



PROJECT MUSE®

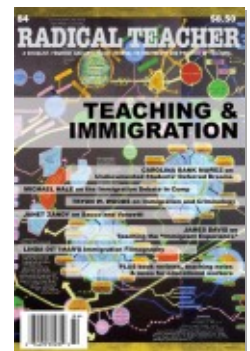
The Plantation Society, circa 2008: Discussing Immigration
through the Lens of Criminology

Tryon P. Woods

Radical Teacher, Number 84, Spring 2009, pp. 31-41 (Article)

Published by University of Illinois Press

DOI: <https://doi.org/10.1353/rdt.0.0030>



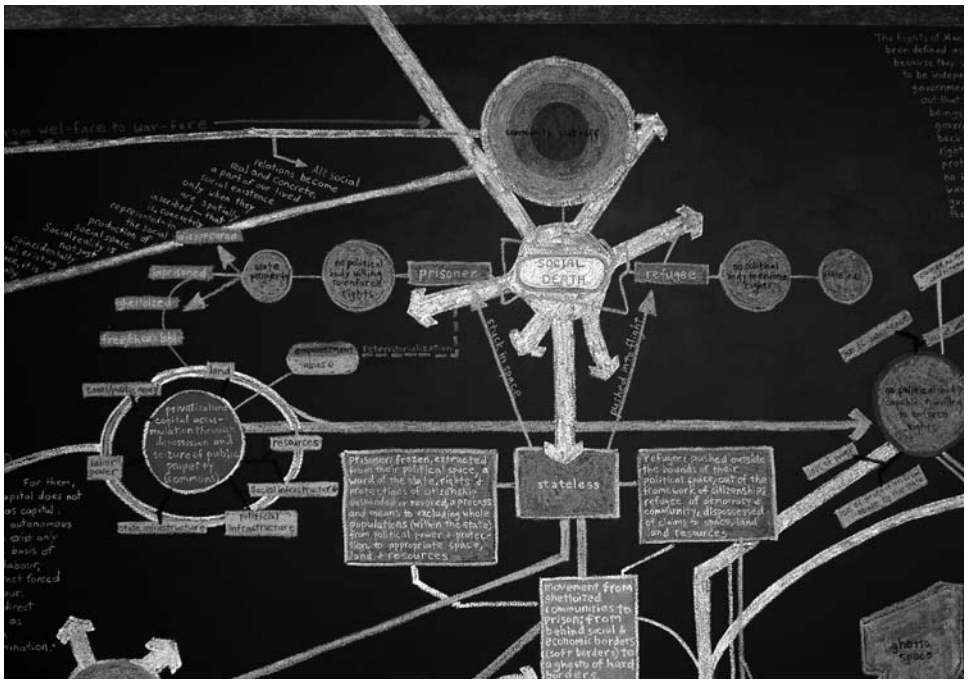
➔ *For additional information about this article*

<https://muse.jhu.edu/article/262640>



Project
MUSE[®]

Today's Research. Tomorrow's Inspiration.



THIS AND FACING PAGE: ASHLEY HUNT, A WORLD MAP IN WHICH WE SEE...

The Plantation Society, circa 2008: Discussing Immigration through the Lens of Criminology

By Tryon P. Woods

The slave population, it could be and was assumed, offered itself up as surrogate selves for meditation on problems of human freedom, its lure and its elusiveness.

— Toni Morrison¹

In this reflection on my teaching, I wish to share the problems I have encountered in teaching criminology students about immigration in general and the politics of immigration in particular. I suggest that these challenges are in many ways indicative of the general need for educators in the academy to do more

in re-evaluating how we teach and learn about power. There is much about my experience that will be familiar to other radical teachers who attempt to confront complex social issues in the classroom at a historical juncture when such matters are more commonly reduced to individual failures (e.g., as prejudice, criminality, immorality).

At the same time, I argue that my experience reveals an uncommon insight, one largely missing from progressive or radical discourse on immigration. Namely, what my criminology students have shown me

is that anti-immigrant discourse is fundamentally reliant upon *criminological* tropes widely distributed throughout the society. These tropes are so basic to our society that while it took *teaching* criminology for me to recognize it as such, it certainly did not take *learning* criminology for my students to apprehend the immigration issue in criminological terms. Students come to my classroom well-versed in the prevailing misperceptions of immigrants as “criminals.” Rather than simply meeting this discourse of criminality on its own terms, my teaching implicates it in the legacy of white supremacy which, as I will explain below, is its condition of possibility.

Despite the historic variation in immigration policy, the criminological underpinnings remain constant.² During the period of nativism in the 1950s, immigrants from Latin America were charged with disrupting the job market and displacing “American” labor. This argument led to “Operation Wetback,” the infamous policy of mass deportation of Mexican immigrants (along with many Mexican-Americans). Although “stealing jobs” never really disappears from the discourse, the 1990s anti-immigrant resurgence, especially in California, took the form of “resource depletors”: immigrants and their children were represented as depleting scarce fiscal and natural resources.³ As with welfare recipients, ex-prisoners, or even the poor generally, immigrants are disqualified through a discourse that holds a rule-breaker as morally deficient, socially inferior, and unworthy of civic inclusion. This moral discourse is racialized and owes its deep roots to Europe’s imperial project. “Resource depletor” is a more expansive formulation of “job stealer,” and both are simply different

ways of saying “thief”—a criminal of the most basic kind.

In the present day, this criminological discourse occurs amidst an important divergence between crime and immigration. Since the 1990s, immigration to the United States—both documented and undocumented—has reached historic highs, and yet rates of violent crime and property crime have declined sharply over the same period, with the violent crime rate reaching historic lows.⁴ This divergence is mirrored in the basic contradiction of contemporary criminal justice policy: since the 1970s, the overall crime rate has declined while the rate of incarceration and prison-building has increased dramatically. In other words, much as there is a fundamental *structural* disconnect between crime and incarceration, the evidence shows that immigration does *not* contribute to increased rates of crime.⁵ Despite the post-9/11 conflation of terrorism (crime) with immigration, immigrants are far less likely to commit crimes than are the native-born.

If the politics of immigration nonetheless continue to live through a more fundamental politics of criminality, then we need to understand the basic properties of criminological discourse as it prepares the ground on which people are encouraged to see the presence of (certain) immigrants in the United States as illegitimate. As I will argue, there is no way of getting at the essential components of criminology (as discursive practice and as indispensable appendage to the massive state apparatus of control that is the criminal justice system) without a sustained examination of black existence in the modern Western world, and of slavery in particular. Consequently—and I believe this point is most salient for the overall

intervention that *Radical Teacher* offers with this special issue—the basic characteristics of black positionality provide the fundamental parameters for understanding key issues in immigration today.⁶ U.S. society has a *despotic* approach to the “criminal” because it has always maintained despotic relations with its black subjects. As Toni Morrison’s quotation in the epigraph suggests, black (non-) existence serves as the metaphorical and structural scaffolding, largely occluded from view, which sustains the animated debates about immigration.

It is only within this larger structural context that my students’ perspectives make sense. By the same token, the context threatens to rob them of their moral courage, of their humanity. Criminology students, regardless of race and ethnicity, and more so than students in any other major, know that so-called “white-collar” criminals are responsible for the majority of the harm caused by criminal behavior in this country. Since it is a basic feature of the curriculum in the department, the students are exposed to the facts that show that immigrants or gang members or drug addicts, or any of the other “usual suspects” of the criminal justice system, do not warrant the obsessive fear with which society tends to regard them. And yet they are immersed in a society, a field of study, and a career path that encourages them to disregard these facts. What are the components of this ethical evasion and how can an educator productively disrupt this process of social formation, literally the making of police officers, prison administrators, probation officers, juvenile counselors, and the everyday citizen amenable to “law and order” rhetoric and policy?

To better relate my experiences with

these questions, I should say more about the contexts in which I work. I currently teach in the Department of Criminology and Criminal Justice Studies at Sonoma State University in northern California. Most of my students are white, from working to lower-middle class economic backgrounds in rural or suburban northern and central counties of the state. There are small numbers of Mexicano/Chicano students, followed much further behind by Asian Americans and Native Americans; statistically speaking, blacks are only an occasional presence in my classrooms. The criminology major also tends to attract somewhat more men than women (though not as disproportionately as masculinist stereotypes of criminal justice professions might cause one to expect). Additionally, most of my students are headed into careers in various law enforcement agencies, come from law enforcement families, or are already working in the criminal justice system in some capacity.

The “typical” student in my classroom, I would argue, has much in common with the main subjects of U.S. civil society. He is white, but comes from areas in which Mexicanos/Chicanos—immigrants, migrants, and long-time residents/citizens—are the largest minority group (and a majority in many places). Although generally speaking Mexicanos/Chicanos are more likely to be integrated into white spaces than blacks, my typical student’s geography remains well-segregated. Mexicano/Chicano and African American communities thrive throughout the state’s Central Valley, but they largely exist along the internal margins of a dominant paternalistic Anglo social structure.⁷ My typical student, therefore, is accustomed to seeing and even interacting

with people of color—principally people of Mexican origins—but largely through relations that reproduce social distance, rather than bridge it. Rural segregation is mirrored in the small cities that border the heavily populated San Francisco Bay Area, such as Santa Rosa near where my institution is located. The immediate historical context here is the process by which the rural communities of California have emerged from three decades of a radically changing political economy whereby agriculture-related industries have been superseded by the prison industrial complex.⁸

The ascendancy of the prison industry in rural California is a manifestation of the massive political, economic, and social shifts attending the transition from welfare to warfare state.⁹ Capital flight, deindustrialization, and state restructuring produced surpluses in land, capital, labor, and state capacity—the antidote to which became, in part, a dramatic prison building frenzy and social policy of mass incarceration. Prisons became the simplistic answer to a series of complex questions. The state’s job is no longer to provide for the common well-being of its citizens; it has restructured itself away from this capacity, and in a period of permanent crisis, through the mechanics of domestic militarism, presents its social necessity in terms of an impossible mandate: the war on crime in its proliferating forms (drugs, gangs, terrorism, immigration).

To put it another way, in terms of social position, the typical criminology

major in my classroom is the product of a socio-political geography in which “law and order,” replete with its constitutive racial imaginings, continues to acutely inform their self-identities, albeit with a nagging sense that somehow the “good guys” are losing their grip. Sometimes this shadow manifests in my students as cynicism or bitterness, but often it gets mobilized into a penchant for punishment. They exorcise the economic

anxieties that have been such an insidious part of the landscape of their lives by means of racialized antagonisms that they articulate in criminological terms (as in: *if you do the crime, be ready to do the time!*).

The most illuminating discussions about immigration take place in my Criminology seminar. This course is a core class in the major, and generally when it is taught by criminologists, the focus is on the gamut of theories in the discipline about why people do crime and how best to punish and prevent offenders. I find this pedagogy a good formula for making a very bad problem (the prison industrial complex) much worse, but not for much else.¹⁰ As a teacher of students embarking upon careers devoted to controlling the liberty of criminalized Others, I find myself struggling to come up with ways to teach about the problems criminology takes as its objects of study (“crime,” violence, “deviance,” policing, incapacitation), while simultaneously providing students with a “coherent framework” through which to interrogate the very power that criminology (and each one

**THE TYPICAL
CRIMINOLOGY MAJOR IN
MY CLASSROOM IS THE
PRODUCT OF A SOCIO-
POLITICAL GEOGRAPHY
IN WHICH “LAW AND
ORDER,” REPLETE WITH
ITS CONSTITUTIVE RACIAL
IMAGININGS, CONTINUES
TO ACUTELY INFORM
THEIR SELF-IDENTITIES...**

of my students) most takes for granted: the right to seize the freedom of another human being in the first place. To put it more succinctly, criminology empowers us to judge the Other. What I want to do in my Criminology seminar, on the other hand, is to teach *about* power.

Before we even get to what criminology has to say for itself, therefore, we spend almost two months building a context in which to situate our study of criminological theories.¹¹ We discuss the rise of capitalism and Enlightenment moral theory, the expansion of Europe through imprisonment and the convict trade. The centerpiece of this history, however, is an analysis of slavery. What was it and what role did it play in the genealogy of criminal justice?¹² We discuss W.E.B. DuBois' analysis of the social relations necessary for slavery to function.¹³ DuBois develops a lesson about power that is basic for conscious people: dominance succeeds only through division. If a small handful of white people owned all of the slaves and most of the land—in other words, held the wealth in the society—how could they possibly hope to maintain their control without the assistance of all of the other whites (the majority)? The slave owners needed overseers, bounty hunters, and slave patrols to police their plantations. As DuBois points out, however, it made no rational sense for the average, landless white worker to go along with the slave system since it was precisely slavery that was keeping him impoverished.

In short, most whites had more in common with the African slaves—in terms of poverty, self-determination, material security—than they had with the wealthy planters. From where we sit today, it seems a matter of course that the white workers would identify with other whites, even

though the owners were their oppressors too, and not with blacks, but it is important for students today to understand that this division had to be created and reproduced on a daily basis. As DuBois (and historian David Roediger much later) observed, the white worker was paid off with the “wages of whiteness”: in the face of continued immiseration and landlessness, he could take solace in the comfort that he was white.¹⁴

I find that this story is actually a poignant one for today's college students, most of whom have all come up in a post-civil rights era in which slavery is recognized as a tragic evil in our nation's past. The problem, of course, is that we continue to endure slavery's aftermath, both culturally and in terms of society's structures: the criminal justice system evinces this legacy perhaps more than any other institutional setting.¹⁵ Moreover, racism not only thrives today, but conventional narrow understandings of it betray an implicit faith in the system's capacity to be reformed and an unwillingness to face the evidence that white supremacy and state violence are two sides of the same coin.¹⁶

I discussed with my students how the fact that the criminal justice system served as the lynchpin on which slavery was remade as a contemporary legal institution meant that we need to pay closer attention to the social relations of slavery. Who were the police of the slave society? Who's playing the role of the white workers today? Who are the slave patrols, the overseers, the bounty hunters, the slave trading merchants? The point is not to reduce one to the other, to argue that imprisonment today *is* slavery. Instead, we discuss two principal lessons of slavery for the study of criminology. First, that

white supremacy is a hierarchy in which all groups are pitted against each other in competition to distance themselves from blackness, at the bottom, and to get close to whiteness on top. In other words, the social system of white supremacy creates an anti-black world that captures all races within its binary logic: in such a context, racial identity is indexed by two polar realities, one embodying value (whiteness) and the opposite embodying value's absence (blackness).

A second principal lesson of slavery for the study of contemporary criminology is that the function of policing historically has been to contain the political desires of the white worker by binding him to the state. It is not surprising, then, that the slave patrols were the first official organized police force in this nation's history. As DuBois noted, the white worker was kept from seeing himself in the black worker because he was bound to the planters and repelled from the slaves and even from the mass of white laborers because "they constituted the police patrol [that] could ride with the planters and now and then exercise unlimited force upon recalcitrant or runaway slaves."¹⁷ In class, we discussed how the act of policing entails an unconscious identification with the state and against the objects of police action. When the state is white supremacist, then policing too becomes an act of identification with (and desire for) whiteness.

While many of my students were able to process the implications of this history, to recognize both the error and the injustice of the "wages of whiteness," they saw it mostly as rhetoric or analogy (as in, *today is like yesterday in these ways . . .*), rather than as a descriptive analysis of what *is* currently. When I attempted to ground

this historical lesson about power into the context of their own lives with the example of immigration, they vigorously resisted, swiftly condemning "illegal" immigration.

For example, I asked them, how does the current immigration debate illustrate the historical example of the white worker and the "wages of whiteness"? I brought up the case of California's anti-immigrant Proposition 187 (which occurred before many of my students had reached kindergarten) and how it won support from a significant number of black and Latino voters.¹⁸ Was this not an example of how white supremacy and racial capitalism work, in this case encouraging oppressed workers and people of color to police themselves by demonizing immigrants and thereby distracting attention from the true source of their oppression? And what about those white workers again, how did they cast their lots this time?

The students were quick to defend their position against immigrants. One senior (who has since gone on to a career as an agent with the California Department of Alcohol Beverage Control: "we carry guns," she told me in response to my query, *why?*) became particularly agitated. She talked about her father who has owned a landscaping business in Sonoma County for a long time. She said: "My dad is being undercut by immigrants who don't have proper licensing because they're undocumented and therefore can charge much less than he does." She was angry.

Is this student's story a specific illustration of the general failure of this country's immigration policies? It is, in part. We cannot verify any of the asserted facts, of course, but discursively this student's story communicates the time-worn theme of the immigrant as "job-stealer," and therefore

implicitly as “thief.” Although the student appeared to understand the concept of the “wages of whiteness” intellectually, when it came to her life, her unconscious emotional investment in white supremacy (understood criminologically) won out and the immigrant was blamed for her father’s declining fortunes. Her viewpoint found ample support among her classmates. When I remind them of the requirements of a capitalist system, of how competition for finite resources like jobs comes about, and of how the increasing hardships and economic anxieties that their own families are enduring today are only extended by transferring the problem onto other struggling workers, they respond simply: “but they broke the law by coming here.”

This point, the criminological take on the immigration issue, is also precisely the general failure of criminology and criminal justice: obscuring complex social problems by seeing society through the lens of individual morality. The tradition of Western liberalism, in which the rational, self-interested, autonomous individual subject is seen as the primary agent of history and thus as existing ontologically prior to the social structures of this history, is deeply ensconced in the U.S. academy across its disciplines. Western liberalism is also racialized at its core, lending the emotional investment in individualism a greater urgency given our racially stratified world. In short, it is not that the students are insensitive to the hardships faced by immigrants, but sensitivity is not the same as a *structural analysis* of individual behavior: “But they shouldn’t have come *that way*,” as if undocumented immigration is merely a matter of preference; “They should try to make things better in their country,”

as if an individual can resolve historical contradictions on their own; and, “It’s wrong that they’re treated unfairly, but they don’t make an effort either, they need to meet us halfway,” as if the schisms of racial capitalism were actually problems of diplomacy and good-will.

What are these emotional investments? As Marlia Banning observed in an earlier issue of *Radical Teacher*, “there are no obvious pedagogical solutions that address the emotional attachment to political beliefs.”¹⁹ I concur—and I wish to build on, yet depart slightly from, this insight. In the symbolic economy of anti-immigrant discourse, the immigrant is not even a primary figure. The central criminological trope in the anti-immigrant discourse—*illegals*—and the converse promoted by immigrant supporters—*no human being is “illegal”*—are both part of a larger deception. The formulation of the immigrant as a thief draws upon the idea of a fraudulent person. But an immigrant is not a fraudulent person; rather, he is a person who, according to anti-immigrant discourse, has committed fraud by attempting to pass as a citizen, or more accurately, given the historical conflation of whiteness and citizen, as a legalized resident.

To be a fraudulent person, on the other hand, is to be caught impersonating a human being. There is only one such position in the anti-black world and it belongs to the black. As DuBois once put it, blacks are constructed not as people with problems, but rather as “a problem people.”²⁰ Slave codes in the southern United States demanded that slaves receive clothing, food, and lodging sufficient to their basic needs. Slaves, although dead to civil rights and responsibilities—*social death*—are reduced to nothing but the physical body, unprotected against mutilation or

torture.²¹ The functioning of social death is, again, premised on the context itself as anti-black. The post-Emancipation era of the Black Codes, convict leasing, and lynching ensured that blackness meant social death not by virtue of enslavement, but instead as a product of criminality and imprisonment. Blackness remains to this day the essential marker of criminality and deviance.²²

Black existence and its signifier “criminal,” then, serve a central metaphorical and structural purpose for a white supremacist bourgeois society. In the contemporary debates on immigration, it provides the menacing content for the construct “criminal” that gives the anti-immigrant position its purchase in mainstream society. To put it differently, we as educators cannot effectively undo the racism of anti-immigrant discourse without also challenging the anti-blackness of crime and punishment. In concrete terms, moreover, we need to recall the destruction of the black community base, the deindustrialization of the political economy, dismantling of the welfare state, and the installment of the prison industrial complex. These processes collectively produced a black population available on a massive scale for social transfer to the living death of prison cages. These dislocations and debasements were the conditions of possibility for the political economy that draws immigrants to this country, while at the same time, the institutionalization of the (vanquished) black liberation movement serves as the prerequisite for the very struggles against the exploitation of immigrant labor that have, rightfully, gained momentum today.²³ In other words, there would be no immigrant labor to speak of if the black liberation movement had not been systemati-

cally destroyed, and, ironically, that very same social movement history would not otherwise be available to other oppressed groups to learn and benefit from.

Needless to say, I have not been at all successful in realizing this kind of analysis with my students. In much of its practice, criminology is an exercise in bad faith in that it encourages students to flee a displeasing truth for a more comforting lie. The criminological discourse on immigration is an expression of bad faith as well. My students live this lie in their own ways. Although they know that “crime” is far more complex and messy than a simple case of immorality, the fact that the United States has the largest prison population in the world, both in total numbers and per capita, eighty percent of whom are people of color, and that Immigration and Customs Enforcement (ICE) holds some 23,000 people in immigration jails on a given day and about 200,000 annually, does not, in any sincere way, trouble them much.²⁴ At some level in their consciousness, perhaps they know that people (immigrant and non-immigrant alike) do not have what they need to survive in this society, and that in their capacities as law enforcers, they are not making things better for these millions of people. These are tough ethical problems for young people emerging from a context in which their futures are mortgaged ever more by the racial state’s commitment to the needs of capital.

My students also know all too well from their own backgrounds in hardworking and increasingly abandoned communities that power and wealth concentrate in the hands of a very select few at the expense of people like themselves. They might recognize, should they dare to admit it, that when they fight on behalf of the

state, whether it is in patrol cars, along catwalks or borderlines, or in foreign military escapades, they win only dimmer futures not only for the people of color they apprehend, but also for themselves. The question of ethics, in these ways, lurks throughout the dialectics of race and class in the prison regime that shapes immigration policy.

I honestly do not know how to proceed, pedagogically, in this context. Is a Freireian pedagogy possible within an anti-black world? What would it look like to correspond with these students across our differences in social positioning and emotional attachments, as a pedagogy of self-awakening?²⁵ James Baldwin, as always, assesses the challenge with clarity: “One may see that the history, which is now indivisible from oneself, has been full of errors and excesses; but this is not the same thing as seeing that, for millions of people, this history—oneself—has been nothing but an intolerable yoke, a stinking prison, a shrieking grave.”²⁶ Teaching about immigration within criminology shows me that black-brown-white remain insoluble antagonisms. I remain open to what the answers may be, and, in the interim, try to act ethically myself in confronting the anti-blackness of both criminology and much of the discourse on immigration.

Notes

- 1 Toni Morrison, *Playing in the Dark: Whiteness and the Literary Imagination* (New York: Vintage, 1993), 37.
- 2 The conflation of “immigrant” and “criminal” has a longer history than this essay can accommodate. European immigrants during the 19th and early 20th centuries were also greeted with nativist alarms

about criminality and moral degeneracy. There is an extensive literature documenting this history. For example, see Howard Markel, *Quarantine! East European Jewish Immigrants and the New York City Epidemics of 1892* (Baltimore: Johns Hopkins, 1999). Less well examined, however, is how the criminalization of European immigrants has been a powerful force in white racial formation. See Matthew Frye Jacobson *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge: Harvard, 1999).

3 Syd Lindsley, “The Gendered Assault on Immigrants,” in *Policing the National Body: Race, Gender, and Criminalization* (Cambridge: South End, 2002), 175-196. Also see Juan F. Perea, ed. *Immigrants Out! The New Nativism and the Anti-Immigrant Impulse in the United States* (New York: NYU, 1997).

4 David Katz, “Metropolitan Crime Myths,” in David Halle, ed., *New York & Los Angeles: Politics, Society, and Culture: A Comparative View* (Chicago: Chicago, 2003). Thank you to Daniel Malpica for pointing this out to me.

5 Ruben G. Rumbaut, Roberto G. Gonzales, Golnaz Komaie, and Charlie V. Morgan, “Debunking the Myth of Immigrant Criminality: Imprisonment Among First- and Second-Generation Young Men,” *Migration Information Source*, <http://www.migrationinformation.org/Feature/display.cfm?ID=403>. Also see Robert J. Sampson, “Open Doors Don’t Invite Criminals,” *New York Times*, March 11, 2006.

6 Kathy Charmaz deserves acknowledgement here for helping me better articulate this formulation.

7 Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in*

Globalizing California (Berkeley: California, 2007), 146.

8 The name “prison industrial complex” refers to how three distinct motivating forces—profit interests, politicians’ desire for power (or more accurately, ‘historic blocs’, to use Gramscian terms), and social control/governance converge on the site of criminal justice policy. In other words, we have the prison system we have today not because of “crime,” but rather because prisons produce profits, power, and social control. In short, this term implies a contextual analysis of crime and punishment, and for this reason is preferred by many as a more precise term than, say, “criminal justice system.” Moreover, “prison industrial complex” or “prison regime” encompasses the three levels of criminal justice, since they work symbiotically: police, courts, and corrections. For the best overview of the historical process that produced the prison industrial complex, see Ruth Wilson Gilmore, “Globalisation and U.S. Prison Growth: From Military-Keynesianism to Post-Keynesian Militarism,” *Race & Class* 40, 2-3: 171-187.

9 Gilmore, “Globalisation and U.S. Prison Growth”; Christian Parenti, *Lockdown America: Police and Prisons in the Age of Crisis* (London: Verso, 1999).

10 It is worth adding at this point a brief note about the context from which I emerge, as a person, a student, and a teacher. I grew up white and middle class in Seattle public schools. In between periods of university study, I was involved in different social justice-related issues (mostly tied into HIV/AIDS prevention) in New York City. My perspective on crime and punishment is shaped not only by the diverse relationships encountered along the way that hold me accountable, but also by the intellectual and social movement traditions of African American Studies,

critical race studies, Ethnic Studies, and Marxism. In brief, then, I view criminology as a problem rather than as a place to go to solve problems.

11 It may be worth noting here that this course design did not survive departmental scrutiny and I have since been forced to bring my syllabus more in line with traditional criminology curricula.

12 The key texts we read on this score include selections from: Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York: Oxford, 1997); Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge: Harvard, 1982); Cedric Robinson, *Black Movements in America* (New York: Routledge, 1997); and Angela Y. Davis, “From the Prison of Slavery to the Slavery of Prison: Frederick Douglass and the Convict Lease System,” *The Angela Y. Davis Reader*, Joy James, ed. (Oxford: Blackwell, 1998), 74-95.

13 W.E.B. DuBois, *Black Reconstruction in America, 1860-1880* (New York: Atheneum, [1936] 1979).

14 DuBois, *Black Reconstruction*; David Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class* (New York: Verso, 1991).

15 The ongoing relations of slavery in a post-Emancipation context begin with the U.S. Constitution itself. The Thirteenth Amendment simultaneously outlawed slavery and instituted it for prisoners: “Neither slavery nor involuntary servitude, *except as punishment for crime*, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction” (emphasis added).

16 The plague of police killings immediately comes to mind as the *sine qua non* for

the U.S. penal democracy. See Joy James, "Introduction: Democracy and Captivity," in *The New Abolitionists: (Neo)Slave Narratives and Contemporary Prison Writings*, Joy James, ed. (Albany: SUNY, 2005), xxi-xlii; Steve Martinot and Jared Sexton, "The Avant-Garde of White Supremacy," *Social Identities*, vol. 9, no. 2, 2003: 169-181; Joy James, *Resisting State Violence: Radicalism, Gender, and Race in U.S. Culture* (Minneapolis: Minnesota, 1996).

17 DuBois, *Black Reconstruction*, 27.

18 The Save Our State initiative of 1994, Proposition 187, sought to deprive undocumented immigrants of their rights to public schooling, health care, and welfare. It also would have required school districts and service providers to verify the legal status of students and applicants and report to state officials and federal immigration control (INS then, ICE now). Although it was passed handily by California voters, Proposition 187 was never implemented because it was struck down by the courts as unconstitutional. It is noteworthy that many of the ends sought by Proposition 187 have been achieved nonetheless through other means: Homeland Security and the "war on terror." See Deepa Fernandes, *Targeted: Homeland Security and the Business of Immigration* (New York: Seven Stories, 2007); and Mark Dow, *American Gulag: Inside U.S. Immigration Prisons* (Berkeley: California, 2004).

19 Marlia Banning, "Spinning the World: Making Visible the Genealogies of Environmental Policy," *Radical Teacher* 78: 16.

20 W.E.B. DuBois, *The Souls of Black Folk* (New York: New American Library, 1969).

21 Similarly, current legal definitions of punishment reconstruct the subhuman status of the slave in the body of the criminal, guaranteeing the stigma that justifies

dehumanization. This logic and body of legal practice also guide the sanctioning of the tortures that have come to light at Abu Ghraib and in Guantanamo and that remain invisible yet endemic throughout the global prison industrial complex: prisoners, like slaves, are simply bodies, not persons. For documentation about the legal language of social death, see Mark Danner, *Torture and Truth: America, Abu Ghraib, and the War on Terror* (New York: New York Review of Books, 2004).

22 See Davis, "From the Prison of Slavery to the Slavery of Prison"; and Katheryn Russell-Brown, *The Color of Crime: Racial Hoaxes, White Fear, Black Protectionism, Police Harassment, and other Macroaggressions* (New York: NYU, 1998), for contemporary illustrations of the racialization of crime.

23 Sexton, "Racial Profiling," 215 fn 29.

24 Mark Dow, *American Gulag: Inside U.S. Immigration Prisons* (Berkeley: California, 2004), 9. Also see, Teresa Miller, "The Impact of Mass Incarceration on Immigration Policy," in Marc Mauer and Meda Chesney-Lind, eds. *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* (New York: New Press, 2002), 214-238.

25 Here I am instructed by the amazing Paulo Freire text, *Pedagogy in Process: Letters from Guinea-Bissau* (London: Writers and Readers Publishing Cooperative, 1978), in which Freire corresponds with the revolutionary leadership in Guinea-Bissau (Amilcar Cabral and comrades) about how to establish an educational system to further their aims of decolonization.

26 James Baldwin, "No Name in the Street," in *The Price of the Ticket: Collected Nonfiction 1948-1985* (New York: St. Martin's, 1985), 473.