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Netflix and the American Prison Film: Depictions of Incarceration and the New Prison Narrative in Ava DuVernay's *13th* (2016)

Beatrice Melodia Festa

HJEAS

ABSTRACT

The essay examines the complexities of America's penal system through the lens of prison films and the recurrent representations of incarceration on screen. Following an introduction about America's penal system, Mass Incarceration, and the enforcement of systemic racism through the Prison Industrial Complex, the analysis focuses on the images of confinement in movies. An overview of traditional narratives on prison is offered to highlight the main characteristics of the ambiguous and challenging genre of the prison film, while a closer look at one of its contemporary examples, Ava DuVernay's *13th* (2016), sheds light on how the presence of Netflix and the innovative narrative strategy employed to portray the complexities of confinement represent a new form of prison film—one that abandons a Hollywoodesque approach in favor of a documentaristic strategy, and, through its distribution on Netflix, reaches its target audience. The analysis conclusively demonstrates how Netflix has changed and challenged the way we see prisons on screen, and how, as DuVernay's docufilm shows, it has posited the tangled question of race so that the viewer can understand the functioning of the modern prison. By way of conclusion, the essay demonstrates that the new prison film, shifting toward distribution on Netflix as a mode of audience registration, clearly manifests a strategy to instruct American public opinion on race and the criminal justice system. (BMF)

KEYWORDS: prison films, racism, American penology, Mass Incarceration, slavery, Netflix



In a foreshadowing article, Toni Morrison claims that “[u]nlike any nation in Europe, the United States holds whiteness as a unifying force. Here, for many people, the definition of ‘Americanness’ is color” (NYT 2016). This view recalls James Baldwin’s earlier statement, “To be black and conscious in America is to be in a constant state of rage” (205). There is a recurring image in the United States, that of Whiteness over Blackness. The White imposes itself, or simply tramples, on the Black.¹ Throughout American history, the Whites have always ideologically and concretely crashed down on the Blacks, who are not only stigmatized, but also “suffocated” by a White supremacy that does not leave space or ways of existing for those it considers “different” and thus deserving to be punished, segregated, tortured, and eliminated.

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As numerous cases of racially motivated violence suggest, the oppression of Black people has been a deeply-rooted practice in American society. This is also manifest in the structure of the prison system today, in fact, has been since the abolition of slavery.² This is what has led the African American community through a never-ending trail of inequality—Black people were first enslaved, and then criminalized by a racist and unjust penal code. When asked to ponder the popular image of Blackness on screen, which made its first appearance at the beginning of the 1900s, many of us would most probably think of D. W. Griffith's major motion picture, *Birth of a Nation* (1915). Recounting the events of the Civil War and its aftermath, the film inaugurated the mythology of Black criminality in popular culture with the portrayal of the Black man as a rapacious and evil predator, a threatening criminal both cannibalistic and animalistic. Stereotyping the Black community as prone to criminality, Griffith's picture was certainly prophetic concerning the problematic nature of race relations in the United States. Recent events such as the George Floyd case and other acts of brutality against African Americans indicate that what Griffith depicted has evolved into a more inhumane version of racism, one that legitimizes acts of violence against Blacks as a way to strengthen the image of a White America. What is more, the color line dividing society and serving as a means of reinforcing white supremacy is very much present in the penal system. I believe Michael Foucault's statement in *Discipline and Punish* (1975) can also be read in this light:

Discipline makes individuals; it is the specific technique of a power that regards individuals both as objects and as instruments of its exercise. It is not a triumphant power, which because of its own excess can pride itself on its omnipotence, it is a modest and suspicious power, which functions as a calculated but permanent economy. (170)

Foucault's interpretation can be taken as a description of any, but, perhaps, most specifically, of the US penal system, where prison turns into a punitive space to make human beings become objects and instruments of a triumphant White power. American penology clashes with the throbbing and silent humanity that lies beneath criminalization too often rooted in unresolved racial prejudice.

Broadly speaking, beneath the racism that hides in the folds of a penal system based upon discrimination, confinement has contributed to increasing inequality, an ever-present concern of American society. Indeed, prison in America is a complex issue that has attracted scholarly interest and diverging

opinions on both its reform and abolition. Given the disproportionate presence of people of color among incarcerated populations, in "Globalism and the Prison Industrial Complex," Angela Davis explains that "the persistent second-class citizenship status to which former slaves were relegated would have had an implicit impact on punishment practices" (qtd. in Gordon 151). Drawing a parallel between slavery and incarceration, Davis considers the latter as the extension of the former. Following this logic, in *The New Jim Crow*, Michelle Alexander contends that, even after Lincoln's Emancipation Proclamation, forms of slavery continued to mar the social landscape in the United States, which has resulted in the fact that "black people have been put in a subordinate racial class" (20).

American institutions seem to have always wanted to control Blackness, albeit in different forms. First through the system of enslavement that enforced a racial bias in which the White dominated and oppressed the Black, exploiting Black labor through the practice of convict leasing,³ and most recently, disproportionately incarcerating people of color who are forced to work in prison and put at the service of multinational corporations enmeshed in the great business of the "Prison Industrial Complex," also known as the PIC.⁴

Statistics show that Blacks are locked up five times more often than Whites and have now become the largest ethnic group in American prisons.⁵ Critics and activists such as Michelle Alexander and, more prominently, Angela Davis, hold the belief that in contemporary society, the prison has become a new racial caste system. To put it in Davis's terms, "[t]he criminal justice system, then, played a significant role in constructing the new social status of former slaves as human beings whose citizenship status was acknowledged precisely to be denied" (qtd. in Gordon 152). Given these dynamics, the criminalization of African Americans has become a convenient tool of political maneuvering, providing a mechanism for their subjugation in order to create cheap labor, further facilitating unjust confinement. In this scenario, the "War on Drugs" campaign, embraced by Richard Nixon and Ronald Regan in the 1970s (resulting in one of the most massive acts of racial policy in the United States), in turn, became an expedient to imprison huge numbers of people of color. As Elisabeth Hinton justifiably claims, in the 1970s America moved toward a new policy trajectory based upon tough crimes and Black discrimination (2). Indeed, this political strategy led to the expansion of America's carceral state, with the Black community in the 1980s affected by these penal policies to the extent that made reference to the decade as the age of Mass Incarceration justified. As Malcolm X, with

reference to the Black past, powerfully explained in *The Autobiography* (1999) based on his prison experience, American history has been “whitened,” and the Black man shifted from the condition of slave to the new status of criminal.

One of the failures of American penology is that the prison system is essentially based upon punitive rather than rehabilitative intentions.⁶ If public opinion tends to favor the defiant “lock them up and throw away the key” attitude, confinement in America tends to endorse the idea of punishment mainly driven by the aim of abolishing criminality which subverts the paradoxical image of freedom the country professes. In their seminal study, Dario Melossi and Massimo Pavarini explain how, from the eighteenth century onward, the punitive intent of imprisonment in America took over its re-educational purpose (174).⁷ The fact that American penology is rooted in a process of incarceration that aims to enforce racial discrimination makes us consider the penitentiary as the new, modern space to repress Blackness targeted as a form of deviant criminality. All of these factors point towards considering prisons as bricks of a racist system, creating what Davis defines as “a feat of magic” (Gordon 147) canceling the “Other,” eliminating people from society and, in the case of the big business of American jails today, exploiting individuals as in the old times of slavery.⁸

In his work on prison abolition, *The Terms of Order* (1980), Cedric J. Robinson argues that the general idea of political regulation in the US is an illusion driven by a diffused sense of leadership as a strategy for social control. He maintains that

One means by which members of a community perceive the nature of their political order is through political leadership. It is through the leader that a relationship with what is conceptualized as being the established political order is maintained (40).⁹

Most recently, prison abolitionists, such as Mariame Kaba, have argued that surveillance and punishment practices would have no place in a healthy society and insisted that the current structure of America’s prison system, which badly needs reforms, should not be maintained. “All of a sudden,” she contends, “people had a real interest in abolitionist thinking and I knew that the abolition of the PIC would be popular eventually.” She also observes that after the death of George Floyd, and as people all over the world gathered to demonstrate for justice and equality, there has been a renewed enthusiasm for prison abolition (Kaba qtd. in Adams).

Indeed, as America's prison population steadily increases—despite the intense reduction of crime rates since the 1980s—the call for a reform of the ineffective justice system is an ever-present concern, which becomes even more urgent in moments when systemic racism and nationwide protests put a spotlight on the country's persistent racial inequality. Netflix and recent examples of the prison film, including Ava DuVernay's *13th*, provide, through a realistic presentation of the problem areas, ample information for the public on justice and criminality in contemporary America.

Prison films: an overview

As Foucault suggests in *Discipline and Punish*, it is a simple fact that the question of punishment has always fascinated people who have witnessed the spectacle of executions as a form of public oppression. However, as punishment has moved behind the walls of the penitentiary detention centers, the question of penalty has turned into a form of mystery to many so much so that the only way to discover the intricacies of life behind bars was through the media. The formerly invisible practice of punishment has been made visible on the screen to provide the public with insight into America's controversial penal culture. In the face of this, American cinematography extensively progressed toward the distribution of films illustrating the universe of incarceration. In the last hundred years, American cinema has produced over three hundred prison films. Scholars argue that the prison movie can be classified as a distinct genre, a sub-genre of crime, or even as a non-genre for the diversity of traits and its periodization (O'Sullivan and Wilson, Mason, Dowler). Paul Mason rightly argues that “no other type of crime film—the gangster movie, the police procedure movie and the characteristically English murder mystery—has claimed such impressive credentials in its bid for genre status as the prison film” (192).

To frame the characteristics of traditional prison narratives, Brian Jarvis observes that “the classical prison film is either an escape or an execution drama; it is complemented by a number of subgenres and hybrids” (qtd. in Mason 193). This is true if we think of the ways in which Hollywood has presented prisons and the diverse messages on confinement, from a general critique of the penal system to a *mise en scene* of violence and injustice. Despite the different themes discussed, the vast and, at the same time, rather limited periodization (the great popularity in the 1930s declining toward the 2000s), the figure of the “wrongly convicted” protagonist has remained central to prison films.

In the 1930s, the film industry's great interest for convict and courtroom stories saw the emergence of the prison film as a genre that Hollywood studios began to popularize and distribute. Simply put, when we think of incarceration in movies, the traditional image that first comes to mind is the cinematographic adaptation of Robert Burns' autobiographical classic, *I Am a Fugitive from a Georgia Chain Gang* (1934), directed by Mervyn LeRoy. Released at a very problematic moment in American history when the South was affected by strong racial inequality, which often led to lynchings and was codified by the Jim Crow laws, the film became one of the first visual representations of prison depravity and individual dehumanization. Reflecting the dramatic reality of incarcerations, portraying the inhumane mistreatment of convicts and the cruel system of chain gangs in the South, the story offered a shocking example of the problems of detention. The plot is well-known: after his first successful escape, James Allen—an innocent convict—is condemned to an indefinite sentence, but escapes once more, reappearing in the memorable final scene as a worthless tramp, sinking into darkness and, as he declares, as a criminal—"I steal" is the unflinching line that concludes the film. Undoubtedly, as Allen's escape to Chicago well demonstrates, LeRoy's chief concern was that of highlighting the contrast between opposing realities, the forced labor system in the South based on slavery, as opposed to the industrialized economy of the North. Although chain gangs mostly affected Black prisoners, the film tells the (real life) story of a White protagonist finding himself in the situation of a Black convict. Yet, as Nicole Rafter suggested, the movie also falls under the category of the "feel good narrative" (137): in a larger context, the picture frames an image of incarceration where the protagonist's wrongful imprisonment is proof of a flawed justice system. At the same time, the director's focus on a true story of confinement while taking a strong position against the retributive model of justice employed in Georgia in the 1930s, has prompted scholars to include *Chain Gang* in the tradition of protest cinema. The dehumanizing environment of chain gangs and the unfairness of a legal machine that fuels recidivism offers an image of the American prison as a system whose main goal is not justice but penalty.¹⁰

As LeRoy's classic well demonstrates, the iconography of prison was central to the first black and white and silent movies. *The Big House* (1930), *Prisoner of Shark Island* (1936), and *Each Dawn I Die* (1939) are only some of the examples that hooked spectators on the parallel universe of prisons in 1930s America. Following the chronology of prison films, in the 1950s, Hollywood was more interested in laying emphasis on true stories of

confinement, a trait earlier inaugurated by classics of the tradition. For instance, this is also the case in Robert Wise's realistic noir, *I Want to Live* (1958), inspired by the true story of Barbara Graham, wrongfully convicted and executed in 1955. In the same year, *The Defiant Ones* (1958), which soon became a commercial success, epitomized Hollywood's intention of depicting the racial question in a film that recounted the escape of two convicts (a White and a Black inmate, played by Tony Curtis and Sidney Poitier, respectively) to illustrate racist punishment within American society. Yet, the 1960s films, such as *Cool Hand Luke* (1967), echoed the tradition of the 1930s prison movie, mirroring the brutality of chain gangs and the problem of hard work in the South. Like the protagonist of LeRoy's story, Nick Jackson also tries to escape from a labor camp, becoming a symbol of freedom for his fellow prisoners.

Afterwards, Hollywood continued the tradition of prison-centric stories illustrating the concerns of confinement as portrayed in *One Flew Over the Cuckoo's Nest* (1976), in which the critique of mental institutions is equated with the brutality of imprisonment. Even though this time the film's setting is not that of the penitentiary, oppression is illustrated through long-term internment in a psychiatric hospital. When the protagonist McMurphy, made famous by Jack Nicholson's masterful portrayal, discovers his sentence has been turned into an open-ended confinement, he decides to fake a mental illness to avoid hard-labor in prison, hoping to serve his term in a different environment.

Critics consider *The Shawshank Redemption* (1994), directed by Frank Darabont, as one of the best examples of prison films ever made. The moving friendship of two convicts, the African American smuggler sentenced for life (Morgan Freeman) and the White banker convicted of murder (Tim Robbins), who reunite at the end of the story as free men, demonstrates Hollywood's intention to partially illustrate the racial question through the experience of incarceration. In line with this, a little later, Frank Darabont directed another commercial success, *The Green Mile* (1999), centering on the figure of a Black convict and his path toward the electric chair at Cold Mountain's penitentiary death row. Criticism of the death penalty on the screen is central in quite a few, relatively recent releases of the genre, including *The Life of David Gale* (2003). In this case, director Alan Parker offered a thorough examination of executions through the accusation of Professor David Gale (Kevin Spacey), an anti-death penalty activist, who demonstrates his innocence and raises his voice against the unjust verdict of death sentence

in a pro capital punishment state, Texas, unfortunately too late as we witness his execution.

Put in a broader perspective, the films mentioned all take a critical stance toward the dynamics of legal injustice when presenting the problems of America's correctional and punitive system. Despite the overall interpretations and the diversity of characteristics prison films have in common, a theme that keeps recurring is that of physical escape. It appears to be a must in the genre from *Chain Gang* to *The Shawshank Redemption* and, more recently, in action thrillers such as *The Next Three Days* (2012), where John Brennan (played by Russell Crowe) frees his wife wrongly accused of murder. Tackling the traits of the prison film, Dowler notes that in Hollywood's depictions of incarceration, "the fish-out of water narrative" (383) has been a dominant aspect. As he further explains, an innocent person enters the prison system and the story is constructed so that the audience feels compassion for him because of his underserved punishment. Often the protagonist does not show emotional strength as he usually suffers from a mental breakdown and is surely unable to accept his sentence. Therefore, "the innocence of the protagonist always ensures that the audience can relate to and sympathize with his or her predicament" (375). Apparently, as a look back at the trajectories of these films confirms, their goal is to present, through the process of the convict's dehumanization, the injustice of America's penal system. Indeed, traditional prison narratives on screen portray the mundanity of life in confinement and the ever-present mistreatment of inmates. The audience is mostly exposed to the harsh depravity of incarceration, with the innocent trying to defend themselves against false accusations, and attempting to escape, both physically and emotionally.

To stay popular and challenging, the prison movie has had to undergo some changes, as pointed out by Kevin Kehrwald in his extensive study on the topic: "Much like the Western, the prison film has manipulated its stock characteristics and conventions to remain vital and interesting to audiences over time" (11). Moreover, as American cinema gradually moved from the big screen to the home screen, the tradition of incarceration in movies as a fascinating visual experience turned into "an even more important display of the negative sociological and visual impact of imprisonment" (Kasinec and Mészáros 96). However, in 2000, Nicole Rafter suggested that "[i]n recent decades, a few filmmakers have begun producing movies that critique the traditional narrative formulas or bypass them entirely . . .," and added that "after close to one hundred years, the prison film may be on the verge of

transformation" (163). Rafter's prevision has been confirmed by the presence of Netflix, a purely American system that has transformed television into a highly personalized visual experience. This, in turn, takes us to Ava DuVernay's *13th*, which not only represents a contemporary and, to a certain extent, innovative example of the genre discussed, but also proposes a new image of incarceration on the screen.

"The Netflix effect": Ava DuVernay's *13th* and the new carceral narrative

Despite its popularity in the 1930s, the prison film began to lose its appeal toward the end of the twentieth century. Indeed, from the late 1990s and early 2000s, Hollywood abandoned the penitentiary setting, opting, instead, for the courtroom drama (a prevailing theme in Hollywood's depictions of incarceration today), and movies where the protagonist is convicted but the story goes beyond the experience behind bars. This is the case, for instance, of Spike Lee's *25th Hour* (2002), a film based on the last free hours of a man before he starts serving his sentence, anxious about the harsh system of incarceration. Another recent example is Destin Cretton's powerful picture, *Just Mercy* (2019). Although it might be labeled as a prison film, the main goal of the narrative is to highlight the true story of an African American defense attorney, Bryan Stevenson (Michael B. Jordan), who represents a Black inmate, Walter McMillan (Jamie Foxx), wrongfully convicted of murder. Based on real events, adapted from Stevenson's book, the film, whose main setting is the courtroom, shows how hard a battle the attorney must fight before he can have the judge dismiss the charges. There and then, with McMillan's acquittal, his victory is also one over racial prejudice and systemic injustice.

With a view to productions of prison narratives, although more limited in their number than in the past, recently Hollywood has left space for documentaries and TV series on the topic. Indeed, the prison film began to re-emerge as a popular genre when Netflix was publicized as a new productive instrument for distribution. A proof of its success is the popularity of Netflix series, such as the prison-set comedy drama *Orange is the New Black* (2013). The story, inspired by Piper Kirman's memoir based on the experience of her detention, focuses on Piper (a White woman in her thirties) sentenced to fifteen months after being convicted of transporting money for a drug dealer friend. Despite its popularity, the series has been harshly criticized for its representation of a sexist vision of women as well as the stereotypical image of race considering that inmates are classified through

racial profiling. In a similar vein, Matthew Cooke's documentary, *Survivors Guide to Prison* (2018), expands the scope of investigation to cover topics such as solitary confinement and the social integration of former prisoners, to reveal aspects of the criminal justice system through the story of two wrongly convicted men. Yet, what these films have as a common thread is the trauma of confinement, and the visual representation of the negative sociological impact of imprisonment as a result of America's unjust legal system.

To delineate more profoundly the change of mode in the tradition of movies that depict the penitentiary as the site of moral injustice, Ava DuVernay's harrowing portrait of hyper-incarceration in the docufilm *13th* (2016) and her extensive exposé of race deserve attention. DuVernay's documentary illustrates the shift toward a new narrative mode on the screen. The choice of distribution on Netflix, as I aim to demonstrate, is extremely effective when it comes to creating a film whose main goal is to be highly educational and informative.¹¹ Before DuVernay's docufilm, the documentary prison genre was, surprisingly, less popular, modest in number and marginally explored. There were, however, some works that were quite well received, of which the most important example is Frederick Wiseman's shocking documentary, *Titicut Follies* (1967), a description of the inhumane conditions of patient-inmates confined at Bridgewater Hospital. From a recent perspective, more striking than that is Matthew Pillischer's *Broken on All Sides: Mass Incarceration, & New Visions for Criminal Justice in the US* (2012). The documentary, based on Michelle Alexander's seminal book *The New Jim Crow*, somehow anticipates the issue raised by DuVernay, revealing that in the United States today there are more African Americans under correctional control in prison or jail than were enslaved.

13th revolves around a simple premise: prison is the site of America's racist culture. As was mentioned in the introduction to this essay, while exploring the intersection of race and injustice in the United States, the docufilm traces the beginnings of mass-incarceration, reiterating the criminalization of Blackness through the penal system. Renouncing a Hollywoodesque approach in favor of a documentaristic strategy, DuVernay constructs a narrative on hyper-incarceration as a possibility of audience recognition.

Through a precise exposé of imprisonment, the director does something more than simply offering a picture of confinement—she draws attention to the origins of Black discrimination and demonstrates how the penitentiary has been used as an excuse to imprison and criminalize African Americans. As the film opens, we are instantly exposed to President Barack

Obama's statement: "Let's look at statistics, the United States is home to 5% of the world's population and has 25% of the world's prisoners. Think about that" (0:16). Considering America's primacy in holding the highest rate of inmates, DuVernay develops a filmic process that allows her to demonstrate how deeply race is entrenched in the criminal justice system. To put emphasis on the racial fabric of America, *13th* adopts a remarkably realistic approach, enriched by videos, images, and interviews, to show that the country has always been distant from the pursuit of justice and equality, the two key points of the film. The director immediately involves her audience by devoting attention to the disquieting story of the Black community, explaining what it means to be the "Other" in racist America.

The narrator of a documentary is usually a host or a voice. In contrast, here DuVernay leaves this role to politicians, scholars, and activists, whose comments guide the audience along a chronological narration that not only places Black discrimination in a historical perspective, but also highlights the conditions that make it such a grave problem today. Bypassing the traditional formula of the documentary that uses a single narrative voice (enriched by interviews), the film manages to combine perspectives and interventions of various kinds as a form of storytelling (from Michelle Alexander and Angela Davis to Bryan Stevenson, just to mention a few). This narrative strategy is employed by DuVernay to boost empathy in the audience whose attention is caught by the disquieting metaphor she wants to suggest: prison in the US is a way to stigmatize and prosecute African Americans.

The title of the film recalls the Thirteenth Amendment to the American Constitution, which reads: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or in any place subject to its jurisdiction." Even though the amendment outlawed slavery, granting freedom to Black people, it also created a legal loophole by its "except as a punishment for crime." And, as we learn from the film, "[i]f this is embedded in the structure, in this Constitutional language then it's there to be used as a tool for whichever purpose one wants to use it" (Kevin Gannon 2:20). The loophole was immediately exploited and, as Michelle Alexander clarifies, "[a]fter the Civil War, African Americans were arrested in mass, and this has been considered as the nation's first prison bill" (3:33). Primarily imprisoned for minor crimes, the four million people freed from enslavement were used as the workforce to rebuild the economy of the South left in tatters after the demise of slavery. Davis points out that "[t]he abolition of slavery thus corresponded to the authorization of slavery as punishment" (qtd. in Gordon

152)—an idea that further resonates with W. E. B. Du Bois, who asserted that “[t]he slave went free; stood a brief moment in the sun; then moved back to slavery. The whole weight of America was then thrown to color caste” (30).

Drawing from this premise, DuVernay frames her argument within a chronological narration which, through interviews that function as storytelling, is divided into three main sections and follows the evolution of racial control from slave abolition to Black Lives Matter. Realistic accounts and powerful archive footage add layers of authenticity to the narrative highlighting cases of excessive brutality against the Black community. In this way, DuVernay uncovers violence against Blacks as a dominant theme of her film enriched by the recurring images of White-on-Black assaults. Her harsh portraits of cruelty toward African Americans and the pictures of human beings behind bars bring another form of segregation to mind, the forgotten history of human zoos in which people of color were exposed, deliberately caged, publicly stigmatized, and categorized into races.¹² This analogy aligns with the racialized images of imprisonment DuVernay frequently applies to reconstruct the history of African American segregation. Cages and bars as instruments of dehumanization evoke prison tours, whose harsh dynamics have been recently denounced by Waquant, offering a display of human beings and objectifying prisoners as caged animals.¹³

Through video editing, these images show the progression of incarceration toward a racial bias that enforces discrimination. DuVernay's portrayal of Black people behind bars and the disturbing images of gratuitous violence awaken a sense of humanity in the audience. Her narrative strategy, enriched with visual accounts from scenes of lynchings during slavery to today's cases of police brutality, allows the viewers to reconsider the meaning of race in the United States. However, the director chooses to contrast the powerful and heart-breaking images with photos depicting the happiness of African Americans, which conclude the documentary. End credits thus leave the viewers with a happy end to a sad story—with the message of hope. This visual strategy guides the audience throughout the evolution of racial violence and the development of the systemic criminalization we still witness today. If we agree with scholar and film critic Bill Nichols, who contends that documentaries enhance a sense of aesthetic awareness but also inform our social consciousness (104), we can consider *13th* as an innovative model of the prison movie which, through an authentic documentaristic strategy enforced by the multidimensional narrative voice, does affect its audience and elicits an emotional response.

Moreover, by offering an overall picture of race in America through a plethora of perspectives on the topic (Angela Davis, Michelle Alexander, Henry Louis Gates, Jr., Cory Booker and others), DuVernay gives equal space to politicians, scholars, and activists, who hold diverse opinions on imprisonment. This method represents another sub-version in the canon of documentary films. Employing the voice of scholars and activists as a form of storytelling, instead of presenting a fictional image of confinement, reinforces the aim of the new prison documentary being highly instructive. The contrasting views, such as those of Angela Davis with her tenacious critique advocating prison abolition, and those of Senator Michelle Hough of Maryland, who speaks in favor of the American Legislative Exchange Council (considered as one of the major forces in the privatization of American prisons and a major cause for the increase of the prison population advancing the “tough on crime” initiatives),¹⁴ make DuVernay’s narration far more realistic and balanced—offering an image of mass incarceration from a diverging, multidimensional range of angles.

Even more revealing is the fact that DuVernay uses rap songs with politically-charged lyrics that provide the transition from one section to the other in an effort to relate various historical moments. Lyrics function as a strategy to create visual and emotional effects that make the topic decisively more accessible to the collective imagination. As is well known, rap and hip-hop music have long expressed the voice of the African American community through the contextualization of crime, discrimination, and violence. As the songs DuVernay chooses to frame her argument, rap music is used to disclose racial disparities in criminal justice outcomes, giving voice to a community that has been consistently repressed, silenced, and discriminated against.¹⁵ In this way, verses of songs by black activists appear on screen to join sections of the film, connecting them as threads of the story chronologically from slavery to recent acts of violence against the black community. The final song, Common’s “Letter to the Free,” concludes the narrative offering a sense of hope. As DuVernay explained in an interview with Oprah Winfrey, she purposefully chose to end the film with this lyric as it expresses love and strength. Indeed, Common unravels a positive message of faith as the words recite, “Freedom come, hold on” (1:37:09).

In addition, *13th* also problematizes and accentuates the economic profit of American prisons through the well-known maneuverings of the “Prison Industrial Complex.” As the documentary highlights, the modern prison in the United States is nothing more than a form of silent convict leasing or a modern slave system—as it occurred at the end of the Civil

War—that responds to an economic need. In this innovative and eye-opening portrait, DuVernay proves that jail in America has become a secondary and alternative form of segregation for those who are unjustly accused and submitted to strong indeterminate sentences.

The film also highlights that American judicial practice in racially charged cases remains consistent and acutely biased. Henry David Thoreau's brief experience of imprisonment in 1849 prompted his critique of the American system when he stated that "[u]nder a government which imprisons any unjustly, the true place for a just man is also a prison" (22). We cannot forget the story of George Jackson who in 1960 was first unjustly imprisoned at the age of eighteen, despite clear evidence of his innocence, and then accused of the murder of a White prison guard by the police, in which his association with Black militants also played part. One further example is the infamous case of the "Central Park Five" in 1989. Four African Americans and a Latino were wrongfully convicted of rape and violence against Trisha Meili. Based on the lack of substantial evidence, the sentence was eventually revoked in 2002.¹⁶ The case became a source of inspiration for DuVernay when she, reconstructing the Central Park Jogger Case, directed the Netflix TV series *When They See Us* (2019).

13th also demonstrates how profound racial inequality is in America while the country struggles to remain "more white." As such, the color of "in-justice" in the US maintains the separation between Whites and Blacks. The documentaristic technique mirrors this perspective, producing a new version of the prison movie, which portrays the United States as a country strongly conditioned to seek difference rather than equality. In today's social structure, racial prejudice is undoubtedly manifested by penal prosecutions and a criminal "in-justice" system that recurrently stigmatizes the Other. DuVernay's bitter view on race offers an image of America where, essentially, the Black community is defeated and the White one often wins.¹⁷ She experiments with the traditional image of prison through realistic accounts in a documentaristic fashion. In this way, the director highlights the downfall of justice and the failure of a penal system that fuels recidivism and increases discrimination. But perhaps more revealing and relevant is DuVernay's ability to associate a sense of humanity with the inmates who, thus, are seen not just as criminals but rather as human beings. In this sense, the narrative is not only about people of color—it is about changing the way America understands human dignity (1:34:04). This is in line with the spirit of Black Lives Matter, the story of which concludes the film's harrowing narrative, presenting a movement that is not only about Black lives, but is one that cries

for justice for every life, for Blacks, Browns, incarcerated people, and the communities of all colors. If “[n]arratives surrounding wrongful convictions provide compelling drama, including outrage and human suffering” (Dowler 375), we can certainly agree that DuVernay develops the theme of wrongful incarcerations as a means to portray human suffering. The power of *13th* thus lies in its zeal to make us consider racial discrimination as an instrument to re-evaluate the importance of equality and humanity.

The reference to Harold Zinn’s book *A People’s History of the United States* in the documentary reinforces Du Vernay’s critical standpoint reminding us that US history is the type of hidden history that “conceals fierce conflicts of interest (sometimes exploding, most often repressed) between conquerors and conquered, masters and slaves, dominators and dominated” (9-10). The film portrays an America committed to racism and continuity between past and present, slavery and prison. As the director suggests, the penitentiary turns into a form of imprisonment, tacitly backed by law enforcement that wants to legitimize discrimination through crime and punishment, two of the most powerful aspects of the racial divide in America. Drawing from its main assumption, according to which American penology delves deep into its racial history, the documentary shows the reality of uninterrupted oppression, offering a new excruciating image of internment. In a recent radio interview to the NPR, DuVernay claimed that

You can have a more deeply rooted and nuanced knowledge of the fact that you know every person who is in prison is not a criminal that all crimes are not created equal. And the idea behind *13th* is to give people that context so that we don’t make uninformed statements. (Martin)

Indeed, DuVernay’s work portrays a country that, while professing freedom as a foundational ideal of its culture, denies some people their essential rights, such as life and integration, and proves to be incapable of accepting the other that has no voice and power, except in systematically criminalized protests. By employing the prison and the judicial system as a form of social control, the Whites have reinforced a superiority, wishing, as Toni Morrison predicted, to “make America white again.”¹⁸ Karen Sanchez further clarifies this point when she argues that the bodily biases of the state in the US create a political and legal climate that serves to consolidate White power over the dynamics of Blackness (qtd. in Green 12). DuVernay’s documentary represents all this through the choice of re-enacting the path of

Black discrimination from slavery to the age of mass incarcerations and violence as a form of social control.

Conclusion

The issue raised by the new genre of prison films is more salient than ever. Empowered by what is termed as “the Netflix Effect” (Jenner), such concerns can be more easily exposed to the public. Netflix is not only changing the way we watch movies, but it also addresses a wider public, reaching a target audience much bigger than traditional movie theaters could ever hope for. As *13th* also demonstrates, viewing habits are also changing with Netflix reshaping the film industry, both in terms of general impact and content distribution, and the new prison film, thus, can abandon the big screen to be projected through a less fictional and more realistic perspective. As Jenner notes, “the Netflix system supposedly offers a (momentary) high point of audience control” (35). So does DuVernay, who carefully targets her public and provides them with the context essential to understand the dynamics of racism and legal injustice in America.

In a narrative journey that moves from slavery through Jim Crow to the recent cases of violence, the police shootings of African Americans and the foundation of Black Lives Matter, the film emphasizes that people’s lives in America “do matter,” to reinforce an ideal that is fundamental to criminal justice. The question DuVernay raises invites the audience to ponder more on the value of life considering what Fassin recently termed as “the physics of inequality” (*Le Vite Inequal*), the value of the Other as a human being, which lies in diversity. *13th* teaches us that in the American prison system, strongly built on mistreatment and injustice, criminalization, and violence, there is a latent problem—that of inmates, confined behind bars, who are not considered or treated as people. This contemporary example of prison films, through realistic accounts and interviews, subverts the traditional image of confinement on the screen and reveals that human dignity in the system of Mass Incarceration is painfully absent, which reinforces inequality. Acts of brutality and assault necessarily imply a return of violence in the attempt to soften, alleviate and possibly dismantle discrimination that has been and still is one of the huge paradoxes and unresolved problems of American culture.

As Bennett claims, the “cinema has been and still is the major source of public information about prison in the US” (97). As filmic examples of the genre demonstrate, in its diversified production, the prison film has tried to disentangle the dynamics of power and confinement from different angles, since, as David Wilson observes, “[w]hen we present an image of prison we

shape the public's expectation about what prison is like, and what happens inside" (28). New filmic portrayals of the penitentiary system, such as *13th*, provide a realistic and profoundly up-to-date picture of the links between penal institutions and race in the United States. As *13th* demonstrates, Netflix, that is, new manipulation of the traditional content of filmic representations of prison, is instrumental in shaping a new social view of incarceration. The documentary narrative, indeed, is particularly effective as the most prominent form of this depiction.

In their evolution, prison movies have offered the image of prison as a microcosm at which multiple problems, such as justice, class, power, and race, converge. In this sense, the prison film today offers an opportunity to reconsider the meaning of imprisonment in the US. DuVernay's novel depiction of prison is indeed a model of the enduring image of the penitentiary as a racist system. Shedding light on the controversial issue of imprisonment, the goal of this new filmic strategy is to expose and thus inform the public of the racist and economic implications that lie beneath penal outcomes, which it has so far been unaware of.

From a rather broad angle, the prison film can be seen as a dark panopticon that regulates the public gaze on law and order (Mason 195). In sum, if Hollywood aimed at presenting America's penal system through diversified themes, it would be the new prison film today that could prove the need to unravel the unresolved question of race in America. Consequently, the didactic, documentaristic, and to a certain extent, "imperative" aim of *13th* reflects America's urgent need to raise public awareness, which is exactly what its mainstream director, whose films go beyond militant cinema, does.¹⁹ Even though the film renounces the Hollywoodesque approach, DuVernay's narrative force has its relevance in embracing a wider audience that can confront an untold aspect of America's racial history, inaugurating a new transformative model of the prison film through its distribution on Netflix.

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Notes

¹ On 25 May 2020, in Minneapolis police officer Derek Chauvin knelt on the neck of unarmed African American George Floyd for almost ten minutes, killing him. The event sparked international outcry all over the world fueling uproar especially in the United States where riots and protests by the Black Lives Matter movement were staged, revolting against police brutality and racism that continue to affect American society. Indeed, Floyd's story has been the latest of the many cases of gratuitous violence by the police against African

Americans, which led to the foundation of Black Lives Matter in 2013; then as a consequence of the acquittal of George Zimmerman, a white neighborhood watch who shot innocent 17-year-old African American Trayvon Martin.

² For a preliminary discussion on slavery and the prison system see Tara T. Green, *From the Plantation to the Prison: African-American Confinement Literature*. Mercer UP, 2008.

³ The end of slavery left the economy of the South without its workforce and with the need to rent prisoners for forced labor, which institutionalized convict leasing, a form of slavery in disguise, which was the first step toward mass incarcerations. For more on convict leasing see Matthew Mancini's seminal work *One Dies, Get Another: Convict Leasing in the American South*, and Shane Bauer's most recent work, *American Prison: A Reporter's Undercover Journey into the Business of Punishment*.

⁴ Although the Prison Industrial Complex is certainly considered as an excellent example to explain the growing expansion of mass incarcerations and the prison business in the US, the concept has recently been criticized by sociologists, including Loic Waquant. In *Prisons of Poverty*, Waquant considers the PIC as a misguided frame to understand American penology. Mostly describing the criminalization of poverty, he thinks of prisons as indispensable tools for regulating the lower segments of the labor market.

⁵ In 2017, state and federal prisons in the United States held a total of 475,900 inmates. In 2020, imprisonment rates showed that for every 1,000,000 prisoners, there are 1,501 Black inmates. The United States has 5% of the world's population, but 25% of the world's prisoners.

⁶ On the failures of American penology see Harry M. Shulman, "What is Wrong with American Penology." *Journal of Criminal Law and Criminology* 45.6 (1955): 662-67.

⁷ Without too much generalization, the prison in America has become, though rarely, a rehabilitative experience, as Malcolm X's re-educational path of imprisonment testifies. More recently, Shaka Senghor recounted the reformative aspect of prison in his autobiographical narrative on confinement, *Writing My Wrongs: Life, Death and Redemption in an American Prison*, which for him has become a way to process grief and anger while battling against the non-correctional aspects of the penal system.

⁸ The situation, however, is more complex. Despite its aim, the private or for-profit prison system (owned and traded by the government), essentially produces public profit exploited by the state.

⁹ Another seminal argument on prison abolition that deserves mention here is Ruth Wilson Gilmore's, on the case of California and the country's vast prison population showing how America's penal system is based upon an increase in punitive justice and incarcerations. For more on this see Ruth Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, And Opposition in Globalizing California*.

¹⁰ The issue of recidivism is still one of the main problems of American penology, which persistently adopts a punitive approach rather than a rehabilitative one. However, the increasing use of restorative justice programs aims at reducing recidivism through victim-offender mediation. Comparing the film's critique of imprisonment to today's penology, we find that punishment is mostly based upon enforcement with obedience to authority, with an emphasis on criminal repression. Didier Fassin recently claimed in *Punire. Una passione contemporanea* [The Will to Punish] that the world was gradually moving toward an "age of punishment" (29). As a response to social disorders, even more so than in the past, today we rely on the execution of penal judgments. In this sense, society has developed a "crime is the problem and punishment becomes the solution" approach (Fassin 59).

¹¹ After protests and other events sparked by George Floyd's death, in May 2020, Netflix has made *13th* available to non-subscribers by uploading the docufilm on YouTube.

¹² For more on this see Erik Deroo, *Zoo umani. Dalla Venere ottentotta ai reality show* [Human Zoos. Science and Spectacle in the Age of Colonial Empires: Science and Spectacle in the Age of Empire]. Verona: Ombre Corte, 2003.

¹³ For more, see Loic Waquant, "The Curious Eclipse of Prison Ethnography." *Ethnography* 3.4 (2002): 371-79. An excellent overview on the parallels between zoos and prisons can be found in Kelly Montford's recent article, "Dehumanized Denizens: Prison Tourism and the Discourse of the Zoo." *Philosophia*, 6.1 (2016): 73-91.

¹⁴ ALEC (American Legislative Exchange Council) is a non-profit organization that pioneered some of the toughest state laws to create private profit for American prisons.

¹⁵ By way of example, Usher's song "Chains," which DuVernay uses in *13th*, addresses the problem of criminal justice. The original video the rap artist released shows the faces and stories of young African Americans killed by the police. For a recent discussion on race, rap music, and criminality, see Adam Dunbar, "Rap Music, Race and the Perceptions of Crime." *Sociology Compass* 13.1 (2019): 1-11.

¹⁶ Note that after the events, Donald Trump famously financed the publication of an ad published in the *New York Times* in 1989, calling for the return of the death penalty to be applied to the accused involved in the case.

¹⁷ This is certainly true if we consider the recent acts of violence by the police. It is exceedingly rare to see a policeman responsible for murder going to trial, let alone being convicted. It is precisely this unpunished guilt that has bred violence and led to the recent anti-racist riots.

¹⁸ This statement is taken from Toni Morrison's article "Making America White Again," *The New Yorker* 14 Nov. 2016.

¹⁹ The film gained an approval rating of 97% based on 93 reviews. *13th* has been nominated for several awards, including an Academy Award nomination for Best Documentary Feature.

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