippi, for example, stopped the leasing of convicts after the election of Governor James K. Vardaman in 1904. Even though convict leasing had been outlawed in the state's constitution sixteen years prior to the election, the practice was only discontinued after Vardaman—a political adversary of Mississippi's lessees—utilized his new position to strike back against his opponents that benefitted from the system.³⁶ Convict leasing was halted in Tennessee in 1894, ten years prior to the practice's discontinuation in Mississippi, as a result of conflicts between laborers. Matthew Mancini, in his article "Race, Economics, and The Abandonment of Convict Leasing", writes of the abolition of convict leasing in Tennessee, stating:

36. Matthew J. Mancini, "Race, Economics, and the Abandonment of Convict Leasing," *The Journal of Negro History* 63, no. 4 (1978): 340.

Tennessee's prudent leaders decided that the demands of fiscal responsibility dictated abolition when the expense of maintaining the militia at convict stockades—a cost incurred by an armed rebellion on the part of free miners who were displaced by convict gangs—proved greater than the income from the leasing contract.³⁷

The end of convict leasing, nonetheless, did not signify the end of convict labor. Many states continued to put convicts to work after convict leasing was banned, using convict labor in chain gangs to complete public works projects instead of leasing to corporations.

There were some attempts, though, to re-implement convict leasing systems in certain states after it had been dismantled. The National Association for the Advancement of Colored People (NAACP), for example, pushed for reform in Georgia in 1929. The organization led protests against proposed measures that would allow the leasing of African American federal prisoners in Atlanta to do road work throughout the state. U.S. Superintendent of Prisons Sanford Bates wrote to the NAACP in reaction to these protests and assured the organization that the leasing contracts would disallow corporal punishment and would provide for sufficient food and housing. Moreover, he emphasized that work days would not exceed eight hours.

Despite these assurances, the NAACP held three objections against the proposed contracts and, unlike earlier critics, highlighted the racial injustices perpetuated by convict leasing. First, the organization voiced concern about the possibility of securing just treatment for African American prisoners because of the history of mistreatment in the South. Second, the NAACP maintained that it would be imprudent for the federal government to attempt to use convict leasing since the practice had already been abandoned in the South by that time. Finally, the organization emphasized that allowing the leasing of *only* African American prisoners would be clearly discriminatory. Their stance against the re-implementation of convict leasing clearly cited concerns about perpetuating racial injustice. While early critics of the leasing system who argued against the practice before the turn of the century referenced concerns about social and economic conditions, later criticisms reflected a more clear concern for racial justice. This highlights the origins of how convict leasing is now positioned by modern scholarship within the history of racial injustice.

Modern Implications

Understanding the motivations behind the implementation of convict leasing, specifically the racialized ones, is important in that it allows for a more accurate discussion of racial injustice in the modern

³⁷. Ibid.

penal system. In her book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, Michelle Alexander argues that the current American criminal justice system functions like a system of racial caste.³⁸ Alexander traces the history of racial caste in American society back to the days of slavery preceding the Civil War. After the abolition of slavery, Alexander argues that Jim Crow laws served as a replacement system that would continue to accomplish the goal of keeping African Americans stuck within the lowest part of society. In the modern penal system, Alexander argues that a virtual replacement of Jim Crow era policies has been created through methods of targeting within the “War on Drugs”, discrepancies in sentencing laws, civil penalties for felons, and the criminal stigma attached to African American communities and cultural practices. Her arguments are linked to convict leasing in that she identifies the practice as the origin of racial injustice as it relates to American prisons. Research on whether or not Alexander’s claim is justified in this respect—that is, whether or not convict leasing was put into practice as a tool of racialized control—is important to further analyze claims about modern penal injustice and racial discrimination.

Determining whether convict leasing was implemented in order to perpetuate racial injustice is also significant in that it is a

38. Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York, NY: New Press, 2010).

necessary factor in deciding upon possible remedies. In his article entitled “Mainly Black Convicts used as Heavy Laborers a Century ago”, Douglas Blackmon presents a case for reparations.³⁹ He presents the examples of Germany, Japan, and Switzerland in terms of their involvement in making reparations in response to historical racialized abuses. Blackmon, for example, refers to the multi-billion dollar fund created by German corporations that now makes payments to people victimized by Nazi slave labor programs during World War II. This fund was set up after these corporations faced lawsuits and diplomatic pressure from multiple nations around the world, including the United States. Blackmon also mentions that Japanese manufacturing companies have been criticized due to allegations that they too utilized forced labor during the wartime era. Finally, Blackmon cites the agreement made by Swiss banks in 1998 for the creation of a billion dollar settlement addressing claims about seized Jewish assets at the time of the Holocaust.⁴⁰ Each example shows potential for the success of reparation claims for victims of racial discrimination throughout history.

In the case of the United States, Blackmon argues that various companies—namely, real estate businesses and agencies that helped to continue

39. Douglas A. Blackmon, “Mainly Black Convicts used as Heavy Laborers Century Ago.” *Pittsburgh Post-Gazette* (Pittsburg, PA), July 17, 2001.

40. *Ibid.*

segregation in housing; insurance companies, banks, and other financial institutions that denied loans to minorities according to red-lining; and other businesses that discriminated against potential employees during the hiring process—“helped maintain traditions of segregation for a century after the end of the Civil War.”⁴¹ Despite this fact, calls for reparations within the United States on behalf of those who suffered as a result of these types of discrimination have made very little progress. Blackmon is concerned about convict leasing because it fits within the history of racial injustice perpetuated by American businesses. He writes “In the early decades of the 20th century, tens of thousands of convicts—most of them... indigent black men—were snared in a largely forgotten justice system rooted in racism and nurtured by economic expedience.”⁴² Up until almost 1930, decades after most of the other states in the South had abolished the use of convict leasing systems, Alabama counties continued to lease convicts to businesses to work on farms, in lumber camps, on railroads, and in mines. Government officials in Alabama on both the state and local level allowed the practice to continue as a result of financial motivations. At the time, convict leasing was one of the state’s largest sources of funding. The practice was finally abolished in 1928 and its legacy has since, according to Blackmon,

41. Ibid.
42. Ibid.

“slipped into the murk of history, discussed little outside the circles of sociologists and penal historians.”⁴³ He argues, however, that the story of convict leasing in Alabama has been preserved within government archives, records, and courthouses across the state and that these documents “chronicle another chapter in the history of corporate involvement in racial abuses of the last century.”⁴⁴ According to Blackmon and other scholars, then, the system of convict leasing served to prolong the abuse of the African American community. Determining whether or not their claims are valid and whether convict leasing did in fact perpetuate racial injustice, as did slavery, is important in order to decide if there is a case to be made for modern American companies to make reparations.

My research illustrates that within the rhetoric used in discussions about convict leasing, both supporters and critics of the system refrained from using explicitly racialized arguments to uphold their positions. That is, supporters of the system did not justify its implementation in order to maintain a racial hierarchy, and critics did not decry the system because of the part it played in perpetuating racial injustice after the Civil War. Later criticisms however, beginning with the stance of the NAACP against the re-implementation of convict leasing in 1929 and continuing on into the work of modern scholarship

43. Ibid.
44. Ibid.

today, clearly demonstrate concerns about the leasing system acting to target black Americans. The distinction between these two lines of rhetoric—the first with racial overtones and the second with explicit concerns about race—is indicative of the shift away from using explicitly racialized narratives after the Civil War and the trend of adopting “color-blind” language within laws and policies during the dawn of Jim Crow and up until the present. Though officially “color-blind” or non-racially explicit, this narrative nonetheless allows for the perpetuation of racial injustice. The case of convict leasing, then, is important in understanding the origins of an implicitly racialized hierarchy that plagues American society to this day.

Conclusion

Arguments given in support of convict leasing mainly focused on economic benefit; leasing was embraced as a way to increase funding for the state while keeping maintenance costs low. In addition, labor was said to serve a reformatory purpose and prepared convicts to enter the workforce. Supporters of the system did not explicitly advocate for its use as a tool for racial control, though in many justifications racial sentiments are implicitly present. Critics of the convict leasing system emphasized the unsanitary conditions of camp life, the danger that convict labor posed to free labor, and the inhumaneness of the institution. While some critics, such as Atlanta Women’s

Club as well as Frances Kellor, noted the detrimental effect of convict leasing on African American communities, their criticisms did not mainly seek a remediation to racial injustice. Overall, focus was placed on economic motives and poor social conditions. These criticisms can be contrasted with the modern focus on convict leasing, which emphasizes racialized motives and injustice. Modern scholars largely research convict leasing in its relation to the system of slavery and in the context of racial injustice. The debate over convict leasing and its implementation, and whether or not the practice perpetuated the exploitation of African American communities, is significant in terms of understanding the modern American penal system as well as making the case for reparations.

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Note: The opening quote for this essay is from the poem "Во глубине сибирских руд" or "In the depths of the Siberian mines" by Aleksandr Pushkin (1827). Excerpt and translation taken from *Poetry Reader for Russian Learners* by Julia Titus, Mario Moore, and Wayde McIntosh.

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Courtney Howell is a graduating senior at Virginia Tech with degrees in History, Russian, and Political Science with a concentration in National Security Studies. She holds an additional major in Philosophy. Courtney became particularly interested in the subject of convict leasing after encountering both Michelle Alexander's book *The New Jim Crow* and Powell's memoir *The American Siberia*. In her research, she was interested in finding out how the convict leasing system paralleled labor prisons in the Soviet Union. Courtney was also interested in how the system of convict leasing fit into the history of racial injustice within the penal system and created the origins of the prison-industrial complex. Courtney's historical interests more generally center on Russia and Eastern Europe, as well as the 20th century as a whole.