

# CAPITALISM, ANTI-BLACKNESS, AND THE LAW: A VERY SHORT HISTORY

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*Jonathon Booth\**

Six centuries ago, capitalism and white supremacy arose hand in hand from the Atlantic Ocean; these twinned structures have together defined much of human history ever since. The practice of racism and the meaning of race have shifted repeatedly over the centuries, but anti-blackness has remained ever-present. This relationship has been traced and theorized by W.E.B. Du Bois, Cedric Robinson, Thomas Holt, and Sylvia Winter, among many others.<sup>1</sup>

For thousands of years Europeans have been familiar with the populations to their south and east. Long before Marco Polo, European kingdoms and empires had traded and fought wars against other powers in Asia and Africa. Though these distant partners and rivals had different skin tones, these differences were not hugely meaningful. In the fifteenth century, however, as Spanish and Portuguese ships learned to sail along the coast of Africa, south of Cape Bojador and later across the equator, skin color began to be imbued with special significance in European social thought and, significantly, in law.

The clearest example of this monumental shift occurred in Spain. Europeans had long held slaves but before the fifteenth century, that slavery was never racialized. As Iberians began to travel to western Africa, there were still large numbers of slaves from Eastern Europe and the Caucasus in Spain. Coincidentally, this source of enslaved humans began to dry up after the conquest of Constantinople, just as Spanish traders began to bring enslaved Africans back to Europe in increasing numbers. As Debra Blumenthal shows, Spanish law clearly forbade the enslavement of Catholics, and many of the first captured Africans brought to Spain received trials to determine their religious status. Soon, however, Spanish authorities began to accept black skin as *prima facie* evidence of non-Christianity. If a captive was African, he was enslaveable; no trial was necessary. Suddenly, then, the law attached meaning to skin color to help buttress an exploitative and expanding system of slavery. This order of events, in which law created racial meaning in the service of exploitation, would be repeated over the coming centuries in the Western Hemisphere.

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\* Ph.D. candidate, Harvard University. J.D., Harvard Law School.

1. For more examples, see the bibliography that follows.

This year marks the four-hundredth anniversary of the arrival of the first twenty enslaved Africans in Virginia. But those unfortunate men were neither the first Africans to be enslaved in what is now the United States – enslaved Africans were held in Spanish Florida as early as 1565 – nor the first enslaved in the British Empire. To see the origins of hyper-exploitative slavery we must look to the Caribbean. It was in the English colony of Barbados that slave codes first defined racial hierarchy in the service of a growing economy that exported sugar to sweeten the tea and coffee of European consumers. For example, Barbados's first slave and servant code allowed enslaved Africans, but not European servants, to be captured and whipped by any freeman who would receive a reward – paid in sugar – for his work. The Barbadian slave code was copied in other Caribbean slave colonies, such as Jamaica, and later in South Carolina and Virginia. The English planters of Barbados aimed to profit by producing sugar, but the economic and legal structures they built were necessarily rooted in anti-blackness.

The legal development of slavery in Virginia shows how race and gender intersected in crucible of capitalism. Kathleen Brown, a professor of history at the University of Pennsylvania, shows that in Colonial Virginia, black women were subject to a poll tax, but white women were not. The legal distinction was made on the theory that black women, like black men, were productive laborers growing tobacco for export. White women, on the other hand, were seen as wives and adjuncts to their free husbands and their domestic labor considered unproductive. Virginia law supported an export economy by drawing a line not only between black and white Virginians but between black women and white women.

By the mid-nineteenth century, Virginia's most important export was no longer tobacco but rather enslaved people. In the half century after American independence the slave economy expanded rapidly, propelled by the invention of the cotton gin and the violent expulsion of indigenous people from the Mississippi Valley. The Deep South offered some of the richest cotton land in the world, all that was needed was enslaved people to work in the newly created labor camps. With the transatlantic slave trade banned in 1808, these enslaved workers came from the Upper South. Whether they were marched across the Appalachian Mountains or taken by sea, most ended up in the vast slave markets of New Orleans where the wealthiest people in America purchased them and put them to work. The vast demand for enslaved laborers in the Mississippi Valley transformed slavery in the Upper South. The former tobacco plantations now raised children for export. The forced labor of these people made cotton America's most valuable export, and King Cotton's reign of terror lasted another half century.

Between 1861 and 1865 all four million enslaved black Americans won their freedom and by 1868 all had, formally, the same rights as white Americans. The large political and economic gains achieved by black Southerners during Reconstruction were rolled back through open violence. Assassinations, lynchings, and massacres perpetrated by white Southerners – and ignored by the federal government – made formal guarantees of rights for black Southerners a dead letter. At the same

time, the New South still required black labor in the cotton economy. Labor relations shifted immensely. Gang labor and the whip was eliminated – except for those convicted of crimes – but white supremacy continued to structure the law and economy. Since no land was redistributed after the Civil War, many black Southerners were left with the perpetual peonage of sharecropping, growing cotton on land they did not own and being cheated year after year. Others had their labor requisitioned by more direct state intervention. Newly created police forces arrested thousands of black Southerners who were convicted of minor crimes and sent to the chain gang or leased to private corporations. In addition to the racist enforcement of neutral laws, this new, post-slavery period necessitated new race-based laws that maintained white supremacy. One telling example is the new technology of streetcars which were generally segregated, but with an exception for black nurses taking care of white children. As always, the law defined race and defined power.

Massive economic changes have similarly transformed our post-Civil Rights Movement era. Even with equal rights more firmly protected in law, anti-blackness still structures the economy and shapes law enforcement. Notably prison profiteers such as Securus and the GEO Group profit from the state violence of mass incarceration. What is more, illegal discrimination in housing, lending, and hiring remains endemic and makes enormous profits for banks and other corporations.

Despite the pervasiveness of anti-blackness in our history, moments of successful resistance shine through. In a speech at the 1893 Chicago World's Fair, just five years after slavery was finally abolished in Brazil, Frederick Douglass reflected on his long and transformative life. He gave thanks to all those who had fought for abolition, from David Walker to William Wilberforce to John Brown. But he concluded "we owe incomparably more to Haiti than to them all."

Like Douglass, we must avoid the temptation of fatalism, and must remember that every moment of the history of anti-blackness also featured resistance. From the earliest slave revolts to the civil rights movement and on through the prison strikers of today, millions of people have fought against the exploitation of capitalism and for black liberation. For that reason, a remembrance of Fred Hampton Jr. on the fiftieth anniversary of his assassination is included in this volume. May his memory, and the memory of the freedom fighters who have come before and since, propel us forward into a new era of resistance.

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