Families of Color in Crisis: Bearing the Weight of the Financial Market Meltdown

andré douglas pond cummings

University of Arkansas at Little Rock William H. Bowen School of Law, acummings@ualr.edu

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INTRODUCTION

The financial market crisis of 2008 has landed heaviest and hardest upon communities of color. In the minority communities that

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1. See INST. ON RACE & POVERTY, UNIV. MINN. LAW SCH., COMMUNITIES IN CRISIS: RACE AND MORTGAGE LENDING IN THE TWIN CITIES (2009), available at http://www.irpumn.org/uls/resources/projects/IRP_mortgage_study_Feb._11th.pdf (“Across the United States, people of color continue to receive home loans on worse terms and at a higher cost than similarly situated white borrowers. National research also shows that people who live in segregated communities of color have born the brunt of the mortgage crisis . . . .”); Editorial, Mortgages and Minorities, N.Y. TIMES, Dec. 9, 2008, at A34 (“The mortgage crisis that has placed millions of Americans at risk of losing their homes has been especially devastating for black and Hispanic borrowers and their families.”); Michelle Chen, No End in Sight for Foreclosures in Communities of Color,
continue to bear the crushing weight of this crisis—which continues unrequited—women of color, and by extension, their families, are by far the group most devastated by the global market meltdown. In an ultimate irony, most economists, scholars, and commentators now agree that the collapse, which continues to ravage Main Street, was caused primarily by a select group of privileged white men—i.e., Wall Street executives, bankers, and the politicians purchased by Wall Street largess. The impact of Wall Street’s fascination with securitizing subprime mortgages, creating worthless collateralized debt obligations, and trading these unregulated exotic instruments recklessly, has been a government bailout of the reckless institutions, absolution of Wall Street banks by the media, and America’s leaders, and a citizenry left adrift. No Main Street bailouts have materialized as American citizens continue to deal with foreclosures, joblessness, and chaos. Those citizens struggling most with foreclosure, joblessness


5. See andré douglas pond Cummings, Post Racialism?, 14 IOWA J. GENDER, RACE & JUST. 601, 603 (2011); Sara Hansard, Bailout Has Been Good for Wall Street, Not Main Street, DAILY FINANCE (Apr. 20, 2010, 7:00 PM), http://www.dailyfinance.com/story/bailout-has-been-good-for-wall-street-not-main-street/19447022/; Devona Walker, How Ruthless Banks Gutted the
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and chaos are women of color and their families. Women of color and urban families in the years preceding the mortgage crisis were targeted by the lending industry to receive disproportionate percentages of onerous subprime home loans leading to devastating foreclosure rates in urban city centers and an overwhelming drop in median minority wealth. Further, chaos abounds in minority communities because vast percentages of male wage earners, fathers, and sons, are behind bars, simply absent from their communities, imprisoned on a massive scale due to America’s War on Drugs.

Much has been written about the causes of the mortgage crisis of 2008. Wide-ranging agreement focuses primary causation for the crisis on the Black Middle Class and Got Away With it, ALTERNET (Sep. 4, 2010), http://www.alternet.org/story/148068/.

6. See infra Part I.B.
7. See infra Part II.
sis on legislative deregulation of the capital markets dating back to the 1970s, a housing bubble that inflated and imploded, and Wall Street's activities and behavior in connection with this deregulation and housing bubble. Legislative deregulation, a housing boom and bust, and Wall Street greed and recklessness nearly collapsed the global economy. Yet, Wall Street executives, national legislators, and most commercial and investment banks responsible for inflating the housing bubble and massively profiting from that bubble prior to the collapse have all mostly escaped the devastation of the mortgage meltdown and now appear either completely recovered or nicely recovering. Conversely, those who continue to suffer crippling unem-

11. See JOHNSON & KWAK, supra note 8; SORKIN, supra note 8; STIGLITZ, supra note 8; cummings, Racial Coding, supra note 3, at 156–81.
12. See INQUIRY COMM’N, supra note 8; cummings Post Racialism?, supra note 5.
13. See Daniel Costello, The Drought Is Over (at Least for C.E.O.’s), N.Y. TIMES, Apr. 10, 2011, at BU1 (“After shrinking during the 2008-9 recession, paychecks for top American executives are growing again — in many cases, significantly so. Rarely has the view from the corner office seemed so at odds with the view from the street corner. At a time when millions of Americans are trying to hang on to homes and millions more are trying to hang on to jobs, the chief executives of major corporations like 3M, General Electric and Cisco Systems are making as much today as they were before the recession hit . . . . Some are making even more.”); Dee-Ann Durbin, UAW Chief Assails Pay of Ford CEO, WASH. POST, Mar. 23, 2011, at A16 (explaining that Ford Motor Company justified its CEO’s 2009 salary of $56.6 million with the reasoning that “his leadership is ‘widely recognized as extraordinary’ . . . [and] his compensation reflects Ford’s goal of . . . providing appropriate performance-based incentives,” especially considering that Ford earned $6.6 billion in 2010—its biggest profit in 11 years); Pradnya Joshi, We Knew They Got Raises. But This?, N.Y. TIMES, July 3, 2011, at BU1 (highlighting that 2010 gains for CEO compensation at 200 top companies was twenty-three percent, or a median pay of $10.8 million); Nathaniel Popper, JPMorgan Profit Rises to $3.3 Billion; but Losses in the Bank’s Credit Card and Retail Units Reflect Difficulty that Consumers Have Paying Their Debts, L.A. TIMES, Jan. 16, 2010, at B1 (explaining that JPMorgan Chase’s earnings, with a “reported net income of $3.3 billion for the fourth quarter and $11.7 billion for 2009, or more than double what it made in 2008,” provides a “rough snapshot of the U.S. economy . . . .”); Nelson D. Schwartz, $10 Million in Pay for Bank of America Chief, N.Y. TIMES, Feb. 1, 2011, at B5 (stressing that Bank of America, even with its “foreclosure mess and [ ] sagging stock price,” was able to pay its CEO $10 million, and Goldman Sachs paid its CEO $13.2 million”); Cal Thomas, Spreading Wealth the Right Way, WASH. EXAMINER (Apr. 4, 2011), http://washingtonexaminer.com/opinion/columnists/201104/spreading-wealth-right-way?quicktabs_1=0 (arguing that CEOs, like John Lundgren of Stanley-Black & Decker, should not lay off employees when he is taking home more than $32 million, a 253 percent increase from 2009).
employment, continuing foreclosure abuse and erratic housing prices, and consequences of a massive taxpayer bailout of Wall Street include the general global public, particularly middle class taxpayers, urban communities, and people of color.

This Essay explores the specific impact the financial market crisis of 2008 has had on families of color, particularly African American

14. See Bureau of Labor Statistics, U.S. Dep't of Labor, Employment Situation – September 2011 (2011) (reporting that, despite an increase in employment by 103,000 jobs in September 2011, 14 million people remained unemployed, and the unemployment rate has remained between 9.0% and 9.2% since April 2011); Bureau of Labor Statistics, U.S. Dep't of Labor, LNS14000000: Labor Force Statistics from the Current Population Survey (2011) (showing that the September 2011 unemployment rate was 9.0%, compared to an average of 5.8% average from 2008, or an average of 5.3% from 2001-08).

15. See Federal Housing Finance Agency, Office of Inspector General, AUD-2011-004: FHFA’s Oversight of Fannie Mae’s Default-Related Legal Services (2011), available at http://www.fhfaoig.gov/Content/Files/AUD-2011-004.pdf (revealing that Fannie Mae knew about foreclosure abuse as early as 2003); U.S. Gov’t Accountability Office, GAO-11-649T: Mortgage Foreclosures – Documentation Problems Reveal Need for Ongoing Regulatory Oversight (2011) (“As of December 2010, an estimated 4.63 percent of the about 50 million first-lien mortgages outstanding nationwide were in some stage of foreclosure—an increase of more than 370 percent since the first quarter of 2006, when 1 percent were in foreclosure.”); Associated Press, Wells Fargo Agrees to Pay $85 Million Over Loans, N.Y. Times, July 21, 2011, at B7 (showing that Wells Fargo agreed to pay this settlement for pushing sub-prime mortgages—most of which eventually lead to foreclosures); Gretchen Morgenson, Homework Regulators Aren’t Doing, N.Y. Times, Apr. 17, 2011, at BU1 (remarking on the sloppiness of the mortgage services industry, including DocX, a rubber-stamp mortgage processing company that allowed its employees to forge or ignore mortgage documents); Craig E. Pollock & Julia F. Lynch, Op-Ed, Foreclosures Are Killing Us, N.Y. Times, Oct. 3, 2011, at A25 (explaining that the rate of foreclosures in August 2011 rose 33% from July); Nelson D. Schwartz, Bank’s Deal Means More Will Lose Their Homes, N.Y. Times, July 12, 2011, at B1 (explaining how a deal between Bank of America and investors, in which it will rework modifications, will also create a quicker foreclosure process than expected).

16. See Debbie Grunstein Bocian et al., Ctr. for Responsible Lending, Foreclosures by Race and Ethnicity: The Demographics of a Crisis 10 (2010), available at http://www.responsiblelending.org/mortgage-lending/research-analysis/foreclosures-by-race-and-ethnicity.pdf (“African Americans and Latinos are, respectively, 47% and 45% more likely to be facing foreclosure than whites.”); Kenneth J. Cooper, Home Inequity; Mortgage Mess: Lending to Hispanics, African Americans Has Plunget Since Housing Market Collapsed, Chi. Sun-Times, Feb. 14, 2011, at 2 (explaining that in 2009, compared to 2004, African Americans and Hispanics were able to borrow 62 percent less to buy or refinance homes, whereas the borrowing rate for white borrowers declined by only 17 percent); Ellis Cose, Eyes on the Next Prize - Economic Equality for All, Wash. Post, July 10, 2011, at B3 (citing the Center for Responsible Lending, which said that property depreciation related to “foreclosures between 2009 and 2012 would end up costing black communities $194 billion and Latino communities $177 billion.”); Danielle Kurtzleben, Economic Recovery a Longer Struggle for Blacks and Hispanics, U.S. News & World Rep., June 28, 2011 (Pol. & Pol’y) (explaining that while the unemployment gap between whites and African Americans is not new, African Americans, unemployment rate, with only a 0.3% drop from its 16.5% peak, is clearly disproportionate to that of whites—which dropped 1.4% of its 9.4% peak); Renae Merle, Discrepancies Detailed in Minority Foreclosures; Blacks, Latinos More Likely To Fail than Whites with Same Risk Factors, Wash. Post, Apr. 28, 2010, at A15 (“In the District of Columbia area, blacks were almost 20 percent more likely and Latinos were 90 percent more likely to face foreclosure or have lost their homes than similarly situated white counterparts.”).
families. The Essay begins by detailing the dreadful impact of the financial market crisis of 2008 on communities of color. More than any other group of citizens, minority Americans suffered the crisis burden disproportionately and more harshly than any other because in large percentages minority citizens were predatorily targeted by lenders in the mortgage industry for incredible short term lender profit at the expense of long term needs of the family. Next, this Essay analyzes why communities of color suffered most harshly from the financial market crisis by examining the mass incarceration of men of color and the relationship between financial crises and discriminatory imprisonment. Finally, the Essay concludes.

I. ECONOMIC DEVASTATION OF FAMILIES OF COLOR BY THE FINANCIAL MARKET CRISIS

The mortgage crisis of 2008 had and continues to have a disproportionately harsh impact on minority families and homeowners. Two of the ways in which minority families have suffered the most in light of the crisis include 1) a significant drop in median wealth and 2) a disproportionate rate of mortgage foreclosures based in part on targeted predatory lending.

A. Median Wealth

Minority median wealth tumbled following the mortgage crisis. In a 2011 Pew Center Research report, the relative net worth of families signals the devastating impact of the financial market crisis on minority families. Since the mortgage crisis, the gulf in net worth between white and black families has increased dramatically. The Pew report provides a stark reminder that the disparity in wealth between whites, Latinos and African Americans in this country is a nightmarish problem. In the single largest drop since Pew began collecting data in 1984, Latinos saw their median wealth drop sixty-six percent during the financial crisis period of 2005 to 2009, and African


18. Id. ("The median wealth of white households is 20 times that of black households and 18 times that of Hispanic households, according to a Pew Research Center analysis of newly available government data from 2009.").

19. Id.
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Americans fared just about as poorly with a fifty-three percent drop in median wealth during the same period.20

This precipitous drop in median wealth for Latinos and African Americans during the period of the financial market crisis of 2008 can be attributed in part to the fact that minority wealth is often tied to home ownership and equity. As a result, minority communities are extremely vulnerable during housing and economic crises.21 Contrarily, whites are generally in a better position to diversify their assets between home equity, stocks, bonds and other investment alternatives.22 The housing crisis not only widened the existing wealth gap, as white wealth better weathered the mortgage meltdown based on diversified portfolios, but also saw white families' median wealth drop only sixteen percent because of this diversification.23 While white family wealth dropped just sixteen percent during the mortgage crisis, both Latino and African American family wealth plunged more than fifty percent. Furthermore, according to the Pew report, almost one-third of Latino and African American households reported zero wealth—having more debt than assets—during the crisis period.24

Perhaps the most startling statistic from the recent Pew report is that while whites had an average median wealth of $113,149 during the mortgage crisis period, African Americans had an average median wealth of only $5,677 and Latinos had an average median wealth of $6,325.25 This disparity is simply alarming. The financial market crisis

20. Id.
21. Michael Powell, Decades of Gains Vanish for Blacks in Memphis, N.Y. TIMES, May 31, 2010, at A1 (explaining how African Americans had begun to close the wealth gap with whites, but now, because of the housing crisis and their inability to remain afloat during hard times, that “progress [ ] is being erased”); Michelle Singletary, Housing Decline Took Some Down a Few Rungs Further, WASH. POST, July 31, 2011, at G1 (illustrating that minorities, in their quest to accumulate wealth, were merely replicating whites’ approaches to becoming wealthy—starting the climb up the economic ladder by placing their wealth in home equity); Merle, supra note 16 (quoting Barry Zigas, director of housing policy at the Consumer Federation of America, who explains that minorities cannot “weather a disruption” in a housing crisis because they have “fewer liquid assets to start with”).
22. See Michael A. Fletcher, Investments Join Racial Divide, WASH. POST, Feb. 22, 2011, at A10 (remarking that just one in four blacks and one in six Hispanics have stocks or bonds, but half of whites have these investments); Melvin L. Oliver, The Color of Opportunity: Sub-Prime as a Black Catastrophe, THE AM. PROSPECT, Oct. 2008, at A9 (showing that, because African Americans have sixty-three percent of their wealth in home equity, subsequent housing crises amounts to significant “wealth stripping”); Sabrina Tavernise, Recession Study Finds Hispanics Are Hit Hardest, N.Y. TIMES, July 26, 2011, at A1 (revealing how one-third of whites diversify their assets, compared to just eight percent of Hispanics and nine percent of blacks).
24. Id.
25. Id.
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exacerbated the median wealth gap, as the years of the financial market crisis show a dramatic drop in minority wealth as well as an awful widening of the wealth gap between whites and minorities. Further, statistics show that besides plummeting median wealth, families of color were foreclosed upon disproportionately more often than white families. Minority families were steered into subprime loans predatorily, at a rate far more frequently than white families.26

B. Foreclosures and Predatory Lending

In minority communities, which have been devastated by foreclosures often brought about by subprime loans predatorily extended, women of color have emerged as those most harshly hit. Urban communities have been eviscerated by the mortgage crisis.27 Emerging evidence confirms that women of color, who often are the heads-of-household, are being disproportionately foreclosed upon, based primarily on the lopsided number of minority women that were steered into subprime loans, often through devious predatory lending.28 One report indicates that African American women were 256% more likely to receive a subprime loan than white men.29

26. See Oliver, supra note 22.
27. Katie Connolly, 30,000 Queue for Housing Assistance in Atlanta, BBC News (Aug. 12, 2010), http://www.bbc.co.uk/news/world-us-canada-10957346 (noting that because of the large numbers of foreclosures, those of lower income status strain to find affordable housing, as evidenced by 30,000 people in a southwest Atlanta suburb lining up to receive public assistance); Bruce Katz, Director, Brookings Metro. Policy Program, Beyond the Recession: The Great Housing Rebalance, Address at the Michigan Conference on Affordable Housing (Apr. 13, 2011) (transcript available at http://www.brookings.edu/-/media/Files/rc/speeches/2011/0413_housing_michigan_katz/0413_housing_michigan_katz.pdf) (explaining that Detroit and Grand Rapids home values have decreased forty-two and twenty-six percent, respectively, since 2005); Keeanga-Yamahtta Taylor, The Other Housing Crisis, SOCIALISTWORKER.ORG (Sept. 16, 2010), http://socialistworker.org/2010/09/16/the-other-housing-crisis (showing the impact of the housing crisis, including a forty percent increase of evictions in Chicago in 2009 from 2005 levels and that forty percent of eviction notices in urban areas target black women); Shyama Venkateswar, Women of Color Slammed By Economic Crisis — We Must Strengthen Basic Safety Nets, ALTERNET (Feb. 25, 2010), http://www.alternet.org/reproductivejustice/145818/women_of_color_slammed_by_economic_crisis___we_must_strengthen_basic_safety_nets?page=entire (explaining that women are thirty-two percent more likely to receive sub-prime loans, and black and Latina women, at all income levels, are more likely to receive these loans).
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Predatory lending occurs when a lender deceptively convinces borrowers to agree to unfair and abusive loan terms, or systematically violates terms in ways that are difficult for a borrower to defend against. Subprime loans are those loans most likely to be written through predatory lending practices to borrowers who do not meet prime underwriting borrower guidelines, and lenders prefer these loans because profit margins can be significantly higher if a borrower pays out the loan. Subprime mortgages typically are written for borrowers who are adjudged to have very high credit risk, often because they lack a strong credit or work history or have other characteristics that are associated with strong probabilities of default. Subprime loans typically carry much higher interest rates than conventional loans.

It is now well established that predatory lending was a primary driver of the financial market crisis. Mortgage brokers, seeking higher origination fees and profit spreads, fervently sought out borrowers to whom they could sell subprime mortgages. Most often, minority communities were targeted for these predatory loans.

Additional empirical research must be conducted to determine why women of color were so agreeable to these onerous loan terms, which is beyond the scope of this particular Essay.

36. See Creola Johnson, The Magic of Group Identity: How Predatory Lenders Use Minorities to Target Communities of Color, 17 GEO. J. ON POVERTY L. & POL'y 165, 171-82 (2010) (illustrating the different methods used to market predatory loans in minority communities). Professor Cheryl Wade at St. John’s Law School is currently doing groundbreaking empirical work preliminarily finding that predatory lenders specifically targeted the African American community through its churches and church leaders convincing many to enter destructive loans.
2006, fifty-five percent of loans to African Americans were subprime, despite the fact that many of those borrowers qualified for prime loans.\textsuperscript{37} Additionally, statistics indicate that forty percent of loans to Latinos were subprime and thirty-five percent of loans to American Indians were subprime; however, just twenty-three percent of loans to whites were subprime.\textsuperscript{38} Women also received less favorable loan terms across equal presentations of credit worthiness.\textsuperscript{39}

Studies indicate that minority borrowers were purposely steered into risky and expensive subprime loans, despite being qualified for better terms.\textsuperscript{40} Those lenders who steered minority borrowers into subprime loans were often mortgage brokers who were eager to capitalize on significantly larger profits.\textsuperscript{41} For instance, "[i]n two audit studies wherein creditworthy testers approached subprime lenders, whites were more likely to be referred to the lenders' prime borrowing division than were similar black applicants. Further, subprime lenders quoted the black applicants very high rates, fees, and closing costs not correlated with risk."\textsuperscript{42} Because minority communities and borrowers were targeted predatorily for subprime loans, foreclosures have devastated urban communities and their families.\textsuperscript{43}

Additionally, recent evidence indicates that women of color received significantly higher interest rates than white men on precisely the same loan terms and credit scores.\textsuperscript{44} Further, unemployment is devastating urban city centers as women of color are facing jobless-
ness at rates significantly more injurious than are white males. The impact of this reality on the black family has been staggering.

Of course, one of the primary reasons that the financial market crisis has hit women of color and their families so hard, notwithstanding predatory lending and subprime loan abuse, is that the African American and Latino family has been dramatically disrupted in the past twenty-five years. Because America massively incarcerates its minority male citizens, women of color as heads-of-household have become routine in minority communities. Hundreds of thousands of male wage earners have literally been removed from minority communities and placed into jails and prisons throughout the nation. The United States has adopted as official policy, a drug war that incarcerates men of color at unprecedented rates and percentages that exceed any other country in the world.

II. MASS INCARCERATION

One of the primary reasons that the minority family, particularly families headed by women, has been crushed by the market crisis is that since the 1970s, America has waged a campaign intent on imprisoning, in overwhelming numbers, African American and Latino men. Since 1980, the rate of incarcerated Americans has skyrocketed. The United States has increased its incarceration rate in the


46. See generally AMERICAN CASINO (Table Rock Films 2009) (describing how the Wall Street meltdown has affected the working class); Editorial, Fair Lending and Accountability, N.Y. TIMES, Sept. 8, 2011, at A28. The New York Times Editorial states:

Pricing discrimination—illegally charging minority customers more for loans and other services than similarly qualified whites are charged—is a longstanding problem. It grew to outrageous proportions during the bubble years. Studies by consumer advocates found that large numbers of minority borrowers who were eligible for affordable, traditional loans were routinely steered toward ruinously priced subprime loans that they would never be able to repay.

Id.; MIKE HUDSON, A "FORECLOSURE CAPITAL" IN THE SHADOW OF THE NATION'S CAPITAL, CTR. FOR RESPONSIBLE LENDING (2010), available at http://www.responsiblending.org/mortgage-lending/research-analysis/Foreclosure-Capital.pdf (evidencing the plight of Louise Golden, an elderly African American woman, who was wrangled into an ARM loan, and saw her manageable mortgage go from $1,000 per month to an unmanageable $1,700 per month); Median Wealth for Single Black Women: $100, Single Hispanic Women: $120, Single White Women: $41,000 (DEMOCRACY NOW television broadcast Mar. 12, 2010), available at http://www.democracynow.org/2010/3/12/study_median_wealth_for_single_black (highlighting that, in general, job creation will not specifically address wealth disparities in communities of color).


48. See id.; see also BUREAU OF JUST. STATISTICS, U.S. DEPT. OF JUST., Adult Correctional Populations, 1980–2009, KEY FACTS AT A GLANCE (2010) (showing a combined jail and prison
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last thirty years by an incredible 335%.49 Since 1980, imprisonment for drug crimes alone has increased an astonishing 1,412%.50 The United States now imprisons more of its citizens than any other nation on Earth.51 Despite its relatively small population size when compared to other nations globally, Americans are imprisoned at rates that far exceed any other country.52 “The United States has less than 5 percent of the world’s population. But it has almost a quarter of the

population of 501,886 people in 1980, as compared to 2,284,913 inmates in 2009), available at http://bjs.ojp.usdoj.gov/content/glance/corr2.cfm; Adam M. Gershowitz, An Informational Approach to the Mass Imprisonment Problem, 40 Ariz. St. L.J. 47, 53 (2008) (highlighting that, in 2005, the rate of incarceration was 738 inmates per 100,000 people, more than doubling the 313 inmates per 100,000 in 1985); Margo Schlanger, Regulating Segregation: The Contribution of the ABA Criminal Justice Standards on the Treatment of Prisoners, 47 Am. Crim. L. Rev. 1421, 1424 (2010) (remarking that, since 1981, the “population explosion in prison and jails” has been the most significant change in American corrections); Vicki Waye & Paul Marcus, Australia and the United States: Two Common Criminal Justice Systems Uncommonly at Odds, Part 2, 18 Tul. J. Int’l & Comp. L. 335, 373 (2010) (noting that the incarceration rate has increased seven-fold since the “War on Drugs,” and drug offense incarcerations has increased 1200% since 1980). See generally Vincent Schiraldi & Jason Ziedenberg, The Punishing Decade: Prison and Jail Estimates at the Millennium, Just. Pol’y Inst. (2000), available at http://www.justicepolicy.org/images/upload/00-05_REP_PunishingDecade_AC.pdf (documenting the significant spike in the number of inmates during the 1980’s and 90’s and noting the disproportionate impact of this spike in the incarceration rate among minorities).


52. See sources cited supra note 48. Somewhat shockingly, China, Russia and Iran, nations with highly repressive governments, imprison their citizens at rates that are significantly lower than the United States, while other Western countries imprison at rates dramatically lower than the U.S. Alexander supra note 47, at 6. The U.S. imprisons more of its citizens than known communist and other hard-line regimes. Id. “Although crime rates in the United States have not been markedly higher than those of other Western countries, the rate of incarceration has soared in the United States while it has remained stable or declined in other countries.” Id. at 7.
world's prisoners." 53 The vast majority of prisoner increase in the U.S. has been that of African American and Latino male citizens.54 "The United States imprisons a larger percentage of its black population than South Africa did at the height of apartheid."55

Professor Michelle Alexander author of The New Jim Crow: Mass Incarceration in the Age of Colorblindness, endeavors to address this unconscionable explosion in prison population by examining America's continuing subordination of its black and brown citizens.56 Alexander boldly traces the "Southern Strategy" of the Richard Nixon era to the racial coding of the Ronald Reagan and George Bush, Sr. era, through Bill Clinton's "New Democrat" era and concludes that these eras of divisive racial politics and "tough on crime" rhetoric led to a new era of subordination just as nefarious as slavery and Jim Crow.57 The War on Drugs allows racial subordination without explicitly naming race. Mass incarceration of African Americans and Latinos based almost entirely upon soft drug crimes allows the United States to deprive minority citizens—men in particular—of their constitutional rights, while appearing race neutral.58

As a result, this War on Drugs has overwhelmed the black community.59 With prisons literally teeming with minority prisoners, some have argued that current U.S. incarceration is similar to the impact of slavery upon early American society, as the "focused machinery of the 'war on drugs'" and its disparate impact on African-American prisoners "fractures families[,] . . . destroys individual lives[,] and destabilizes whole communities."60 To wit, "current drug policies and

54. See ALEXANDER, supra note 47, at 5–6.
55. Id. at 6.
56. See id. at 11–15 ("A human rights nightmare is occurring on our watch.").
57. Id. at 40–56.
58. Id. at 56–59 ("Ninety percent of those admitted to prison for drug offenses in many states were black and Latino, yet the mass incarceration of communities of color was explained in race-neutral terms, an adaptation to the needs and the demands of the current political climate.").
59. See generally id.

"They got me rottin' in the time that I'm servin'; Tellin' you what happened the same time they're throwin'; Four of us packed in a cell like slaves—oh well; The same motherfucker got us livin' in his hell; You have to realize, that it's a form of slavery
regulations have direct and devastating impacts on family structure and particularly impact women and children."  

Clear collateral damage of the War on Drugs is the black family. With so many men of color serving out prison sentences for soft drug "crimes," women and children in urban city centers are forced to work and live exclusive of their fathers, sons and partners. It is no wonder then, that when a housing market collapses, the brunt of the consequences falls hardest and heaviest on those mothers and children.

Not only will millions of people lose their home and family wealth but neighborhoods will be decimated and tens of millions of other homeowners will see their home values decline precipitously," says Julia Gordon, senior policy counsel at the Center for Responsible Lending. "A disproportionate percentage of subprime loans are made in low-income neighborhoods. Black and Latino communities were especially hard-hit by the foreclosure crisis, which has wiped out the asset base in many neighborhoods across the country."

In fact, a study by United for a Fair Economy examining housing and racial bias found the subprime-lending mess has caused the greatest loss of wealth to Blacks and Latinos in modern U.S. history. During the past eight years, Black borrowers have lost between $72 billion and $93 billion from subprime loans, while Latino borrowers have lost between $76 billion and $98 billion during that same time period, according to the report.

This loss is exacerbated by the literal absence of scores of minority men in those urban communities most harshly hit by the financial crisis. Much has been written about the genuine loss suffered by families of color based on massive imprisonment in urban communities.

organized; Under a swarm of devils, straight up—word 'em up on the level; The reasons are several, most of them federal.


63. See generally DONALD BRAMAN, DOING TIME ON THE OUTSIDE: INCARCERATION AND FAMILY LIFE IN URBAN AMERICA 89–96 (2004) (detailing how incarceration deeply effects family structure); BRUCE WESTERN, PUNISHMENT AND INEQUALITY IN AMERICA (2006) (discussing the relationships among crime, imprisonment, and inequality); INVISIBLE PUNISHMENT: THE COLLATERAL CONSEQUENCES OF MASS IMPRISONMENT (Marc Mauer & Meda Chesney-Lind eds., 2002) (analyzing the wide-ranging consequences of mass incarceration); ANNE M. NURSE, FATHERHOOD ARRESTED: PARENTING FROM WITHIN THE JUVENILE JUSTICE SYSTEM (2002) (detailing the difficulties of parenting while in prison and on parole); Velma LaPoint, Prison’s Effect on the African-American Community, 34 HOW. L.J. 537 (1991) (discussing the stresses and challenges of incarceration on the African American family and community); Tracey L. Meares,
The fallout from the financial market crisis of 2008 simply adds insult to injury: evaporation of minority wealth, disproportionate foreclosure based on predatory lending, and unemployment visited on those families that remain in our nation’s city centers, while their husbands, fathers, brothers, and sons sit in prison.

CONCLUSION

In light of the 2008 collapse of the mortgage industry and global capital markets, the concomitant carnage that envelopes minority communities in the United States flows inexorably from America’s mass incarceration policies. This period of mass incarceration must come to a close. One condition precedent to gnawing wealth disparities and financial crises devastating urban communities is the massive imprisonment of men of color, wage earners, in American cities. As argued by Professor Alexander, mass incarceration is the civil rights issue of our generation.64 The financial market crisis has revealed a deep-seated cultural antagonism toward women of color, and by implication families of color. When faced with the bleakest economic crisis since the Great Depression, white male Wall Street executives and bankers are not held responsible for their recklessness.65 Instead, black and Latina female

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64. See ALEXANDER, supra note 47.

65. See Tomoeh Murakami Tse, Perks Unchecked for Some Wall Street CEOs; Bailouts, public anger have not stopped firms from boosting rewards, WASH. POST, May 23, 2010, at G01; Carol E. Lee, Obama Blasts ‘Reckless’ Wall Street, POLITICO, Dec. 12, 2009, available at http://www.politico.com/news/stories/1209/30500.html. But see Michael Daly, The Face of Anger: The Wall Street protestors are being called 21st-century hippies. But their growing outrage is real—and they look a lot like the rest of us, NEWSWEEK, Oct. 24, 2011, at 4, available at http://www.thedailybeast.com/newsweek/2011/10/16/occupy-wall-st-protesters-are-us.html (explaining that the American people, evidenced by Occupy Wall Street, when seeing that the “reckless financiers [who] trigger[ed] a brutally harsh economic crisis, accept[ed] a government bailout, and then [went] on to become even richer while everybody else has been left to struggle,” have simply “had enough”); Michael Hiltzik, Can Occupy Wall Street Turn Protests into Policy Changes?, L.A. TIMES, Oct. 12, 2011, at B1 (describing that Occupy Wall Street, in its highlighting the extreme wealth disparity between the rich and the rest of America, “will help give concrete form to a political narrative that so far has remained abstract in the public mind: That the financial industry has so far gotten a pass on its responsibility for the 2008 crash and escaped sufficiently stringent regulation, while government assistance to banks and Wall Street firms has left consumers in the dust”); Robert Monks, Occupy Wall St. Protest: A Harbinger of Sting?,
heads of household are forced to answer for the sins of corporate executive duplicity.\textsuperscript{66} When consequences are visited upon those least responsible for an economic crisis in order to prop up the powerfully entrenched and those most responsible for an economic crisis, then society stands at a serious, underappreciated crossroads.

\textsuperscript{WASH. POST, Oct. 16, 2011, at G.2 (explaining Occupy Wall Street's motive as "rise[ing] out of a profound rage over unfairness in this country").}

\textsuperscript{66. See Leland, \textit{supra} note 44; Ali, Visconti & Frankel, \textit{supra} note 62.}