

CONTAINING THE RAINBOW COALITION: Political Consequences of Racialized Incarceration¹

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Controlling non-white bodies and relegating persons of color to subordinate economic, social, and political positions have been prominent features in American politics since the founding days of the republic. A vast body of research reveals that politicians and policymakers, across multiple generations, have either used or relied on the law and the criminal justice system as tools in furtherance of these aims (e.g. Alexander 2010; Garland 2002; Lopez 2010; Murakawa 2008; Scheingold 1984; Sidanius and Pratto 1999; Simon 2007; Wacquant 2000; Weaver and Lerman 2010; Western 2006).³ These studies argue that crime and punishment have been weaponized against some racial and ethnic minority groups in response to perceived, imagined, or made-up threats to white hegemony. As a result, African Americans and Latinos are the most incarcerated groups in the U.S. population. The incarceration rate of African Americans in state prisons is more than five times the rate of whites. Latinos are imprisoned at a rate that is 1.4 times that of whites (Nellis 2016).

Academic researchers have produced numerous analyses and explanations of the origins and rapid expansion of the carceral state, how it came to be racialized, how the racialization of crime and punishment influenced electoral politics, and how the criminal justice system is often a more consequential agent of socialization for young African Americans and Latinos than are the family, schools, and places of employment.⁴ The collective findings of these studies provide us with three general conclusions: 1) Racialized mass incarceration is a system of oppression that functions like and has effects similar to slavery and the system of oppression in the Jim Crow south; 2) The racialization of law and order is a powerful political wedge issue that has been used to generate a backlash to the civil rights and New Deal agendas and influenced the evolution of the Democrat and Republican parties; and 3) The most consequential effects of mass incarceration are social and economic.

Researchers have paid much less attention to *political* outcomes and the political legacies of the hyper-racialized carceral state. This is especially so with regards to race and ethnic politics. This essay seeks to address this deficit in our knowledge. Here I draw attention to and examine how racialized mass incarceration is a direct impediment to African American and Latino political power. Specifically, I explore how the nexus between incarceration and disenfranchisement threatens and emerging African American and Latino led multiracial political coalition that has the potential to reconfigure American government and politics at the national, state, and local levels.

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³ For a comprehensive review of this literature, see Lerman, Amy E. and Vesla M. Weaver. 2013. “Race and crime in American Politics: From Law and Order to Willie Horton and Beyond,” in Sandra Bucerius and Michael Tonry, eds. *The Handbook of Ethnicity, Crime, and Immigration*. New York: Oxford University Press.

⁴ See for example, Alexander 2010; Butler 2010; Garland 2002; Horton 2005; Lerman and Weaver 2013; Lopez 2010; Murakawa 2008; Scheingold 1984; Simon 2007; Wacquant 2000; Weaver 2007; Weaver and Lerman 2010; and Western 2006.

When Barack Obama was elected president of the United States in 2008, his victory became the most visible representation of a political transformation that began with the passage of the Voting Rights Act of 1965. The Voting Rights Act dismantled state institutions and state-sanctioned practices that prevented African Americans from voting, holding elected office, and otherwise participating in American democracy. Shortly after its enactment, there was a dramatic increase in the number of black voters, which led to equally dramatic increases in the number of black elected public officials. For example, in 1965 there were just three African American state legislatures in the entire South. By 1985, that number had grown to 176 (Grofman and Handley 1991). Today, there are more than 650 African American state legislators nationwide (National Conference of State Legislatures). Obama's ascendancy to the presidency signaled a momentous transformation of such a magnitude that even our most important and most powerful institutions were now accessible to that class of persons once regarded as "beings of an inferior order."⁵

For political scientists, Obama's election was representative of another notable transformation. After the 2000 census, California became the second state after Hawaii to have a non-white majority population, and New Mexico and Texas were projected to quickly follow suit, and indeed, they did. By 2005, both New Mexico and Texas also had transitioned to majority minority states. So, by the time of Obama's election, it had become clear that the U.S. was undergoing demographic changes that had the potential to reorder and reconfigure American politics in ways that were barely imaginable just 10-15 years before. Most important among these changes was the U.S. Census projections that the country would become minority white by 2045 (Frey 2018). Obama became the visible embodiment of a version of the aphorism "demographics are destiny," which holds that from the nation's population transformation would emerge a powerful Latino and black-led political coalition that would lead to Democratic Party dominance in presidential elections and result in more black and Latino elected officials at all levels of government.

When we disaggregate demographic data and examine population change patterns at the state level, it is clear to see that as groups, African Americans and Latinos have the potential, either individually or as part of a coalition, to significantly alter politics as we currently know it.

There are six states in which African Americans make up greater than 25% of the state's total population (MS, GA, LA, MD, SC, and AL). Interestingly, just one of these states is a state routinely controlled by the Democratic Party, the party with which the overwhelming majority of Africans Americans identify. In nine additional states, African Americans are between 15 and 22% of the state's population (see Table 1). As for Latinos, there are five states in which Latinos are more than 25% of the total population (NM, CA, TX, AZ, and NV). Three of these states (NM, CA, and NV) have been won by the Democrats in last three presidential elections. Latinos are between 15-24% of the population in six other states (see Table 2).

Combining the African American and Latino populations, we get 20 states in which the combined population is 25-52% (Table 3).⁶ These states have a combined 312 electoral college votes, 42 more than is necessary to win the presidency. Five of these states were battleground or swing states in each of the last three presidential elections (CO, FL, NV, NC, and VA). Obama won all of them in

⁵ *Dred Scott v. Sanford*, 60 U.S. 393, 19 Howard 393 (1857).

⁶ It is reasonable and justifiable to combine the African American and Latino populations, as these groups are overwhelmingly Democratic in their party affiliation and there is a long history of effective African American-Latino electoral and governing coalitions, especially in municipal government. In addition, African American and Latino caucuses in Congress and state legislatures often join forces to advance agenda items important to both groups. See for example, Browning, Marshall, and Tabb (1984); Clarke *et al.* (2006); and Hero and Preuhs 2013).

2008, and all of them except North Carolina in 2012, losing it by two percentage points. Hillary Clinton won three of the five battleground states in 2016 (CO, NV, and VA).

Obama's 2008 victory in North Carolina and Virginia was the first time a Democrat had carried those states in forty-two and forty-four years respectively. In both cases, the decisive factor was increased African American and Latino turnout. As a result, today North Carolina is considered a “toss-up” state that trending towards the Democrats. Also in 2008, Latino voters shifted away from the Republican Party in substantial numbers, which helped Obama win Colorado, Florida, Nevada, and New Mexico by large margins (Preston 2008). The African American and Latino vote was a factor in Clinton's 2016 loss in Florida and her losing the presidential election overall. It was not a shift to the Republicans by these voters that contributed to her defeat, however, it was lower black and Latino turnout.

Analyses by political scientist Thomas Schaller (2008) demonstrates how, because of the force of the combined African American and Latino vote, the Democratic Party can win the presidency without being competitive in the Deep South. The additional support the Democrats are gaining in the Southwest, the Mountain West, and the Midwest, especially among Latinos is more than sufficient to overcome any disadvantages they might have in the South. Obama's 2008 and 2012 wins in Colorado, Iowa, New Mexico, and Ohio, suggest that this is indeed a roadmap for Democratic Party presidential election success (Garcia Bedolla and Haynie 2013).

African Americans and Latinos also are poised to exercise political influence beyond presidential politics. For example, these two groups are sizeable proportions of the population of major urban and metropolitan areas in the states in which the combined African American and Latino population is between 25 and 52% (Table 3). In addition to the 40 U.S. Senate seats, there are 272 U.S. House of Representatives and 2,956 state legislative districts in these states.⁷ These are potentially profitable foundations from which African Americans and Latinos might increase their presence and influence, and assume political leadership in federal state and local governing and policymaking institutions. As James Jennings (1994) has put it, “The emergence of political coalitions among these communities of color could represent the basis for conceptualizing and producing different and effective public policy paradigms...”(9).

Racialized Mass Incarceration a Roadblock to Political Power

Racialized mass incarceration is a direct impediment to African American and Latino political power. There is a nexus between incarceration and voter disenfranchisement that is applying brakes to a powerful political locomotive that has the potential to set the pace and determine winners and losers in American politics for the foreseeable future. This nexus requires more scholarly attention and analysis.

According to a Sentencing Project report, in 2016 there were more than 6 million people, or 2.5 percent of the total U.S. voting age population were disenfranchised because of a felony conviction (Uggens *et al.* 2016). Incarceration and disenfranchisement are not randomly or equally distributed across racial and ethnic groups. As noted above, African Americans and Latinos are the most incarcerated groups in the U.S. population. The incarceration rate of African Americans in state prisons is more than five times the rate of whites. Latinos are imprisoned at a rate that is 1.4 times

⁷ It is important to note that African American and Latino influence in legislative districts is often limited and impeded as a result of gerrymandering and the district drawing process.

that of whites (Nellis 2016). Rates of African American and Latino incarceration vary widely by state. The prison population is more than 50% black in twelve states (AL, DE, GA, IL, LA, MD, MI, MS, NJ, NC, SC, and VA). Latinos are disproportionately incarcerated in four states (MA, CT, PA, and NY).

African Americans and Latinos are also disproportionately disenfranchised. For example, nearly 7.5% of African American adults are disenfranchised compared to just under 2% of the non-black population. Like incarceration rates, African American disenfranchisement also varies significantly by state. There are four states (FL, KY, TN, VA) in which more than 20% of African Americans are disenfranchised (Uggens *et al.* 2016).

It is particularly noteworthy that incarceration and felon disenfranchisement rates for African Americans and Latinos are most pronounced in the very states where these groups collectively have the greatest potential for emergent political power and influence. In seven of these states (AL, AZ, DE, FL, MS, NV, and VA) individuals who have completed their sentence do not automatically regain the right to vote, in some cases they may never (Uggens *et al.* 2016). These disparities have real and significant political consequences. They play a role, perhaps a decisive one, in election outcomes. For example, Donald Trump's margin of victory in eight states was lower than the number of disenfranchised felons in those states.

The outcome of the 2016 presidential election alone makes a powerful case for why more scholarly attention should be directed at the outcomes and the political legacies of the hyper-racialized carceral state. If we look beyond presidential and national politics, however, we are likely to find even a more powerful case. State and local government are far more consequential to the day to day lives of ordinary citizens and politics at these levels are often ignored and overlooked.

African Americans and Latinos are well-positioned to influence or even determine how laws and policies and economic resources are used by politicians and governing institutions to respond to the needs of society, especially the needs of those groups that have been previously left behind, or all together left. Political scientists have long paid attention to racial and partisan gerrymandering as a means of disenfranchising voters of color. In recent years, considerable attention has been directed at the use of voter identification laws as another means of denying citizens the right to vote. My intent here has been to direct our attention to mass racialized incarceration as tool of disenfranchisement, and to call for more detailed analyses at all levels of government. In other words, we need to move from the theoretical to the concrete, and from an almost exclusive focus on national politics to paying attention to state and local dynamics as well.

TABLE 1: States In Which Blacks Are At Least 15% Of The Total Population

	%
Mississippi	38
Georgia	32
Louisiana	32
Maryland	30
South Carolina	29
Alabama	27
Delaware	22
North Carolina	22
Virginia	20
New York	18
Florida	17
Tennessee	17
Arkansas	16
New Jersey	15
Illinois	15

Source: World Population Review. *Black Population by State, 2017*. Retrieved from <http://worldpopulationreview.com/states/black-population/>.

TABLE 2: States In Which Latinos Are At Least 15% Of The Total Population

	<u>% of State Population</u>	<u>% of State Latino Population Native Born</u>
New Mexico	38%	61%
California	39	64
Texas	39	70
Arizona	31	72
Nevada	28	61
Florida	24	52
Colorado	21	76
New Jersey	19	58
New York	19	61
Illinois	17	64
Connecticut	15	74

Source: Pew Research Center. Demographic and Economic Profiles of Hispanics by State and County, 2014. Retrieved from <http://www.pewhispanic.org/states/>.

TABLE 3: The Percentage of the State's Population that is Black and Latino Combined*

	<u>Black and Latino % of State Population</u>	<u>Electoral College Votes</u>	<u># of U.S. House Seats</u>
Texas	52%	38	36
New Mexico	51	5	3
California	43	55	53
Florida	41	29	27
Mississippi	41	6	4
Maryland	39	10	8
Louisiana	37	8	6
Nevada	37	6	4
New York	37	29	27
Arizona	36	11	9
New Jersey	34	14	12
South Carolina	33	9	7
Georgia	32	16	14
Illinois	32	20	18
Alabama	31	9	7
Delaware	31	3	1
North Carolina	31	15	13
Virginia	29	13	11
Connecticut	27	7	5
Colorado	25	9	7
Total		312	272