
The Adoption of Black Codes in Several States in America

During the Progressive Era, African Americans were not being treated equally. Although slavery was eradicated in 1865, African Americans were still being terrorized in many forms, including lynching. Racism was a blind-spot during this Era, causing African Americans to live in racial separation and inequality due to various reasons which continued to be perpetuated by many people and factions.

Immediately following the Civil War and adoption of the 13th Amendment, most states of the former Confederacy adopted Black Codes, laws modeled on former slave laws. These laws were intended to limit the new freedom of emancipated African Americans by restricting their movement and by forcing them into a labor economy based on low wages and debt (Library of Congress). Vagrancy laws allowed African Americans to be arrested for minor infractions. A system of penal labor known as convict leasing was established at this time. African American men convicted for vagrancy would be used as unpaid laborers, and thus effectively re-enslaved (Reid, 2000).

Black codes were restrictive laws designed to limit the freedom of African Americans and ensure their availability as a cheap labor force after slavery was abolished during the Civil War (Library of Congress). Though the Union victory had given some 4 million slaves their freedom, the question of freed African Americans' status in the postwar South was still very much unresolved (Schmidt, 2006). Under black codes, many states required African Americans to sign yearly labor contracts; if they refused, they risked being arrested, fined and forced into unpaid labor. Outrage over black codes helped undermine support for President Andrew Johnson and the Republican Party (Library of Congress).

The Black Codes outraged public opinion in the North and resulted in Congress placing the former Confederate states under Army occupation during Reconstruction (Schmidt, 2006). Nevertheless, many laws restricting the freedom of African Americans remained on the books for years. The Black Codes laid the foundation for the system of laws and customs supporting a system of white supremacy that would be known as Jim Crow.

The majority of states and local communities passed "Jim Crow" laws that mandated "separate but equal" status for African Americans. Jim Crow Laws were statutes and ordinances established between 1874 and 1975 to separate the White and African American races in the American South (Library of Congress). In theory, it was to create "separate but equal" treatment, but in practice Jim Crow Laws condemned African American citizens to inferior treatment and facilities. Education was segregated as were public facilities such as hotels and restaurants under Jim Crow Laws (Holden-Smith, 1996). In reality, Jim Crow laws led to treatment and accommodations that were almost always inferior to those provided to White Americans.

The term "Jim Crow" originally referred to an African American character in an old song, and was the name of a popular dance in the 1820s. Around 1828, a minstrel show performer named Thomas "Daddy" Rice developed a routine in which he blacked his face, sang and danced in imitation of an old African American man in ragged clothes (Holden-Smith, 1996). By the early

1830s, Rice's character became tremendously popular, and eventually gave its name to a stereotypical negative view of African Americans as uneducated, shiftless, and dishonest (Holden-Smith, 1996).

Beginning in the 1880s, the term Jim Crow was used as a reference to practices, laws or institutions related to the physical separation of African American people from White people (Holden-Smith, 1996). Jim Crow laws in various states required the segregation of races in such common areas as restaurants and theaters. The "separate but equal" standard established by the Supreme Court in *Plessy vs. Ferguson* (1896) supported racial segregation for public facilities across the nation.

The most important Jim Crow laws required that public schools, public facilities, e.g., water fountains, toilets, and public transportation, like trains and buses, have separate facilities for White and African Americans. These laws meant that African American people were legally required to attend separate schools and churches, use public restrooms marked, "For Colored Only," eat in separate sections of restaurants, and sit in the rear of the bus.

In 1890, Louisiana passed a statute called the Separate Car Act declaring that all rail companies carrying passengers in Louisiana must provide separate but equal accommodations for white and non-white passengers (Library of Congress). The penalty for sitting in the wrong compartment was a fine of \$25 or 20 days in jail. A group of African American citizens joined forces with the East Louisiana Railroad Company to fight the Act. In 1892, Homer Plessy, who was one-eighth African American, purchased a first-class ticket and sat in the white-designated railroad car (Holden-Smith, 1996). Plessy was arrested for violating the Separate Car Act and argued in court that the Act violated the Thirteenth and Fourteenth Amendments to the Constitution (Holden-Smith, 1996). After losing twice in the lower courts, Plessy took his case to the U.S. Supreme Court, which upheld the previous decisions that racial segregation is constitutional under the separate but equal doctrine.

In a 7-1 decision, the Supreme Court ruled in favor of *Ferguson*. The majority rejected Plessy's Thirteenth and Fourteenth Amendment arguments, instead putting its stamp of approval on the doctrine of "separate but equal." The dissent, written by Justice John Marshall Harlan, disagreed, arguing that segregationist laws indoctrinate society with the belief that the two races are not equal (Holden-Smith, 1996).

In addition, the justices denied the argument that separation of the races by law "stamps the colored race with a badge of inferiority." They argued instead that racial prejudice could not be overcome by "an enforced commingling of the two races." According to this argument, outlawing segregation would not eliminate racial prejudice, because such societal beliefs could not be changed simply by changing the law (Schmidt, 2006). The Court concluded that "if one race be inferior to the other socially, the Constitution ... cannot put them upon the same plane (Schmidt, 2006)." The justices explained that because the Louisiana law did not conflict with the purpose of the Fourteenth Amendment, the only remaining question was whether it was "reasonable, and ... enacted in good faith for the promotion for the public good (Schmidt, 2006)." Giving much deference to the state legislature of Louisiana, they determined that the law met this requirement because it furthered "the preservation of the public peace and good order." Thus, so long as separate facilities were actually qualitatively equal, the Constitution did not prohibit segregation in the view of the majority of the Court (Schmidt, 2006).

When evaluating the Progressive Era regarding how it dealt with racial inequality that African Americans faced, then it was ineffective in helping them. African Americans faced discrimination, segregation, and harassment before and during the Progressive Era. There were no major laws passed to bring these harsh conditions to a halt (Reid, 2000). African Americans still faced segregation in public transportation, schools, and public facilities. There was nothing done to end the voting restrictions that African Americans faced, such as the poll tax and the literacy test. Even though there were many political reforms that occurred during the Progressive Era, none of these reforms addressed these restrictions that prevented many African Americans from voting (Reid, 2000). While there was some attention drawn on the issue of lynching with articles and editorial, there was not much change taking place regarding the inequality African Americans faced on a daily basis.

Discrimination followed African American migrants to the North after the turn of the century, especially in terms of urban residence and occupations. Job opportunities for African American in the early twentieth century appeared to contract, as most trade unions denied them memberships or relegated them to segregated and inferior locals (Sponholz, 2003). White Americans systematically tried to exclude them from certain occupations, particularly on the railroads. A similar process extended to the federal government in Washington, D. C. under President Woodrow Wilson, whose Southern antecedents contributed to the removal of African Americans from government jobs traditionally assigned to them. Also, the number of lynchings and violent acts against African Americans doubled in the South during the Progressive Era (Sponholz, 2003).

Historians have suggested that the failure to enact anti-lynching legislation during the Progressive Era stemmed from fears that those kind of laws were beyond Congress' constitutional authority and would intrude the rights of the states. Interracial sex between African American men and White women was one of the main reasons Congress failed to take action against lynching (Gibson, 2016). Throughout the Progressive Era, lynching remained a brutal crime that went uninvestigated, unprosecuted, unpunished, and undeterred by the agents of law at every level of government. State and local officials did not enforce existing laws and federal officials failed to enact any new legislation. As a result, lynchings never faced any serious deterrent from the government and could murder African Americans openly and boldly without the fear of reprisal (Gibson, 2016). During the 1920s, even though the local communities knew the identities of the lynchings, juries usually found that either, 1. No crime had been committed, or, 2. The identities of the perpetrators were unknown (Reid, 2000). The Tuskegee Institute records for the period between 1900-1930 reveal twelve instances in which a total of sixty-seven individual convictions were secured. Only about eight-tenths of one percent of the lynchings in the United States since 1900 have been followed by convictions. On the latter, convictions for regular homicides during this period was about forty-four percent (Reid, 2000).

Politics played a major role in the Southern states failure to protect African American citizens from lynching. White Americans had the right to vote, while African Americans could not. The local sheriffs, prosecutors, and judges were usually the elected officials (Reid, 2000). They were aware that any sort of protection of African Americans from White violence would send them out of office. If local authorities had chosen to enforce the laws against lynching, there would have been changes. African Americans became fed up with the racial disparities and wanted to do something about it. During the Progressive Era, many African American activists came about to raise awareness for racial justice.

Ida B. Wells was an anti-lynching activist and muckracking journalist from Mississippi during the Progressive Era. She moved to Memphis, Tennessee as a young adult, became a teacher, and took a stand against Jim Crow segregation (Gibson, 2016). Ida B. Wells became the co-owner and editor of *The Free Speech and Headlight* newspaper, which she used to speak out against racial inequality (Gibson, 2016). When three of her friends were lynched in retribution for their economic success and a mob of white residents destroyed the office of her newspaper, Ida B. Wells was forced to leave Memphis, but continued her anti-lynching activism as a writer, journalist, and educator (Gibson, 2016).

As African Americans tried to combat racism and avoid racial conflict, they clashed over strategies of accommodation and resistance against inequality. Booker T. Washington, head of the Tuskegee Institute in Alabama, urged African Americans to be industrious and frugal, to learn manual skills, to become farmers and artisans, to work their way up economically, and to win the respect of White Americans (Sponholz, 2003). When African Americans proved their economic value, Washington argued, racism would decline. Being an agile politician, with appeal to both White Americans and African Americans, Washington urged African Americans to adjust to the status quo. In 1895, in a speech that critics labeled the Atlanta Compromise, Washington contended that African Americans and White Americans could coexist in harmony with separate social lives but united in efforts toward economic progress (Sponholz, 2003).

Northern intellectual W.E.B. Du Bois challenged Washington's policy. In *The Souls of Black Folk* (1903), Du Bois deplored Washington's call for patience and for cultivation of manual skills. Instead he urged equal educational opportunities and the end of discrimination (Holden-Smith, 1996). In 1909 Du Bois joined a group of progressives, African American and White, to form the National Association for the Advancement of Colored People (NAACP). The NAACP strove to end the disfranchisement of African American people, to abolish segregation, and to promote black civil and political rights (Holden-Smith, 1996).