

# Legal Infrastructures of Mass Incarceration: Political Economy and Penal Expansion

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This article explores how legal infrastructures, shaped by political economy, structurally support and legitimize mass incarceration in the United States. Using a scientific narrative review and descriptive analysis method, this study examines scholarly literature, legal documents, and policy texts published between 2021 and 2025. Sources were selected for their focus on the intersection of legal systems, carceral expansion, and economic incentives. The study draws from interdisciplinary fields including critical legal studies, criminology, and economic sociology to analyze how legal frameworks have evolved to sustain mass incarceration. The review identifies a complex legal architecture—including statutes, court decisions, administrative routines, and bureaucratic procedures—that facilitates the growth of incarceration. Key findings reveal that legal mechanisms such as mandatory minimums, plea bargaining, parole revocation, and risk assessments operate systematically to entrench penal expansion. Moreover, public-private partnerships, lobbying, campaign financing, and procurement laws embed profit motives within legal frameworks, turning punishment into a commodified enterprise. While reform efforts such as bail reform and sentencing revisions have emerged, they often remain constrained by the broader legal and political-economic system. Legal infrastructures are not merely reactive to crime but are central instruments in the construction and maintenance of the carceral state. Addressing mass incarceration requires dismantling these legal foundations and reimagining justice systems that prioritize equity, dignity, and social well-being over punishment.

**Keywords:** Mass incarceration, legal infrastructure, political economy, penal expansion, privatization, criminal justice reform, carceral state, public-private partnerships.

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## 1. Introduction

Mass incarceration has emerged as one of the most defining features of contemporary justice systems, especially in the United States, where the scale and intensity of punitive practices have outpaced those of most other industrialized democracies. While incarceration is ostensibly a tool of public safety and legal deterrence, its expansion has been

disproportionately targeted toward marginalized communities, particularly along racial and class lines. In the U.S., the carceral population has ballooned over the last fifty years, fueled by policy choices rather than direct crime rates. This phenomenon is not merely a reflection of penal severity, but of a broader set of legal, political, and economic dynamics that undergird a complex system of control. As Rice explains, mass incarceration reflects systemic responses that are deeply intertwined



with societal anxieties and mechanisms of racial and economic stratification (Rice, 2021). Globally, while incarceration practices vary, the American model of hyper-incarceration has influenced penal policies in other jurisdictions, often legitimized through legal doctrines, administrative mandates, and economic incentives.

Central to understanding the persistence and growth of mass incarceration is the concept of legal infrastructures. These infrastructures encompass the formal and informal mechanisms by which law organizes, facilitates, and legitimizes carceral expansion. They include statutes that establish mandatory minimums, court practices like plea bargaining, administrative regulations governing parole and probation, and institutional routines that normalize punitive responses to social issues. These legal instruments do not operate in isolation but form a coordinated architecture of control. As Simon points out, the legitimacy of the carceral state often derives from legal-rational myths that confer surplus authority on punitive institutions, framing them as efficient, neutral, and necessary (Simon, 2025). This creates a legal environment where mass incarceration is not only possible but normalized as a policy solution.

The aim of this article is to examine how legal systems structurally support and legitimize mass incarceration within the broader context of political economy. Rather than focusing solely on individual laws or isolated judicial rulings, this study adopts a structural perspective that highlights the embeddedness of penal expansion within legal norms, institutional routines, and administrative logic. The emphasis is on how law itself becomes an instrument of social ordering, responsive to political pressures, economic imperatives, and ideological currents. By investigating the intersection of legal frameworks with political economy, the article seeks to uncover the material and symbolic functions that incarceration performs within late-capitalist societies.

This article employs a scientific narrative review design using a descriptive analysis method. Rather than engaging in statistical meta-analysis, the review synthesizes existing scholarship, recent empirical studies, and theoretical contributions to provide a comprehensive account of the legal mechanisms and economic logics sustaining the carceral state. Sources published between 2021 and 2025 have been selected to

ensure the study reflects the latest scholarly debates, policy reforms, and activist interventions in the field. The analysis includes both academic literature and legal documents, allowing for an integrated understanding of how law and economy converge in shaping penal systems.

The scope of the study is primarily U.S.-centric, given the country's unparalleled incarceration rates and the richness of its legal data. However, comparative insights are introduced where appropriate, particularly in relation to global trends influenced by the American penal model. The literature reviewed spans critical legal studies, criminology, economic sociology, and political theory. Particular attention is given to works that analyze the racialized and classed dimensions of incarceration, as well as the economic beneficiaries of penal expansion. As McKay notes, incarceration produces a stratified set of outcomes, benefitting some groups economically and politically while severely marginalizing others (McKay & Darity, 2024).

The central research questions guiding this review are as follows: How do legal infrastructures function as enabling conditions for mass incarceration? In what ways does the political economy influence the creation and maintenance of these infrastructures? What are the economic and ideological rationales behind penal expansion, and how are they mediated through legal forms? And finally, what prospects exist for dismantling or transforming these legal foundations in pursuit of decarceral futures? These questions are addressed by drawing on an interdisciplinary body of literature that interrogates the material and symbolic power of law in shaping social outcomes.

## 2. Methodology

This study follows a scientific narrative review design with a descriptive analysis method to examine the legal infrastructures supporting mass incarceration, particularly focusing on how political economy and penal expansion interact within legal systems. The review is primarily qualitative in nature, drawing upon a variety of scholarly sources, including peer-reviewed journal articles, books, legal cases, reports, and policy documents. The research design allows for a comprehensive analysis of the interplay between legal frameworks and socio-political systems, while critically reviewing and synthesizing key studies in the field. The

scope of the study centers on the legal and political-economic dynamics within the U.S. context but also includes comparative perspectives where relevant. The time frame for the review focuses on the period from 2021 to 2025, capturing the latest academic insights and developments related to legal reforms, incarceration policies, and the political economy of punishment. The choice of this time frame ensures that the study is grounded in contemporary debates and developments, considering recent changes in both penal practices and political landscapes, such as shifts in criminal justice reform, the rise of prison privatization, and evolving debates around abolitionist movements.

Data for this review were collected through an extensive search of academic databases such as JSTOR, Google Scholar, HeinOnline, and Scopus. The search strategy was designed to capture articles, books, and case law studies from the years 2021 to 2025. Keywords such as “legal infrastructures of mass incarceration,” “political economy of punishment,” “penal expansion,” “privatization of prisons,” and “critical legal studies and incarceration” were used to identify relevant sources. In addition to academic articles, legal case studies, policy reports, and official documents from governmental and non-governmental organizations were incorporated to enrich the analysis. The inclusion criteria were set to ensure that only peer-reviewed studies published between 2021 and 2025 were considered, guaranteeing that the review is both contemporary and relevant to current discourse in the field. Exclusion criteria involved studies older than 2021, articles without substantial legal or political economic analysis, and works that were not available in English or had insufficient academic rigor.

The analysis for this study was conducted using a descriptive analytical approach, which involved synthesizing the findings from a wide range of sources to explore the complex relationship between legal systems and mass incarceration. This method involved systematically categorizing the literature according to key themes, such as the historical development of mass incarceration laws, the role of private actors in penal systems, and the political economic forces shaping these legal infrastructures. A thematic approach was employed to identify recurring legal practices, statutes, and judicial decisions that have contributed to penal expansion. The analysis also considered the economic implications of

such legal systems, examining how they reinforce social inequalities and contribute to the profitability of the private prison industry. A critical lens was applied throughout the review, focusing on the intersectionality of race, class, and the legal system in maintaining mass incarceration. The findings were then synthesized into a narrative that offers an in-depth understanding of how legal infrastructures function within the broader political economy of mass incarceration. Additionally, all articles and case studies included in the review were analyzed for their methodological rigor and relevance, ensuring that only the most pertinent and recent scholarship was used to form the conclusions.

### 3. Conceptual and Theoretical Framework

The concept of legal infrastructure serves as a foundational lens through which this article analyzes the entrenchment of mass incarceration. Legal infrastructure refers to the formal statutes, institutional practices, administrative procedures, and judicial doctrines that collectively structure the criminal legal system. These mechanisms do more than simply codify punishment—they actively shape the contours of state power, mediate access to justice, and legitimize carceral outcomes. As Bellin argues, the legal system itself has become a central agent in constructing a “mass incarceration nation,” not merely responding to crime but manufacturing criminality through selective enforcement and systemic bias (Bellin, 2022). Importantly, legal infrastructure also encompasses informal practices, such as discretion in policing or prosecutorial strategies, that often escape legislative scrutiny but have profound consequences for incarceration rates.

Understanding legal infrastructure in isolation, however, risks overlooking the broader systemic forces that give it shape and direction. The political economy of punishment offers a critical framework for situating legal infrastructures within the dynamics of capital accumulation, state formation, and social control. This perspective, developed by scholars such as David Garland, Loïc Wacquant, and Michelle Alexander, views penal policy as deeply embedded in economic structures and political agendas. Rather than being a neutral response to crime, punishment is seen as a strategic tool for managing populations rendered surplus or threatening under neoliberal capitalism. As Scott

explains in the context of Louisiana, carceral expansion operates not just as a reaction to social disorder but as a political-economic project that sustains local economies, secures political power, and reinforces racial hierarchies (Scott et al., 2023).

Neoliberalism plays a particularly significant role in shaping the current legal-punitive landscape. Under neoliberal governance, the state's functions are reoriented toward market logics, efficiency, and privatization. This shift has coincided with an erosion of social safety nets and an increase in punitive interventions. Legal reforms that emphasize deterrence, cost-efficiency, and individual responsibility often mask broader structural inequalities. As Menon notes, even the emotional expressions of remorse and rehabilitation are filtered through affective economies shaped by neoliberal values, where legal legitimacy is tied to performances of compliance rather than structural redress (Menon, 2024). The penal system thus becomes a stage for moral regulation, where law disciplines not only behavior but subjectivity itself.

The theory of racial capitalism further elucidates the legal-economic nexus of incarceration. Rooted in the work of Cedric Robinson and developed by contemporary scholars, this theory posits that capitalism and racism are co-constitutive, producing hierarchies that are maintained through both economic and legal means. Mass incarceration, from this perspective, is not merely an outcome of criminal policy but a racialized economic strategy. As Mason argues, economic research on race and crime has been historically marginalized, reinforcing the invisibility of racialized exploitation within penal and economic institutions (Mason et al., 2022). Legal infrastructures thus serve as mechanisms for reproducing racial subjugation, often under the guise of objectivity and neutrality.

Another important theoretical current is governance through crime, a concept that describes how crime control becomes a primary mode of governance across various domains of life. Under this model, legal infrastructures extend beyond the criminal justice system into schools, housing, immigration, and labor markets, institutionalizing surveillance and punishment as routine administrative practices. As Lurigio observes, the entrenchment of mass incarceration over the past five decades reflects not a failure of legal rationality, but

its strategic deployment to consolidate power and manage marginalized populations (Lurigio, 2024).

This article situates itself at the intersection of critical legal studies, criminology, and economic sociology. Critical legal studies challenge the assumption that law is autonomous and apolitical, emphasizing instead its embeddedness in social and economic power structures. Criminology provides empirical and theoretical tools for understanding the logics and outcomes of penal practices, while economic sociology offers insight into the institutional dynamics that link markets, governance, and legal regimes. As Martínez demonstrates, incarceration not only affects individuals' liberty but also shapes their political beliefs and civic participation, revealing the profound entanglements between legal authority, citizenship, and democracy (Martínez, 2024). By integrating these theoretical perspectives, the article offers a multidimensional analysis of how legal infrastructures function within a political economy that both demands and benefits from mass incarceration. It emphasizes the dual role of law as both a technique of governance and a source of legitimacy, tracing how legal mechanisms facilitate penal expansion while masking the inequalities they produce. In doing so, it contributes to a growing body of scholarship that seeks to deconstruct the legal foundations of carceral power and imagine alternative forms of justice and social organization.

#### 4. Historical Evolution of Legal Frameworks Supporting Mass Incarceration

The legal architecture of mass incarceration in the United States has deep historical roots, shaped by political calculations, public anxieties, and institutional interests. Beginning in the late 20th century, the state deployed a series of laws and policies that dramatically expanded the scope and scale of punishment. These legal transformations were not merely incidental responses to crime trends but deliberate strategies that institutionalized incarceration as the central mode of social control. One of the most pivotal moments in this trajectory was the launch of the War on Drugs in the 1980s, a federal campaign that criminalized drug use with unprecedented intensity. Laws such as the Anti-Drug Abuse Act of 1986 introduced mandatory minimum sentences for drug offenses, often tying sentencing length to the type and amount of substance involved.

These laws removed judicial discretion, forcing judges to impose lengthy prison terms regardless of individual circumstances. As Bellin explains, such mandatory minimums effectively transferred sentencing power from judges to prosecutors and lawmakers, contributing to the rapid escalation of prison populations (Bellin, 2022).

The “three-strikes” laws that proliferated during the 1990s further entrenched punitive legal norms. Under these statutes, individuals convicted of a third felony—regardless of severity—could receive life sentences. These laws were often passed in the wake of high-profile crimes and framed as necessary protections for society. However, they disproportionately affected low-income and minority populations, who were more likely to accumulate multiple convictions under over-policing and prosecutorial overreach. Beckett emphasizes that these laws were part of a broader shift away from rehabilitation toward incapacitation, rooted in a political climate that increasingly equated public safety with mass incarceration (Beckett, 2022). Legislative acts such as the 1994 Crime Bill institutionalized these punitive trends at the federal level by incentivizing states to adopt harsher sentencing policies and by funding the construction of new prison facilities.

Administrative practices also played a central role in consolidating carceral power. Parole boards began to adopt more conservative criteria for early release, influenced by political rhetoric and public pressure. Meanwhile, probation systems increasingly became avenues for incarceration rather than alternatives to it. As Lurigio notes, the parole and probation systems evolved into mechanisms of control that mirrored the prison system, with technical violations—such as missing appointments or failing drug tests—resulting in re-incarceration without new criminal charges (Lurigio, 2024). These systems disproportionately targeted people with limited economic resources, for whom compliance with burdensome supervision conditions was often unattainable.

Judicial decisions also reinforced the expansion of penal power. Supreme Court rulings such as *Harmelin v. Michigan* (1991) upheld the constitutionality of life sentences for drug possession, effectively legitimizing the harshest penalties for non-violent offenses. At the same time, courts increasingly deferred to legislative authority in matters of criminal justice, allowing

lawmakers to shape punitive policy with minimal constitutional restraint. As Simon argues, this judicial deference helped construct a myth of legal rationality in which carceral expansion appeared as the product of objective legal process rather than political ideology (Simon, 2025).

The racialized and class-based dimensions of these legal frameworks are impossible to ignore. From their inception, drug laws and sentencing policies were designed and enforced in ways that disproportionately affected Black and Latino communities. Crack cocaine offenses, for example, carried significantly harsher penalties than powder cocaine offenses, despite the chemical similarity of the substances and the fact that usage rates were comparable across racial lines. This disparity was not accidental but a reflection of how law was used to criminalize poverty and racialized urban space. As McKay explains, mass incarceration operates as a stratification system, assigning social and economic penalties that accumulate across generations (McKay & Darity, 2024). These penalties include not only imprisonment but also the loss of voting rights, barriers to employment, and diminished access to housing and education.

The historical evolution of mass incarceration has also been shaped by public-private partnerships, which legally entrenched the profit motives of incarceration. Contracts with private prison companies such as CoreCivic and GEO Group often included occupancy clauses that required states to keep prison beds filled—a contractual arrangement that effectively criminalized economic failure. As Scott shows in his analysis of Louisiana, the intertwining of public policy and private interest has institutionalized a carceral economy, particularly in rural areas where prisons serve as economic anchors (Scott et al., 2023). These dynamics illustrate how legislative and administrative legal frameworks not only authorize punishment but also generate economic incentives that make mass incarceration politically and financially advantageous.

The cumulative effect of these laws, policies, and judicial decisions has been the construction of a vast and rigid legal infrastructure that normalizes incarceration as a default response to social harm. This infrastructure has proven remarkably resistant to reform, in part because it is so thoroughly embedded in the routines of legal practice and in part because it serves powerful political



and economic interests. The historical trajectory of these frameworks reveals that mass incarceration was not a spontaneous phenomenon but a legally orchestrated project, built piece by piece through statutes, court rulings, and administrative codes. As Martínez emphasizes, the consequences of this legal regime extend beyond imprisonment itself, affecting the political consciousness and civic participation of entire communities (Martínez, 2024). Understanding this history is essential for any attempt to dismantle the legal structures that sustain carceral expansion.

### 5. Legal Mechanisms and Bureaucratic Rationality in Penal Expansion

Beyond the headline-grabbing legislation and court decisions that dominate public discourse on incarceration, it is the everyday workings of the criminal legal system—the legal mechanisms and bureaucratic routines—that quietly sustain mass incarceration. These processes operate through standardized procedures such as plea bargaining, parole revocation, and the enforcement of probation conditions. While often framed as tools of efficiency or rehabilitation, these mechanisms frequently function as traps, locking individuals into cycles of control and punishment. Plea bargaining, for example, accounts for the resolution of over 90% of criminal cases in the U.S. The pressure to accept a plea deal, often under the threat of drastically harsher sentences if a defendant goes to trial, renders due process largely symbolic for many defendants. As Bellin explains, this procedural shortcut shifts power away from neutral adjudication and places immense discretion in the hands of prosecutors, reinforcing a system in which legal outcomes depend more on institutional expediency than on justice (Bellin, 2022). Similarly, parole and probation systems, while theoretically alternatives to incarceration, often operate as extensions of it. Conditions of supervision—such as regular check-ins, curfews, employment requirements, and drug testing—are enforced with little regard for the socioeconomic realities of the supervised individuals. Violations, even when minor or technical, can result in immediate re-incarceration. Lurigio highlights how these systems, far from alleviating carceral burdens, serve as revolving doors that funnel individuals back into prison for conduct that would not otherwise be criminalized (Lurigio, 2024). These bureaucratic

mechanisms operate under the guise of neutrality but in practice serve to entrench punitive outcomes, especially for the poor and marginalized.

Technocratic governance adds another layer of complexity to the bureaucratic rationality of penal expansion. Risk assessments, algorithmic tools, and standardized metrics are increasingly used to guide decisions about bail, sentencing, and parole. While often presented as objective and evidence-based, these tools are built on data sets that reflect past discriminatory practices, thus encoding bias into seemingly neutral procedures. As Simon notes, the legitimacy of these systems is derived from their technical appearance, even when they reinforce deeply inequitable outcomes (Simon, 2025). The carceral bureaucracy, in this sense, is not simply inefficient or flawed—it is a rationalized apparatus designed to produce and reproduce specific social hierarchies.

Legal discretion within bureaucratic frameworks also contributes to the amplification of incarceration. Judges, probation officers, and parole boards exercise significant authority in determining outcomes, but their decisions are often constrained by institutional cultures that prioritize risk aversion and public safety over rehabilitation. Menon illustrates how even parole hearings are shaped by affective expectations, with decisions hinging on whether individuals can perform the right emotional cues—remorse, compliance, deference—rather than on any substantive criteria of change (Menon, 2024). This reveals how legal authority is not only exercised through formal law but also through informal norms and expectations embedded in institutional practice.

Civil-criminal entanglements further complicate the landscape of legal control. Civil asset forfeiture laws, for instance, allow law enforcement agencies to seize property suspected of being connected to criminal activity, often without requiring a criminal conviction. These laws blur the boundaries between civil and criminal justice, effectively enabling punishment without due process. Immigration law is another domain where civil proceedings are used to impose quasi-criminal sanctions, including detention and deportation. As Beckett observes, these entanglements reflect a broader shift toward hybrid legal mechanisms that extend carceral logic into realms traditionally considered outside the scope of criminal law (Beckett, 2022). Child

welfare laws also intersect with criminal legal systems, with parents facing the loss of custody due to criminal allegations or incarceration, creating a cascading set of consequences that compound the harms of imprisonment.

The bureaucratic rationality underpinning these legal mechanisms is characterized by routinization, predictability, and institutional inertia. Yet within this logic lies the power of the carceral state to normalize and expand its reach. As Scott's study of Louisiana reveals, bureaucratic processes are not merely administrative—they are deeply political, shaping who gets punished, how, and to what extent (Scott et al., 2023). These mechanisms work silently, often hidden from public view, yet they are instrumental in sustaining mass incarceration.

In sum, the legal mechanisms and bureaucratic rationality of penal expansion demonstrate that the carceral state is not solely the product of explicit law-and-order politics or dramatic legal reforms. It is also built and maintained through mundane procedures, institutional habits, and administrative codes that function with the veneer of legal objectivity. These processes not only sustain mass incarceration but also legitimize it, embedding punitive governance into the very structure of legal rationality. Recognizing the depth and complexity of these mechanisms is crucial to understanding the persistence of mass incarceration and imagining pathways to dismantle its legal foundations.

## 6. Political Economy and the Privatization of Punishment

The expansion of mass incarceration in the United States cannot be fully understood without a close examination of the political economy that supports and profits from the carceral system. Central to this dynamic is the increasing privatization of punishment, wherein legal frameworks and economic incentives converge to transform incarceration into a lucrative enterprise. Legal contracts between state governments and private correctional companies such as CoreCivic and GEO Group illustrate how the state delegates its punitive authority to corporate actors. These contracts often include occupancy quotas or "bed mandates" that legally obligate states to maintain a certain level of prison occupancy, regardless of fluctuations in crime rates or changes in public policy. As Scott demonstrates in his

analysis of Louisiana, these public-private partnerships embed carceral expansion into local economic planning, making incarceration a financial necessity for some communities (Scott et al., 2023). Such arrangements not only commodify imprisonment but also create powerful structural incentives to resist decarceration.

Regulatory loopholes further enable the proliferation of private prisons and detention centers. For instance, the use of administrative procedures to bypass legislative oversight allows contracts to be renewed and expanded without public accountability. In many states, privatized facilities are shielded from transparency laws that apply to public institutions, making it difficult to scrutinize their operations or hold them legally accountable for abuses. These gaps in regulatory oversight are not incidental—they are structured by legal design, permitting private actors to operate with considerable autonomy under the guise of legal compliance. As Bellin points out, this legal insulation creates a system in which punishment is driven not by democratic deliberation but by corporate interests embedded in legal doctrine (Bellin, 2022).

One of the most troubling aspects of the privatized carceral economy is prison labor, where incarcerated individuals are compelled to work for minimal or no compensation. Legal doctrines such as the Thirteenth Amendment exception clause, which permits involuntary servitude "as a punishment for crime," provide the constitutional foundation for this practice. In modern legal contexts, administrative policies mandate work requirements as part of incarceration, with contracts that link correctional industries to private companies, including those in manufacturing, agriculture, and technology. As McKay argues, this form of labor extraction reflects a broader stratification economy in which incarceration serves as a method of wealth generation for some while exacerbating inequality for others (McKay & Darity, 2024). In this context, the legal system does not merely punish—it facilitates exploitation under the pretense of correctional programming.

Lobbying efforts by private prison companies and their affiliates also play a decisive role in shaping penal policy. These companies invest millions in campaign contributions, political action committees (PACs), and direct lobbying to influence legislation at the state and federal levels. For example, laws that increase detention

durations, mandate the incarceration of certain categories of offenders, or restrict parole eligibility are frequently supported by lobbying groups tied to the corrections industry. As Martínez notes, the political influence exerted by carceral industries extends into electoral processes, policymaking, and even judicial elections, further entrenching the alignment between legal infrastructures and economic profit (Martínez, 2024). These political investments help produce a feedback loop in which laws generate more prisoners, and more prisoners generate greater profits.

Campaign financing is particularly insidious in its effects on local and state-level judicial and prosecutorial races. Prosecutors, who wield tremendous discretionary power, often receive financial backing from organizations aligned with punitive interests. These financial relationships shape not only electoral outcomes but also prosecutorial practices, with an emphasis on convictions, longer sentences, and high incarceration rates. As Menon explains, legal legitimacy in such contexts is often constructed through performances of punitive resolve, reinforcing public perceptions that incarceration is synonymous with justice (Menon, 2024). The legal apparatus thus becomes a stage for political posturing that serves both ideological and economic interests.

The economic logic of incarceration extends into the realm of procurement and litigation. Companies supplying everything from food services and medical care to surveillance technology and legal software profit from contracts tied to correctional institutions. These contracts are governed by legal procurement laws that often prioritize cost-efficiency over quality, leading to substandard services and frequent litigation. Yet even legal challenges to these conditions can be commodified. Class-action lawsuits, for instance, may lead to settlements that preserve the underlying structure of privatized services while offering financial penalties that companies treat as the cost of doing business. As Beckett argues, the entrenchment of carceral logics in procurement and litigation processes illustrates how deeply economic considerations have permeated the legal foundations of punishment (Beckett, 2022).

Moreover, the political economy of mass incarceration is not limited to traditional carceral facilities. Detention centers for immigrants, operated under civil rather than criminal law, are often contracted to private companies

under similarly opaque legal frameworks. These facilities mirror prisons in both structure and function but exist in a legal gray area that evades many constitutional protections. As Rice explains, the proliferation of detention under immigration law is a key example of how civil and criminal legal regimes are increasingly indistinguishable in their punitive effects (Rice, 2021). Legal infrastructures governing immigration thus become new frontiers for privatized punishment, extending the carceral state under the veneer of administrative procedure.

The profit motives embedded in carceral policymaking are not aberrations but systemic features of a legal order that has fused punitive governance with neoliberal economic rationality. As Simon argues, the surplus legitimacy of the carceral state derives from its ability to present itself as a rational, necessary institution—even as it becomes a mechanism of capital accumulation and social control (Simon, 2025). Legal forms such as contracts, procurement statutes, and sentencing guidelines serve as instruments that legitimize and operationalize this fusion. In doing so, they obscure the political and economic interests driving incarceration and recast them as neutral legal necessities.

Understanding the privatization of punishment through a political-economic lens reveals that the legal system is not merely reactive to crime but actively structured to support and reproduce carceral capitalism. Laws are written, interpreted, and enforced in ways that enable profit-seeking behavior while maintaining the appearance of procedural fairness. This dual function—of facilitating economic exploitation and legitimizing state control—defines the modern legal infrastructure of mass incarceration.

## 7. Resistance, Reform, and the Reconfiguration of Legal Infrastructures

Despite the deeply entrenched nature of carceral legal infrastructures, numerous forms of resistance have emerged, challenging the legitimacy and function of mass incarceration. Legal activism, decarceration movements, and progressive judicial trends have increasingly called into question the punitive foundations of the U.S. justice system. These efforts are often led by coalitions of formerly incarcerated individuals, civil rights organizations, public defenders, and critical legal scholars, who seek to dismantle or radically transform



the legal mechanisms that sustain mass incarceration. As Bellin observes, this growing resistance challenges the assumption that punitive law is the inevitable or natural response to crime, instead highlighting its contingency and political construction (Bellin, 2022).

One of the most visible areas of reform has been bail. Jurisdictions such as New York and California have implemented or debated measures to eliminate cash bail for most non-violent offenses, reducing pretrial detention and addressing the economic discrimination embedded in the bail system. These reforms are grounded in legal arguments that cash bail violates principles of due process and equal protection, disproportionately punishing the poor while allowing wealthier individuals to avoid detention. As Lurigio notes, such reforms represent a critical shift away from carceral default settings, challenging the assumption that pretrial incarceration is necessary for public safety (Lurigio, 2024). However, backlash against bail reform has revealed the fragility of these legal victories, with critics exploiting high-profile incidents to reintroduce punitive measures.

Sentencing reform is another key area where legal infrastructures are being contested. Changes in mandatory minimums, three-strikes laws, and juvenile sentencing reflect a growing recognition of the harms caused by inflexible punitive policies. Legislative bodies in several states have repealed or revised harsh sentencing laws, while courts have increasingly ruled that certain punishments—particularly those imposed on minors—violate constitutional protections. As Beckett highlights, these shifts are often the result of sustained legal advocacy, empirical evidence, and shifting public attitudes about crime and punishment (Beckett, 2022). Still, such reforms tend to be incremental and limited in scope, often leaving intact the broader structures that make mass incarceration possible.

Legal challenges to prison conditions, solitary confinement, and prison labor practices have also intensified. Litigation strategies employed by prison abolitionist groups seek to expose the human rights violations inherent in carceral environments. These lawsuits often rely on Eighth Amendment protections against cruel and unusual punishment or Fourteenth Amendment due process claims. As Menon shows, however, success in these cases often hinges on

emotional and moral appeals that conform to legal expectations of remorse or victimhood, revealing the constraints of working within existing legal norms (Menon, 2024). While litigation can result in improved conditions or policy changes, it rarely dismantles the foundational laws that justify incarceration in the first place.

Grassroots decarceration movements have played a critical role in shifting the discourse around crime and punishment. These movements advocate for the closure of prisons, the reinvestment of funds into community-based services, and the redefinition of safety to include health care, education, and housing. As Martínez emphasizes, these movements not only challenge the material structures of incarceration but also seek to reimagine civic participation and political agency in communities most affected by the carceral state (Martínez, 2024). Legal advocacy within these movements often focuses on repealing punitive statutes, expanding parole eligibility, and preventing jail expansion.

Yet these reform efforts face significant limitations. The legal system's structural orientation toward punishment means that reforms often become absorbed into the very system they seek to change. Risk assessment tools introduced to replace cash bail, for example, have replicated racial and class biases under the guise of neutrality. Prosecutorial discretion, even when guided by reformist intentions, can be constrained by institutional cultures and political pressures. As Simon explains, the legal rationality that underpins the carceral state allows it to adapt to critiques without fundamentally altering its logic, thereby preserving its legitimacy (Simon, 2025).

Ultimately, while legal reforms and activist interventions are vital, they must be understood within the broader context of a political economy that rewards punitive governance. Reconfiguring legal infrastructures requires more than technical adjustments—it demands a reimagining of law's role in society, one that prioritizes justice, equity, and collective well-being over punishment and profit. The challenge lies not only in dismantling legal mechanisms of incarceration but also in constructing new legal paradigms that affirm human dignity and social solidarity.

## 8. Conclusion

The legal infrastructures of mass incarceration in the United States represent more than a set of punitive policies—they embody a deeply rooted system of social control shaped by historical precedent, political ideology, and economic interest. As this review has demonstrated, the proliferation of incarceration cannot be divorced from the legal frameworks that authorize and legitimize it. Through laws, administrative procedures, judicial doctrines, and bureaucratic practices, the state has constructed an apparatus that not only facilitates mass imprisonment but also shields it from meaningful scrutiny or reform. From the codification of mandatory minimums to the normalization of plea bargaining and the rise of parole revocations, the legal system has enabled incarceration to become a dominant strategy for managing inequality, poverty, and social marginalization.

The development of these legal mechanisms has been tightly interwoven with the broader political economy, in which incarceration serves both symbolic and material functions. Legal instruments have been utilized to support private correctional enterprises, institutionalize prison labor, and foster partnerships between the public sector and profit-driven actors. The law, in this context, becomes a facilitator of commodified punishment, driven not solely by public safety concerns but by the pursuit of financial gain and political power. Campaign contributions, lobbying, and procurement contracts reveal how deeply market interests are embedded in the legal design of the carceral state. Rather than functioning as a neutral arbiter, the legal system has, in many cases, acted as an enabler of incarceration's expansion and endurance.

However, this legal regime is not without its challengers. Legal activists, reformist lawmakers, abolitionist movements, and affected communities are increasingly mobilizing to reimagine justice and to dismantle the punitive foundations of current legal structures. Reforms targeting bail systems, sentencing guidelines, and prison conditions signal a shift in public consciousness and legal priorities. Yet these changes, while significant, remain constrained by the very frameworks they seek to change. The adaptability of the carceral system—its ability to rebrand itself through procedural reform or technological solutions—illustrates the limitations of piecemeal interventions. Genuine transformation

demands a fundamental rethinking of what law is for and whom it serves.

To move beyond the carceral state, it is necessary to confront the ideological underpinnings and material incentives that sustain it. This includes not only repealing harmful laws but also redistributing resources away from punitive institutions and toward community-based systems of care, safety, and accountability. It requires legal scholars, practitioners, and policymakers to interrogate the assumptions embedded in legal rationality and to resist the normalization of punishment as governance. The law must evolve from a tool of control into a framework that affirms human dignity and advances collective well-being.

This review underscores the importance of viewing mass incarceration through a structural and interdisciplinary lens, one that recognizes the symbiosis between law, economy, and society. Only by dismantling the legal infrastructures that underpin mass incarceration can more just, equitable, and humane systems emerge. The task ahead is not only legal or political, but moral and transformative—a reconfiguration of the values that shape justice in contemporary society.

### Authors' Contributions

Authors contributed equally to this article.

### Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

### Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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### Declaration of Interest

The authors report no conflict of interest.

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## Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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