

LEGACY

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Alex Baughman

Janesville and the Fall of Industrial America: A Case Study in Economic Policy and Community Impact

The 2009 closure of the General Motors plant in Janesville, Wisconsin, was more than the end of a local factory; it was a powerful symbol of how trade policy, corporate restructuring, and government bailouts have prioritized economic efficiency over community stability.¹ As a case study in the broader shift from industrial labor to a globalized economy, Janesville reveals the human cost of decisions made far from the workers they affect and underscores how national economic policies ripple through local lives.

Development of the Plant (1919–1950s)

To understand the impact of the closure on Janesville, it is imperative to know how the plant came to be and the impact that it had on the community during its nearly one hundred years of operation. The plant opened in 1919 as a Samson Tractor factory, beginning operation in May of that year.² Nearly 3,000 people were employed in that first year, and the town's population grew from 14,000 to 20,000 between 1918 and 1919.³

The economic and cultural impact on Janesville was palpable early on, particularly due to the town's dependence on surrounding farms. Despite national prosperity during the 1920s, farmers entered the new decade in an economic recession.⁴ Due to prices for agricultural staples running into deficit, this continued into the Great Depression in the 1930s. There were also increasingly high freight costs, making the moving of products a huge hit to the farmer's bottom line, and even further compounded by local taxes. During the agricultural depression years from 1919 to 1921, farm income fell by over seven billion dollars.⁵

The downturn hit local manufacturers hard. Because of the farmers'

1 *Gazette Staff*, "Through the Years: Chronicling the Story of GM in Janesville," *Janesville Gazette*, December 22, 2008.

2 *Ibid.*

3 *Ibid.*

4 Norman Cheville, *Pioneer Science, and the Great Plagues* (West Lafayette, IN: Purdue University Press, 2021).

5 Joshua Coleman, "UAW Goes on Strike after Contract Expiration," *Detroit Free Press*, September 15, 2023.

struggle, the Samson Tractor plant was forced to lay off around one thousand workers, eventually selling and relocating in 1922 in Janesville but remaining open until 1934.⁶ That same year, Chevrolet (Chevy), a product of General Motors, took over the former Samson plant and built an auxiliary Fisher Body plant to make the parts that would go on the Chevrolet frames.

Chevy started production in 1919 but only employed half of what Samson had. Chevy initially took over the Samson tractor production, and at the end of the first year, was making close to 150 tractors per day. The factory switched to car manufacturing in 1923, and by 1926, it boasted a quota of 380 cars per day. This was almost immediately raised to 435 per day, due to increasing sales and production at the plant. 1928 saw the making of 125,000 new vehicles with innovative technology, the six-cylinder engine. Business boomed, and the town grew with the factory, which now employed over 2,600 people.⁷ The 1930 census counted just over 21,000 people in Janesville, meaning that at this time, Chevy employed around 12% of the community and 3.5% of all Rock County, Wisconsin.⁸

This boom would soon be tested by the Great Depression, which hit the Janesville plant hard. Nationally, GM stock in late 1929 was valued at just under \$72 per share.⁹ However, just two days after the crash in late October, it dropped to \$48 and ended the year under \$41.¹⁰ With many Americans struggling to afford daily food, cars were perhaps the last thing on the collective American mind. The Janesville population grew to 24,000 by 1934.¹¹ However, some 2,000 of them relied on some level of government aid.¹² Combined, the two plants employed almost 3,000 people, but there were frequent shutdowns because of the lack of demand, one of which lasted over a year.¹³

As economic instability persisted and America began to unionize, Janesville played a pivotal role in that movement. The first strike of what would later turn into the United Auto Workers (UAW) started in Flint,

6 Gazette Staff, "Through the Years."

7 Ibid.

8 U.S. Bureau of the Census, *1950 Census of Population: Volume 1, Number of Inhabitants—Wisconsin, Section 1, Northwestern Part (Vol. 01-52)* (Washington, D.C.: U.S. Government Printing Office, 1952), accessed August 13, 2025, <https://www2.census.gov/library/publications/decennial/1950/population-volume-1/vol-01-52.pdf>.

9 Gazette Staff, "Through the Years."

10 Ibid.

11 U.S. Bureau of the Census, *1950 Census*.

12 Gazette Staff, "Through the Years."

13 Ibid.

Michigan, but spread across GM factories nationwide, including Janesville.¹⁴ These “sit-down” strikes of 1937 proved effective, leading to the UAW being recognized as the agent for workers who wanted to join the union. The strike lasted 44 days, with GM shutting off heat and food to the factories that were taken hostage by workers sitting in them. Eventually, the situation warranted involving the governor of Michigan, who called in the National Guard to accelerate the negotiations.¹⁵

During the 100-year history of the plant, it served as a kind of mirror, reflecting how the town and the country were doing. In 1936, during the national economic recovery, the Janesville Assembly Plant made 140,000 vehicles.¹⁶ Two years later, during a general recession, the same factory made almost 60,000 fewer.¹⁷ This pattern continued over the history of the plant. As the town grew and improved, so did the plant. If the country began to struggle, the plant did as well. Later, in 1938, the UAW gained a win, getting GM to agree to partial pay for their employees during strikes, which over the next decade would be almost unheard of.¹⁸

Several key events happened in 1940. The Janesville factory rebounded out of the sit-down strikes, and the U.S. auto workers voted to name the United Auto Workers of the Congress of Industrial Organizations the official union for all General Motors workers.¹⁹ This gave workers across the GM network a system to be represented, and if needed, a way to temporarily halt the production of GM to get whatever they felt they deserved. Over the years, things like benefits, raises in pay, and working conditions improved or changed to meet the needs of workers, either because of pressure from strikes or the mere threat of them.

Heyday of Janesville GM

As the nation edged closer to war, these labor wins faced a new kind of test. The factory shut down immediately after the bombing of Pearl Harbor because of the uncertainty regarding the role factories would play in the war effort.²⁰ The pause in production emulated the pause the country felt during the confusion, shock, and fear that accompanied the Japanese attack. Continuing to reflect the state of the nation, both the Chevrolet and

14 Don Fitz, “Anniversary of the 1937 US Sit-down Strike Wave: Remembering Another Occupy Movement,” *International Journal of Socialist Renewal*, January 3, 2012, <https://links.org.au/anniversary-1937-us-sit-down-strike-wave-remembering-another-occupy-movement>.

15 Fitz, “Anniversary of the 1937 Strike.”

16 Gazette Staff, “Through the Years.”

17 Ibid.

18 Fitz, “Anniversary of the 1937 Strike.”

19 Ibid.

20 Gazette Staff, “Through the Years.”

Fisher Body plants switched from making cars to artillery shells in 1942. The Janesville plant had a renewed sense of pride and duty in its new assignment. During the next three years, they made sixteen million shells and employed just as many people as they had before the war.²¹ Most of those workers were WWI veterans who felt a special bond to their work, knowing firsthand the importance of home-front efforts.

War contracts between GM and the U.S. Government expired in 1945, returning the plant to Chevy and Fisher Body control and their regular scheduled production in post-war America.²² This normalcy only lasted a couple of months, however, as the UAW participated in a months-long strike that came to a head when the Vice President of the UAW said, "There is no turning back now that we have been forced to turn down this strike road. We will not call off this strike until we get our wage demands."²³ That resiliency proved beneficial, resulting in a pay raise and the resolution of other local issues. To end the decade, the factory produced a record high of vehicles in a single year.²⁴

By 1950, Janesville's population had grown to 25,000, up 8% since 1940.²⁵ The decade saw the growth of the town and the factory. The Chevy and Fisher Body combined employee count grew to 3,700, accounting for 14% of the jobs in Janesville, an increase from 20 years prior that outpaced the overall population's growth.²⁶ In 1954, the plants achieved two major milestones, with the factories combining to reach 4,000 employees and making their 3 millionth vehicle. Growth continued, reaching 4,900 employees in 1957, only to be halted by another strike by the UAW in 1958.²⁷ That strike came in response to GM's rejection of a newly proposed contract. The justification was that Ford and Chrysler had recently agreed to similar ones. The contract aimed to once again increase pay, this time by about thirty cents an hour. There was a national strike, lasting just one day, but the strike in Janesville specifically lasted fifteen days, resulting in another local contract agreement.²⁸

21 Ibid.

22 Ibid.

23 Ken Coleman, "On this day in 1945: UAW goes on strike against General Motors," *Michigan Advance*, November 21, 2023.

24 Gazette Staff, "Through the Years."

25 U.S. Bureau of the Census, *1950 Census*.

26 Gazette Staff, "Through the Years."

27 Wisconsin Historical Museum, "On this Day in 1958, 4,000 Auto Workers in Janesville Went on Strike.," Facebook, October 2, 2021, <https://www.facebook.com/WisconsinHistoricalMuseum/photos/a.440135764888/10159603803579889/>.

28 Ibid.

Janesville and Civil Rights

While employment numbers peaked, not all residents shared equally in the opportunities offered by Janesville's booming auto economy. Janesville's relationship with Civil Rights is a black spot in its history. The town had the unfortunate reputation of being a sundown town.²⁹ In 1920, when there were reports of Janesville being regularly active with Ku Klux Klan (KKK) members, African Americans accounted for ten of the nearly 14,000 people in the town.³⁰ The town continued this pattern all through the 1900s, and as recently as 2010, African Americans only accounted for a mere 3.6% of the population, a full 3% less than statewide population.³¹

One African American, Johnny Lee, said "you didn't let the sun go down on you in Janesville if you were Black."³² There were rumors of actual sunset laws. In one case, actual local bylaws aimed at minorities were still active in 1960. In 1968, a group of people from Madison were told that there were "no n***** or hippies allowed." In 1973, a former UW-Rock County Center dean was told, "You'll like it here. We don't have any minorities" as a welcome after moving to Janesville. The town worked as a system to keep itself white, a claim that was solidified by a formal investigation of union discrimination at the Janesville plant, which concluded that "Janesville had a 'ring' made up of newspaper, church, businesspeople and the city's one Black resident: they worked to keep Blacks out of the city."³³

Former Wisconsin State Senator Tim Cullen was an employee at the GM plant in Janesville while he was in college from 1962-66. He saw the plant change, particularly during the Civil Rights Movement of the 1960s.³⁴ After retiring from the Wisconsin Senate in 2015, he wrote an autobiography, part of which covered his time at the plant. During and after the Civil Rights movement, the plant had a reputation for not hiring African Americans. In 1961, John Scott, Jr., became the third African American to ever be hired at the plant. The situation required action from Walter Reuther, the national UAW president, to get more jobs for African Americans at the Janesville plant. That attitude was applied to women working there as well. Janesville did not allow women on the assembly lines until 1965. Doris Thom, Cullen

29 History and Social Justice, "Janesville, Wisconsin," accessed November 29, 2024, <https://justice.tougaloo.edu/sundowntown/janesville-wi/>.

30 Ibid.

31 World Population Review, "Janesville, Wisconsin Population." <https://worldpopulationreview.com/us-cities/wisconsin/janesville#:~:text=Janesville%20has%20a%202025%20population%20of%2066%2C390.%20It,which%20recorded%20a%20population%20of%2065%2C670%20in%202020.>

32 History and Social Justice, "Janesville, Wisconsin."

33 Ibid.

34 Gunn, Erik. "Telling the Story of Janesville: Working-Class History in a Post-Industrial Age," *Milwaukee Journal Sentinel*, April 2, 2018.

reminisced, was the woman who changed that, having marched into the plant manager's office, copy of the Civil Rights Act in hand, and demanded a job on the line with equal pay.³⁵ She won. 5 years later, in 1970, Janesville reached the peak of employment at the factory, with over 7,000 employees on the payroll.³⁶ The plant's growth mirrored the growth of the city, further solidifying the factory as a measure of the health of the community.

Decline and Closure

Entering the 1980s, GM began to struggle. Competition from foreign manufacturers played more of a role in the American car scene, hurting GM's bottom line. Roger Smith served as the GM CEO during the decline, and even today, has mixed reviews on his decision-making skills. It was during Smith's time at GM that the company reorganized and started a joint coalition to build cars with competitor Toyota. He also introduced the GM Saturn model, which was widely popular among consumers but never quite met the profit expectations of the company. His numerous faults in public relations created another facet of strife on top of the declining sales. In 1989, a film was in production about the devastated town of Flint, Michigan, and the layoffs at the GM plant there. Smith declined an interview for that film and was subsequently portrayed as the villain, with no defense. Later, he announced executive bonuses at GM almost immediately before signing a contract that forced the UAW in a negative direction financially and was wildly unpopular with workers. The most damning statistic of Smith's tenure was GM's share of the U.S. market. GM owned over 43% of the market upon his arrival, which dropped to under 36% when he left.³⁷

However, to say that the entirety of GM's struggles was Smith's fault is an overstatement. Many people played a role in the downward slide. Owen Bieber was the president of the UAW for a sizable portion of Smith's time as head man. Bieber spoke on Smith's leadership and vision in an article with the *Los Angeles Times*, critiquing his lack of innovation. "Suddenly, GM started making a lot of cars that looked alike," Bieber said. "I used to tell him that you can't have a Cadillac that looks like a Chevrolet and expect to sell them both."³⁸ His attitude reflected those of many in the UAW and in Janesville: GM's brand strength was dwindling in the face of intense international competition.

Much like Flint, Janesville experienced a struggle in 1980. Shutdowns became longer, and layoffs more frequent. GM tried a couple of things

35 Ibid.

36 Gazette Staff, "Through the Years."

37 Ken Bensinger, "Executive Led General Motors Through Bankruptcy and Back," *Los Angeles Times*, September 30, 2010.

38 Ibid.

to jumpstart production, switching Janesville to new models. However, those projects took almost a year longer than anticipated and created more problems than they fixed. The truck line, representing 1,800 of the around 3,000 jobs at the factory, left for a new factory in Indiana.³⁹ The next few years followed a pattern. GM announced changes designed to get the factory and the company back to where it was, those plans would not pan out (or happen at all), and the factory continued to decline as the company faltered. At the end of the decade Janesville's factories had 5,700 jobs, reduced from the 7,100 it had previously.⁴⁰

The early 1990s saw an upturn in production and sales.⁴¹ There were more hires than layoffs, but any momentum felt was quickly snuffed out by a UAW strike at the plant. They claimed that GM forced a smaller number of workers to produce the same number of cars as before, had unrealistic expectations, and created a dangerous work environment. The rest of the nineties followed the pattern of the 1980s: retooling and innovations that claimed to be the big next thing that never panned out. The 1996 strike lasted a week, but the national media painted it as the UAW taking an unnecessary shot at the bottom line of GM.⁴² The resolution in Janesville was the hiring of 350 new employees. In 1999, GM announced that Janesville would build a new model of full-size sport utility vehicles. Following the unfortunate pattern of the last several decades, GM moved 1,200 jobs from another line in Janesville to Flint in the same announcement.⁴³

As these company decisions were happening, so were major international changes. President Bill Clinton signed the North American Free Trade Agreement (NAFTA) into law in 1993, and with it promised that the agreement would "create 200,000 jobs in this country by 1995 alone."⁴⁴ In Janesville, though, the impact was much different. In 1997, a U.S. International Trade Commission report on manufacturing came out. That study found that jobs were being lost as production shifted to Mexico because of the lower cost of labor and other factory-related expenses. For Janesville, that meant fewer new product assignments and a new wave of momentum not only in their plant but from domestic plants nationwide. The disconnect between policy promise, goal, and outcome was an early warning

39 Wisconsin Historical Society, "GM Plant, Janesville."

40 Gazette Staff, "Through the Years."

41 Ibid.

42 Coleman, "UAW Goes on Strike."

43 Gazette Staff, "Through the Years."

44 Bill Clinton, "Remarks on Signing the North American Free Trade Agreement Implementation Act," December 8, 1993, <https://www.presidency.ucsb.edu/documents/remarks-signing-the-north-american-free-trade-agreement-implementation-act>.

for what would later be a massive reduction of the American middle class.⁴⁵

2003 saw the announcement of a new product assignment that would secure work at Janesville through 2012. GM's announcement in 2005, however, put the brakes on the hopeful atmosphere surrounding Janesville. A goal, announced by CEO Rick Wagoner, said that GM was going to close some assembly lines and cut 25,000 jobs. That goal was later increased to 30,000 jobs by 2008.⁴⁶

The international recession in 2008 played a key role in the end of production in Janesville. The International Monetary Fund called it "the most dangerous shock in mature financial markets since the 1930s."⁴⁷ Again, the Janesville plant was affected by national events beyond its control. In this case, it was the implosion of the housing market in the United States. People defaulted on or abandoned their mortgages. A run on the banks, which could no longer loan money to businesses, ensued. This, combined with homeowners across the country paying off debt rather than borrowing and spending, created a major recession.

With financial collapse now in full effect, the U.S. Treasury spent over \$17 billion in aid to prevent the total collapse of GM and Chrysler.⁴⁸ Even with the unprecedented bailout, Janesville closed within the year. The overall goal of the bailout was to save the company, not any one specific plant. It marked a shift from loyalty to a place or people from a company to a loyalty to the bottom-line financial health of the entire company, even at the expense of longtime staples like the factory in Janesville. Those decisions drastically changed the outlook on Janesville. New vehicle sales specifically, which is the product Janesville produced at the time, fell 40% in 2008.⁴⁹ This was effectively the final nail in the coffin for the plant.

There were several measures taken to save GM. One of the more drastic efforts came from GM, saying that it would buy out the entirety of its U.S. hourly workforce of 74,000 employees. In 2008, ABC reported that 19,000 workers took the buyout.⁵⁰ GM was looking to replace these more expensive workers with cheaper ones. Those who took the offer also gave up their pensions and retirement plans. The efforts fell short of cutting the necessary

45 Ken Bensinger, "Executive Led General Motors during Record Slump in the '80s," *Los Angeles Times*, December 1, 2007.

46 Ibid.

47 Lesley Wroughton and Emily Kaiser, "IMF Warns of World Economic Downturn," *Reuters*, October 9, 2008, <https://www.reuters.com/article/world/uk/imf-warns-of-world-economic-downturn-idUSTRE4976C6/>.

48 Mike Allen and David Rogers, "Bush Announces \$17.4 Billion Auto Bailout," *Politico*, December 19, 2008, <https://www.politico.com/story/2008/12/bush-announces-174-billion-auto-bailout-016740>.

49 Gazette Staff, "Through the Years."

50 ABC News. "19,000 Hourly Workers Leaving GM as Automakers Regroup." *ABC News*, May 29, 2008, <https://abcnews.go.com/Business/story?id=4950861>.

expenses, and several months later, the U.S. Government bailed out U.S. automakers, GM included. Over seventeen billion dollars was split between GM and Chrysler, both of whom faced bankruptcy and the loss of over one million jobs if they were left to their own devices.⁵¹

Despite the bailout, it was already too late for Janesville. In 2007, GM's market share fell below 24%, and Janesville's future with the company was all but over.⁵² The local UAW went on what was considered a placeholder or symbolic strike, which lasted only 40 hours and resulted in a new product commitment to the Janesville plant. At this point, it was clear that commitment matched the strike in its symbolic nature. December of 2008 saw GM mark the last measured drop in production before ending all production at its oldest operating plant on April 23, 2009.⁵³

Janesville Moves On

Today, Janesville still feels the impact of the closure. In 2015, the plant building was demolished to make room for new developments. The *Janesville Gazette* published a story on plant workers in 2018. One worker, Jeff Hanson, said, "You had a lot of friends, hard workers, good people who had to take jobs all over the country. It put strain on top of strain for so many people."⁵⁴ Many left Janesville for other jobs with GM, attempting to keep the pensions they had worked for their whole lives. In the ten years since the plant closed, Hanson said it has been a "mixed bag" of consequences. On one hand, the retail market on the opposite side of town from the plant thrived. On the other hand, he characterized some parts of town near GM as "almost dead." He went on to say that none of the jobs that "replaced" the GM jobs could pay what GM was.⁵⁵

A local news outlet, Channel 3000, reported in February 2024 that the City of Janesville was looking into buying the now-cleared property where the plant was, looking to use it for community development.⁵⁶ In September of that year, the plan began to take a more concrete shape. The city applied for a twenty-million-dollar EPA grant for "housing, community center, and parks." The city owns it and plans to work with the community to plan exactly what could go there that would have the most benefit to the people who use it.⁵⁷

51 Allen and Rogers, "Bush Announces \$17.4 Billion Auto Bailout."

52 Gazette Staff, "Through the Years."

53 Ibid.

54 Neil Johnson. "GM Workers Reflect on Life 10 Years After Janesville Plant Closure," *The Janesville Gazette*, December 31, 2018.

55 Johnson, "GM Workers Reflect."

56 Maddie Heimsch. "City of Janesville to Buy, Revitalize Site of Former GM Plant," Channel 3000, February 26, 2024.

57 Ibid.

So why does a small town in Janesville, Wisconsin, matter to the average American who, without abnormal amounts of media coverage, would not have been aware of the closure? It matters because it represents what happens when sweeping economic policy prioritizes global markets and bottom lines over the people who make those things happen. The GM plant closure in Janesville was not a tragedy, nor was it unexpected. It was a decline caused by a shifting focus of both company and country towards growth and away from the community. The people in Janesville did everything that a company would ask of its workers: they stayed in their jobs, worked hard, met quotas, and passed jobs down over generations. The factory is a case study in the costs of looking at business solely from a macroeconomic perspective, the costs of global free trade, and policy decisions that are made far from the people they affect. Acknowledging and understanding stories like this one allows for fostering empathy and building stronger, more compassionate communities.

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Hannah Connolly

Oh, Beware the Ides of March

“I have lived long enough for either nature or glory.” – Julius Caesar, 46 BC.

Julius Caesar is one of the most recognizable names in Roman history. He began his rise to power in 71 BC, when he was elected a military tribune. From there, he took control of Rome and formed the First Triumvirate with Pompey and Crassus. After his victories in the Gallic Wars, Caesar assumed control of Rome on his own in 45 BC, when he famously defied the Senate and crossed the Rubicon with his army into Rome. However, Caesar’s power came to an untimely end. On March 15, 44 BC, Caesar was assassinated during a meeting of the Senate, stabbed to death by his fellow senators on the infamous day of the Ides of March.

When one hears the phrase “the Ides of March”, so many different images come to mind. We see a heroic Julius Caesar, bleeding out all alone on the steps of the Senate. We see the culprits, Brutus and Cassius, running away from the scene they created. And finally, we can feel the betrayal in the air. These scenes coming to mind are due in part to our society’s dramatization of the death of Caesar. History textbooks aside, all kinds of media have been used to illustrate the life of Julius Caesar, concluding with his untimely end. The famous words of Shakespeare ring in the ears of some: “Beware the Ides of March!”¹ Society has every right to document his life and eventual assassination, as he was the kind of leader that Rome would not see again for a long time.

However, one of the reasons why we are so fascinated with his death is that this was the first famous instance of assassination in human history, nor would it be the last. We label the death of the Archduke Franz Ferdinand of Austria in 1914 as an assassination. His assassin, Gavrilo Princip, saw the Archduke as the Face of the Austrian oppression of Yugoslavs, and by eliminating the heir to the Habsburg throne, Princip saw this as a chance for Yugoslav unification. At the same time, we do not say that the Allied soldier

1 William Shakespeare, *Julius Caesar*, ed. Barbara Mowat, Paul Werstine, Michael Poston, and Rebecca Niles (Washington, DC: Folger Shakespeare Library, n.d.), act 3, scene 1, line 85, accessed April 2, 2024, <https://www.folger.edu/explore/shakespeare-works/julius-caesar/read/3/1/>.

who bled out in a trench was assassinated. He died, he was murdered, but we do not say he was assassinated. There must be a political or religious reason for taking a life for it to be considered assassination, and it is done with an expectation for change, whether it be a change in regime or religion.

At the time of the Roman Republic, the number of murders done out of some sort of higher good was few and far between. However, the Ides of March would become one of the first recorded assassinations, both in the Roman world and in human history. It illuminated the separation of murder and assassination, because while the actual act is the same, the motivations and perceived outcome are completely different from each other. While the death of Julius Caesar has been dramatized as the murder of a defenseless man, Brutus and Cassius were justified in their decision to kill Caesar.

In order to best understand the significance of the Ides of March, a proper historical context is necessary. Julius Caesar had risen to power within the First Triumvirate, where he ruled Rome alongside Pompey and Crassus. However, after Crassus died, Caesar marched into Rome and defeated Pompey, claiming the title of dictator. Leading up to his assassination, Caesar had done three things that the Senate and Roman people saw as threatening. He disregarded the Senate, removed tribunes, and seemed to consider monarchy. All of these set alarm bells ringing in the mind of even his closest friends.

In *Roman History*, Cassius Dio describes how Caesar disregarded the Senate. He told us how the Senate decided to bestow honors on Caesar, sending a delegation to the Temple of Venus Genetrix to gift them to him. When the delegation arrived, Caesar did not stand as etiquette demanded. Cassius Dio told us how “either by some heaven-sent fatuity or even through excess of joy he received them sitting, which aroused so great indignation among them all, not only the senators but all the rest, that it afforded his slayers one of their chief excuses for their plot against him.”² Caesar’s insult to the Senate, the governing body of Rome, most certainly factored into the conspirators’ decision to kill Caesar.

Cassius Dio continued to explain that Caesar’s acceptance of a golden chair, which was almost a throne-like seat in the Senate, elevated him physically over the senators³. This intensified suspicion amongst the Roman people and the Senate that Caesar was attempting to consolidate power and overrule Rome’s traditional institutions. These acts were not missteps but deliberate assertions of dominance that continually alarmed the Senate and the public.

Plutarch reinforces this outrage in his account, noting that when the

2 Cassius Dio, *Roman History: Volume 44*, trans. Earnest Cary and Herbert B. Foster (Cambridge, MA: Harvard University Press, 1916), 321.

3 Cassius Dio, *Roman History: Volume 44*, 317.

senators came to present honors to Caesar, Caesar remained seated and joked about cutting those honors back⁴. However, in Roman custom, standing to receive those honors was expected. The reception of these honors was not a courtesy, but rather a public ritual through which Roman leaders could demonstrate their humility and respect for the Senate. Suetonius further recounts Caesar's disregard for these customs, highlighting this failure to rise even when honored in the Temple of Venus⁵. More than simply breaching etiquette, these acts showed Caesar's continued disdain for the Senate and Roman customs.

Caesar must have noticed how he was beginning to be seen by the Roman people, as his attempt to steer clear of being perceived as a monarch resulted in the removal of tribunes. Several tribunes had placed diadems on statues of Caesar, signals that were interpreted by the people as a sign of Caesar's desire for kingship. When two other tribunes named Epidius Marullus and Caesetius Flavus saw this, they had these tribunes stripped of their offices. However, when Caesar found out the men went to prison for him, he freed them, as Suetonius says he was "either offended that the hint at regal power had been received with so little favor, or, as he asserted, that he had been robbed of the glory of refusing it"⁶.

To make matters even worse, the office of the tribune was created specifically for the people. Erich Gruen tells us in his snapshot on Roman political culture that "the office of tribune was created by the plebs, designed to promote and protect the interests of the common people."⁷ Not only was the Senate being insulted by Caesar, but the common people also felt like their special institution of tribune was being violated. While he may have been trying to protect his reputation, Caesar was still being seen as hungry for a crown based on the way he violated ancient law to remove tribunes.

Interestingly enough, Caesar had a wonderful relationship with the Roman people in the beginning of his rise to power. Whether it was grain distributions or the public games that he hosted, Caesar had enormous popularity. The circulation of his victories in the Gallic Wars and the bestowment of gifts to him by the Roman Senate also helped reinforce his image as Rome's protector⁸. This favor began to fade by late 45 BC, as graffiti emerged that labeled him as a tyrant, and many plebians grew disillusioned. His debt policies and reductions to the grain dole were seen as a betrayal of

4 Plutarch, *Lives: Caesar*, trans. Bernadotte Perrin (Cambridge, MA: Harvard University Press, 1916), 583.

5 Suetonius, *Lives of Caesars, Volume 1*, trans. J. C. Rolfe (Cambridge, MA: Harvard University Press, 1914), 131.

6 Suetonius, *Lives of Caesars*, 133.

7 Erich S. Gruen, *The Last Generation of the Roman Republic* (University of California Press, 1995), 110

8 Plutarch, *Lives: Caesar*, 495.

his earlier populist stance. His enemies were no longer only in the Senate, as his disregard for the plebs began to alienate his base.

The final straw was at the feast of Lupercalia, which fell on February 15, 44 BC. At this feast, Marc Antony kept trying to put a crown on Caesar's head. Most of the guests remained silent as Caesar kept trying to avoid the crown. Indeed, Plutarch stated,

Then there was applause, not loud, but slight and preconcerted. But when Caesar pushed away the diadem, all the people applauded; and when Antony offered it again, few, and when Caesar declined it again, all, applauded.⁹

When this happened again, Caesar demanded that the diadem be taken to the Capitol to be placed under the statue of Jupiter, but the damage had already been done. People had begun to make a connection between Caesar and the throne, and with someone offering Caesar a physical crown, Caesar as a monarch became a possibility that began to weigh in the minds of the Roman people. Elizabeth Rawson tells us that "some scholars believe that Caesar would have accepted if the crowd had been more enthusiastic."¹⁰ For all scholars know, Caesar could have truly wanted the crown and simply hid this ambition by never acknowledging it publicly.

With the threat of one-man rule looming over Rome, Brutus and Cassius decided that there needed to be a change. Adrian Goldsworthy discusses the timing of this plot, which was crucial. Caesar was planning to be away from Rome for at least three years, as he was about to launch yet another campaign. Adrian Goldsworthy states, "This time his opponents would be foreign and so the glory won by their defeat would be unambiguous."¹¹ The conspirators needed to act soon, or else Caesar could potentially win the people over again with a military victory.

First, the conspirators had to choose a location. They made sure that they did not commit this assassination on a dark street in the middle of the night, as they were killing Caesar for a noble and just cause. Public perception of Caesar being murdered in an alleyway would not be good for the conspirators, so they settled on the Senate building, which was called the Senate House of Pompey¹². Not only would Caesar's bodyguards be prevented from entering the building, but Caesar was set to leave Rome on March 18. The last Senate meeting before Caesar's departure was March 15,

⁹ Plutarch, *Lives: Caesar*, 585.

¹⁰ Elizabeth Rawson, "Caesar: Civil War and Dictatorship," in *The Cambridge Ancient History: The Last Age of the Roman Republic*, Vol. 9, ed. J. A. Crook, Andrew Lintott, and Elizabeth Rawson (Cambridge: Cambridge University Press, 2008), 464.

¹¹ Adrian Keith Goldsworthy, *Caesar: The Life of a Colossus* (Weidenfeld and Nicolson, 2006), 491.

¹² Rawson, "Caesar: Civil War," 420.

also known as the Ides of March.

There was also intense discussion among the conspirators on who should be assassinated. Some men, known as the optimates, wanted Rome to revert to the way it was long before Caesar. This would mean Caesar and all of his supporters would be assassinated, and his reforms undone. On the other side of the table, the former supporters of Caesar only wanted Caesar and Antony killed, with the reforms remaining intact. Interestingly enough, Brutus disagreed with both of these views. In his eyes, if this was to be a means for a truly just and noble end, then only Caesar could be killed. Otherwise, it would be seen as a political purge. The murder of Caesar alone would be seen as a just and noble act, and the conspirators needed to keep it that way. Besides, while the people of Rome hated the idea of a king, they approved of Caesar's reforms. Therefore, the conspirators followed the logic of Brutus: only Caesar, the figurehead, would be murdered, and the reforms would be left alone.

The plan was simple: wait for Caesar to enter the building and then stab him with the daggers they would conceal under their cloaks. The conspirators met again on March 13, vowing to kill themselves should the plot be discovered. They believed that this act was noble and for the good of Rome, and if discovered, they would turn the knives on themselves in a final noble act.

However, this plot was not discovered. Plutarch and Suetonius both wrote of a seer who warned Caesar that his life would be in danger during the Ides of March. As a result, Caesar almost dismissed the Senate meeting, but, ironically, a Senator named Decimus convinced him to attend. Plutarch delves into the grisly details of the stabbing, with Senator Casca being the first to draw blood, albeit in an awkward way. It was "not a mortal wound, nor even a deep one, for which he was too much confused, as was natural at the beginning of a deed of great daring."¹³ Caesar was stabbed 23 times, with only one of the wounds being fatal. There was an autopsy of sorts done, with Suetonius reporting that "of so many wounds none turned out to be mortal, in the opinion of the physician Antistes, except the second one in the breast."¹⁴ Caesar then bleeds out on the Senate floor, at the base of a meeting hall named after Pompey, one of his greatest rivals.

Caesar's final words have long been a matter of dispute amongst scholars. Suetonius and Plutarch both stated that Caesar did not say anything, but most have been taught that Caesar uttered the phrase "Et tu, Brute?" meaning "You too, Brutus?" Whether or not this quote is true, it illustrates how even the friends of Caesar turned on him. Indeed, both Brutus and Cassius were friends of Caesar once. Plutarch wrote that Caesar

13 Plutarch, *Lives: Caesar*, 597.

14 Suetonius, *Lives of Caesars: Volume 1*, 141.

favored Brutus in political appointments, once saying that Brutus “must have the first praetorship” over Cassius¹⁵. Brutus was seen as a confidant of Caesar, as the two shared literary and philosophical interests, and Plutarch remarked that Caesar even suspected that Brutus might have been his illegitimate son¹⁶. Cassius was Caesar’s brother-in-law and a respected senator who was pardoned and reinstated by Caesar after a previous conflict. Caesar’s relationship with both of these men shows how their betrayal was not motivated by hatred of Caesar but instead was motivated by a desire to free the people of Rome from his tyranny.

And so, on March 15, the life of one of the most famous Romans came to a bloody end. The conspirators took to the streets, as Plutarch described in his *Life of Caesar*¹⁷. They spread the word that Rome was free from tyranny, finally free from the threat of monarchy. But would she remain a Republic? Was the death of Caesar enough to thwart the threat of Roman monarchy entirely?

Suetonius himself tells us how Caesar made Octavian his heir. Antony had initially tried to stop Octavian from inheriting Caesar’s legacy by “frustrating his attempt to capitalize on his [Octavian’s] popularity by becoming tribune.”¹⁸ The Lex Titia, which was passed in 43 BCE, created the Second Triumvirate with Antony, Octavian, and a man named Lepidus. Octavian took care of Lepidus in 36 BCE by forcing him into exile and taking his lands. Antony married Cleopatra in an attempt to use the wealth of Egypt to defeat Octavian, as Rome was launched into the Third Civil War. By 30 BC, the war was over, and Octavian emerged victorious. He renamed himself Augustus and became the first of a long line of Roman Emperors, as one-man rule finally prevailed.

One could look at this and wonder, what did the conspirators expect? Power, once gained, will always remain so long as there is someone it can be passed on to. However, there was one Roman who proved that one-man rule could be changed back into a republic, as long as the conditions were right. He also did not live too long before Caesar, as his career spanned from 88 to 80 BC. His name was Sulla, and he had not one, but two consulships. He also revived the office of dictator, a mere forty years before Caesar would take that title. Sulla used his power to push constitutional reforms, as well as redefine the laws concerning treason. However, once Sulla had accomplished all he planned for Rome, he quit. He resigned his dictatorship, got rid of his bodyguard, and made the Roman Republic resume its normal consular

15 Plutarch, *Lives: Brutus*, trans. Bernadotte Perrin (Cambridge, MA: Harvard University Press, 1916), 141.

16 Plutarch, *Lives: Brutus*, 135.

17 Plutarch, *Lives: Caesar*, 601.

18 Rawson, “Caesar: Civil War,” 472.

government. Plutarch wrote that Sulla went so far as to “put the consular elections in the hands of the people; and when they were held, he did not go near them himself,” making sure that he was completely alienated from ruling Rome¹⁹. He would live for another two years before dying of excessive drinking in his villa in the Italian countryside.

Not only did Sulla restore the Roman government to a democracy, but he was also able to live in peace for the rest of his life following his rule. Why was Caesar not allowed this chance? The difference between Sulla and Caesar is that Sulla never came close to having a crown. Both men shared the absolute power that the Roman dictatorship granted them, but Sulla never had people assume he was on his way to be king. Furthermore, Suetonius writes of how Caesar disparaged Sulla for giving up his power, with some of the choice words including “that the state was nothing, a mere name without body or form; that Sulla did not know his A. B. C. when he laid down his dictatorship; that men ought now to be more circumspect in addressing him, and to regard his word as law.”²⁰ That’s not the attitude of a man who didn’t want to become a king: it is the attitude of a man who had power and no intent of giving it up.

Whether it be Sulla or Caesar, Rome had a trend of tyranny, as it occasionally fell into the clutches of one-man rule. Perhaps if Cassius and Brutus had instead tried to change the constitution or somehow get rid of the trend of one-man rule, the Republic might have remained intact. By removing the ways that one singular man could rise to power, such as consulships or the title of dictator, Caesar may have been stopped.

However, history shows that the peaceful measures to curb power often failed in Rome. Men like Cincinnatus had once relinquished their power of their own free will, living up to the ideal Roman standard of civic virtue.²¹ This changed as the Republic grew. The Senate’s use of the *Senatus consultum ultimum* – or “Final Decree of the Senate” - tried to neutralize threats with legal means but often ended in bloodshed. In 100 BC, this decree was used against Saturninus, who was a radical tribune. The Senate declared him an enemy of the state and executed both him and his supporters after a lengthy siege on the Capitoline Hill.²² Even peaceful measures would lead to a bloody end.

If they wanted, Brutus and the others could have asked Caesar to step down. They could have warned him, reasoned with him, or threatened him.

19 Plutarch, *Lives: Caesar*, 435.

20 Suetonius, *Lives of Caesars*, Volume 1, 131.

21 *Lucius Quinctius Cincinnatus*. Encyclopedia Britannica. <https://www.britannica.com/biography/Lucius-Quinctius-Cincinnatus>.

22 *Lucius Appuleius Saturninus*. Encyclopedia Britannica. <https://www.britannica.com/biography/Lucius-Appuleius-Saturninus>.

The route of diplomacy might have worked, as Caesar would have realized how his popularity with the Senate and the Roman people was becoming unfavorable. He may not have stepped down, but he might have toned down his ambitions. Regardless, that would not have been enough. The Roman Republic was fading, and something decisive had to be done to save Rome. They had to stamp out the idea of one-man rule, and so assassination was the only viable option for them.

History indicates that Caesar made it clear that he had no plans to surrender his power. Suetonius quotes Titus Ampius, who had recorded Caesar's assertion that "the state was nothing, a mere name without body or form" and that "men ought now to be more circumspect in addressing him, and to regard his word as law"²³. He was progressing from a short-term dictator to a *dictator perpetuo* (dictator for life), which was unprecedented in Rome. Brutus and Cassius no longer believed that Caesar would step down, regardless of the negotiations or legal restraints used. To these men, only Caesar's death would save the Republic.

But where is the humanity or morality in killing an unarmed, defenseless man? Cicero provides the answer to this question. Cicero was one of the greatest orators in Rome, and he happened to be a contemporary of Caesar. He wrote many letters to his son, talking about morals and the ideal qualities in a true Roman man. While these letters did not get published until after his death, they give us a sense of Roman morality. He speaks on the means to an end, stating that murder is not immoral, so long as the end that one is trying to achieve is noble or good. He writes, "On occasion, a course of action generally regarded as wrong turns out to be not wrong at all."²⁴ In the case of the conspirators, they were trying to achieve a free and just Rome. Cicero continues, "Someone who kills a tyrant, no matter how close of friends the men were, has not committed a crime."²⁵ Even if the conspirators had to murder Caesar to free Rome, they saw nothing morally wrong with it, as it was simply the means to a greater end.

Cicero was an incredibly respected statesman and orator, with his words often shaping the opinion of the Roman elite. And while some of his writing might include his own personal Stoicism, what he penned in his letters to his son reflects the deep suspicion the Roman people had of kingship. Cicero's reasoning on the morality of killing a tyrant would have resonated with the Roman elite, including Brutus and Cassius.

Cassius and Brutus continually stressed that the assassination of Caesar must be completed in a just, noble manner. This is why the Senate House

23 Suetonius, *Lives of Caesars, Volume 1*, 131.

24 Cicero, *Letters: Selected Works*, trans. Michael Grant (London, United Kingdom: Penguin Books, 1960), 165.

25 Cicero, *Letters*, 165.

of Pompey was chosen as the location, rather than a hidden alleyway. This is why Antony was spared. Killing Antony would have made it look like it was a political purge, when all the conspirators tried to do was get rid of the figurehead of one-man rule that manifested itself in Caesar.

In his book *Et tu, Brute?*, Gregg Woolf talks about the importance of the tyrant being killed, for both Romans and Greeks. He says, "Tyranny was the exceptional crime ... in the name of freedom, the Roman tyrant has to die."²⁶ For true assassination to occur, both the leader and the ideal must be destroyed, and some new form of leadership takes his place. This had to happen with Caesar, and it has continued to happen throughout history. From Martin Luther King Jr. to John F. Kennedy, one can see leaders who were assassinated not only for a regime change, but also in an attempt to destroy whatever ideal they stood for. The conspirators did not kill Caesar out of hatred, but rather out of the noble goal of preserving Rome's freedom. Even if the conspirators were the only ones who would see Caesar's death as necessary to the noble good of freeing Rome, they still should not be vilified for their decision.

The conspirators called themselves the Liberators, liberating Rome from tyranny. They did not do it out of hatred for Caesar or so that they could take power – they wanted power given back to the people. It was this idea of freedom that drove them to kill Caesar, as it was not out of a lust for power. This assassination of Caesar was one of the first times in history that an assassination occurred, and it helped solidify the definition of assassination. Assassination can either be an attack on a specific ideal by killing someone heavily associated with that ideal. Alternatively, it can be a killing to protect a certain ideal, such as killing Caesar in order to protect freedom and avoid one-man rule. Instead of forcing someone to abdicate, assassination is a way for people to see how the actions of the deceased cannot be tolerated by society.

We can see this distinction today in our word for assassin. In Latin, the word for assassin is *sicarius*, which comes from the word for curved knife or dagger. This is interesting as Caesar was stabbed to death by daggers, but it has little connection to our word of assassin. The English word is more closely aligned with the Arabic word, *hashishin*. This referred to groups of Shia Muslims in the Middle Ages, who would commit killings based on Islam. In particular, they targeted Crusaders, as their religion dictated. They even went after impious Muslim rulers, with their end goal being obedience to their religion²⁷. To them, these killings would be a worthy means to a

26 Greg Woolf, *Et Tu, Brute* (London, United Kingdom: Profile Books, 2007), 92.

27 Joseph Green, "The Hashshashin: Ancient Order of Assassins," *Historic Mysteries*, September 20, 2022, accessed October 9, 2025, <https://www.historicmysteries.com/history/hashshashin/27427/>.

higher ideal. Our English version of the word would come around nearly 400 years after the hashishin were wiped out, and it is commonly accepted that hashishin was the ancestor of our term of assassin.

As previously mentioned, Caesar was one of the first recorded assassinations. Political murders were not new to the Roman world, as leaders were continually killed for their policies. One such example would be the Gracchi brothers, Tiberius and Gaius. Both introduced reforms that were not popular with the Romans, and as a result, they were murdered. Once killed, another man came to take their place. Both Brutus and Cassius expected Caesar's dictatorship to fall in favor of the Roman Republic, not to create an Empire. They also expected to squash one-man rule. While they were unsuccessful, both types of changes were the motivation for Caesar's death.

Many books will use the term assassination for any death of a political leader. On one hand, the death of Domitian can most certainly be seen as an assassination. He purged the Senate and the aristocracy regularly, for seemingly no reason. His assassination likely stemmed from the need for a regime change or his replacement with someone who was not actively killing off members of the Senate. An idealistic change was also there: the need for emperors to respect the Senate.

Meanwhile, Caracalla was murdered by his Praetorian Prefect while urinating on the side of the road. Caracalla was not the gentlest of men, but there was no real threat to an ideal by his rule. There was no idealistic change expected from his death: there was simply a lust for power. One can read in the *Historia Augusta*, which says, he "was assassinated by the treachery of Macrinus, the prefect of the guard, who, after his death, seized the imperial power."²⁸ There was no grand plot to bring Rome back to a Republic. Nor was it the destruction of a man who stood for a certain ideal: Caracalla was just one of many Roman emperors. The regime only changed hands, as there was no noble, higher good that came of his passing. The death of Caracalla, while politically motivated, cannot be termed an assassination. Killing out of political motivation is a trend seen in every culture and society, but instances of true assassination have been few and far between.

The taking of someone's life is a heavy decision that cannot be made lightly. Assassination may not always be the correct course for one to take, as there are other options like diplomacy. However, when it came to Rome, it was clear that one-man rule would end so long as Caesar's life was taken. In the context of Rome and its standards of morality, this was a perfectly acceptable and honorable thing to do. Although their intended end did not

28 *Historia Augusta*, trans. David Magie (Cambridge, MA: Harvard University Press, 1916), 17.

come to pass, Brutus and Cassius, and the rest cannot be vilified for their actions. They had the greater good of a Roman Republic in mind, and they did all they could to achieve it, even if it meant taking the life of a close friend.

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Kennedy Helderman

Battles of GITMO: An Unyielding Odyssey

Since 2002, Guantanamo Bay Detention Center (GITMO) in Cuba has been used to house suspected and confirmed terrorists from the attacks against the United States on September 11, 2001. With United States President George W. Bush proclaiming a War on Terror, the facility quickly became a tangled web of legal and ethical questions that have yet to be sorted out and continue to get more tangled by the day. Over the past twenty-plus years, Guantanamo Bay has been shaped and reshaped by shifting policies and alternating political parties. An analysis of Guantanamo seeks to unravel some of these webs and reveals not just a long-lasting detention facility, but also a symbol of imperialism where sovereignty, law, and morals clash in what seems to be a never-ending struggle. GITMO's location on Cuban soil has allowed the United States to operate outside its own legal boundaries while still maintaining full control. This political sidestep has opened the door to scrutiny, both domestic and foreign, over the legitimacy of indefinite detention, torture, and the limitations (or lack thereof) of executive power. Despite this, however, the facility remains open with 15 detainees still held as of May 2025. GITMO is not a case study from the past, but it is instead a living symbol of how societies wrestle with power, fear, security, and human rights in times of crisis. Understanding Guantanamo is about understanding the present and how world powers shape the principles that will govern future conflicts and the treatment of those caught within them.

The History of GITMO

GITMO was not always a detention center. Before 2002, it was a United States naval base, Naval Station Guantanamo Bay (NSGB), and before that, it was a colony of Spain. Spain had controlled Cuba since the fifteenth century and viewed it as a strategic site because its location allowed for valuable trading ports. In 1895, the Cubans revolted against their Spanish rulers for the third time, and in 1898, it caught the attention of the United States. In the name of anticolonialism, the United States joined the war to free Cuba. The United States considered Spain to be Old World and too brutal in their

imperial ways. The Spanish-American War and the fight to liberate Cuba secured the US control over former Spanish colonies in the Caribbean, including Cuba.¹

The Platt Amendment, which outlined the Cuban-US relationship after the Spanish-American War, was drafted by the United States and signed by both the leader of the Republic of Cuba and United States President Theodore Roosevelt. This agreement granted the United States authority to intervene in Cuban affairs and occupy land for naval and coaling stations as a condition for Cuban sovereignty.² In 1903, under the Platt Amendment, the United States Navy started leasing Guantanamo Bay from newly independent Cuba to help support the United States' growing naval power. While the term 'leasing' is technically acceptable, the arrangement between Cuba and the United States can more accurately be described as a form of imperialism. The United States allowed itself to establish a permanent military foothold on Cuban soil, which effectively undermined Cuban autonomy. This allowed the United States to exercise exclusive jurisdiction and control with no expiration date on foreign land. The Platt Amendment illuminates how the United States began to use, and then continued to use, Guantanamo Bay as a symbol of American hegemony rather than mutual cooperation among independent nations.

According to the official website of the United States Navy, the United States and Cuba maintained good relations until the Cuban Revolution of 1959. After that, the two allies grew steadily apart until things came to a break in the 1960s. Diplomatic ties were officially cut between the United States and Cuba in 1961. Fidel Castro, Cuba's leader, cut off NSGB's water and supply access in 1964. Since then, it has functioned with its own power and water supply and has continued to be used by the United States to train naval fleets; repair, refuel, and resupply ships; and handle relief missions regarding migrants, humanitarians, and natural disasters.³

GITMO Since September 11

NSGB has taken a dramatic turn in operations within the last two decades. While it still functions as a naval base for the United States, it has also been functioning as the detention center that we refer to as GITMO. On September 11, 2001, the United States was shaken by a terrorist act of great devastation. Al Qaeda terrorists hijacked passenger planes and crashed two into the North and South World Trade Center Towers and one into the

1 Amy Kaplan, "Where Is Guantanamo?," *American Quarterly* 57, no. 3 (2005): 831–58.

2 The Platt Amendment, U.S.-FR, May 22, 1903, <https://loveman.sdsu.edu/docs/1903PlattAmendment.pdf>.

3 "NS Guantanamo Bay History," America's Navy, accessed November 4, 2024, <https://cnrse.cnicy.navy.mil/Installations/NS-Guantanamo-Bay/About/History/>.

Pentagon. The fourth was taken over by passengers and crashed into a field. In the following months, President George W. Bush turned NSGB into a detention center to house those suspected and confirmed of being behind the September 11 attacks. Jonathan Masters outlines the major decision Bush made regarding NSGB during a time of American fear in his article, "Guantanamo Bay: Twenty Years of Counterterrorism and Controversy." The first of many decisions Bush had to make during the remainder of his presidency was whether to turn NSGB into a detention center. The United States troops in Afghanistan needed to offshore the holding of prisoners so they could continue combat operations. Bush and his administration determined that NSGB was the location that fit most of the needs and required the least amount of change. It was large enough, secluded, and therefore secure; United States federal officials could reach it with just a short flight. The official decision was confirmed in December 2001, and in January 2002, the first detainees arrived in Guantanamo.⁴

For over two decades, GITMO has been home to hundreds of detainees, one of them (Yaser Esam Hamdi) holding United States citizenship. That citizenship was later revoked, allowing Hamdi to be held at GITMO before being returned to Saudi Arabia. *The New York Times* has an online database called, The Guantanamo Docket, that keeps a running tab on all the prisoners who have ever been held at GITMO and all those remaining. At its peak, right after September 11, under the Bush administration in the early 2000s, GITMO held 780 prisoners. Since then, 765 of those detainees have left GITMO in some way, whether they were transferred, were released, or died. This database was last updated on May 14, 2025, and there are still 15 detainees housed in GITMO.⁵ Mohammed Haddad wrote an article for *Al Jazeera* in 2021 that condenses The Guantanamo Docket and raises some of the controversies regarding human rights. The 780 detainees held at GITMO represented 48 countries from around the globe. Afghanistan had the most representation with 219, followed by Saudi Arabia with 134, and Yemen with 115. The youngest prisoner held at GITMO was 15-year-old Omar Khadr, who was detained until he was 28. Of the 750 detainees no longer at GITMO, most were not released but instead transferred out of United States jurisdiction. Many nations from which detainees were citizens negotiated to take them back. As of 2021, when Haddad wrote his article, Afghanistan and Saudi Arabia had taken the highest number of detainees: Afghanistan with

4 Jonathan Masters, "Guantanamo Bay: Twenty Years of Counterterrorism and Controversy," Council on Foreign Relations, accessed September 13, 2024, <https://www.cfr.org/article/guantanamo-bay-twenty-years-counterterrorism-and-controversy>.

5 "The Guantánamo Docket," *The New York Times*, last modified May 18, 2021, <https://www.nytimes.com/interactive/2021/us/guantanamo-bay-detainees.html>.

203, and Saudi Arabia with 140.⁶

The policies regarding GITMO have been in a steady state of change since it started housing detainees in 2002. This inconsistency has only added to the confusion and is primarily based on who is sitting as the president of the United States. GITMO has functioned under four presidents since 2002: George W. Bush, Barack Obama, Donald Trump, and Joe Biden. Each one has tried to change the policies surrounding GITMO to fit their political ideologies, resulting in GITMO functioning on a kind of political rollercoaster for over twenty years. The Democratic presidents, like Obama and Biden, have tried to shut GITMO down, while the Republican presidents, like Trump, have worked hard to make sure GITMO remains a detention center.

After the September 11 attacks, Bush called for a global War on Terror in his Address to a Joint Session of Congress and the American People on September 20, 2001, stating that, "Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists."⁷ The big question in the midst of all the shock, fear, and confusion was what exactly was terrorism? What constitutes it? On September 28, 2001, the United Nations (UN) unanimously passed *Resolution 1373*, which was the first attempt at answering those questions. It initially reaffirmed that "any act of international terrorism, constitute[s] a threat to international peace and security."⁸ It should be noted that *Resolution 1373* did not provide a very descriptive or specific international definition for terrorism, but it instead laid out state obligations in the fight against terrorists, such as freezing assets and support, while intensifying unity to stop the spread. On November 12, 2001, the UN took another stab at defining terrorism with *Resolution 1377*. It once again reaffirmed that terrorism constituted one of the most serious threats to international security and "Stresses that acts of international terrorism are contrary to the purposes and principles of the Charter of the United Nations, and that the financing, planning and preparation of as well as any other form of support for acts of international terrorism are similarly contrary to the purposes and principles of the Charter of the United

6 Mohammed Haddad, "Guantanamo Bay Explained in Maps and Charts," *Al Jazeera*, last modified September 7, 2021, <https://www.aljazeera.com/news/2021/9/7/guantanamo-bay-explained-in-maps-and-charts-interactive>.

7 George W. Bush, "President Declares 'Freedom at War with Fear,'" last modified September 20, 2001, <https://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010920-8.html>.

8 United Nations Security Council (56th year: 2001), *Resolution 1373* (2001) / adopted by the Security Council at its 4385th meeting, on 28 September 2001, United Nations Digital Library, accessed July 25, 2025, <https://digitallibrary.un.org/record/449020?v=pdf>.

Nations.”⁹ However, once again, this resolution fell short of truly defining what terrorism was and instead laid out methods for counteracting it.

The UN has been unable to find a definition that all member states agree to, but on October 8, 2004, they developed *Resolution 1566*, which has worked as the unofficial definition for terrorism in the absence of something more concrete. This resolution considers terrorism to be an act that “impair[s] the enjoyment of human rights and threaten[s] the social and economic development of all States and undermine global stability and prosperity.”¹⁰ Chapter VII of the Charter of the United Nations stated:

Recalls that criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature.¹¹

With looming international concern over the impact of terrorism on human rights and global stability, as well as a lack of a unified definition for terrorism at the time, the Bush administration had room for its own interpretations of UN Resolution 1377 and responded to the September 11 attacks with a series of decisive measures at Guantanamo. The first of these decisions, as previously stated, was to turn NSGB into GITMO. The second determined that the Geneva Conventions did not apply to the detention of the al-Qaeda and Taliban detainees at GITMO. This decision was largely because these detainees were labeled as unlawful, or enemy, combatants and not prisoners of war, which under the Third Geneva Convention, are required to have safe accommodations, adequate food, medical attention, and are protected from violence and torture. Unlawful combatants is not a term used in the Geneva Conventions. While Afghanistan was a member of the conventions, the terrorist groups being housed in GITMO were an entity separate from Afghanistan. With these things considered, detainees did not

9 Ibid.

10 United Nations Security Council (59th year: 2004), *Resolution 1566* (2004) / adopted by the Security Council at its 5053rd meeting, on 8 October 2004, United Nations Digital Library, accessed July 25, 2025, <https://digitallibrary.un.org/record/532676>.

11 United Nations Security Council, *Resolution 1373* (2001), 28.

fit the criteria outlined in the conventions.¹² These decisions made by the Bush administration opened the door for two major court cases.

The first was *Rasul v. Bush* in 2004. The main question of this case was whether United States courts had jurisdiction over legal appeals filed on behalf of foreign citizens held by the United States at GITMO. The families of two Australians and twelve Kuwaitis were captured in Pakistan during the War on Terror and transported to GITMO. Their families sought a writ of habeas corpus that would declare the detention was deemed unconstitutional due to the denial of the detainees' access to attorneys and the violation of due process. The government claimed that they had no jurisdiction, because the detainees were not American Citizens, and because they were being held where the United States did not have sovereignty. The district court, the United States District Court of Appeals for the District of Columbia agreed. However, the United States Supreme Court disagreed. In a 6-3 decision, it ruled that the degree of control exercised by the United States over GITMO was enough for habeas corpus because the United States exercised complete jurisdiction over GITMO and the rights of habeas corpus were not dependent on citizenship status.¹³

The second of these cases was *Boumediene v. Bush* in 2008. The questions in this case regarded the Military Commissions Act of 2006, which eliminated the ability for federal courts to hear habeas applications from detainees who had been labeled as enemy combatants. This case was tasked with deciding 3 questions: (1) whether or not Military Commissions, specialized military courts, could strip the federal courts of jurisdiction over habeas petitions filed by foreign citizens detained at GITMO, (2) whether or not this action would classify as a violation of the Suspension Clause of the Constitution, (3) and whether or not the GITMO detainees were entitled to the protection of the Fifth Amendment right of due process of law as well as protections under the Geneva Conventions. In 2002, six men who thought to be planning an attack on a United States embassy and were labeled as enemy combatants were caught in Bosnia. Lakhdar Boumediene filed a petition for a writ of habeas corpus, and the District Court judge granted the government a motion to dismiss the claims because he was a foreign citizen. The United States Court of Appeals for the D.C. Circuit affirmed

12 Jonathan Masters, "Guantanamo Bay: Twenty Years of Counterterrorism and Controversy," Council on Foreign Relations, accessed September 13, 2024, <https://www.cfr.org/article/guantanamo-bay-twenty-years-counterterrorism-and-controversy>.

13 *Rasul v. Bush*, Oyez, accessed November 6, 2024, <https://www.oyez.org/cases/2003/03-334>; and John Paul Stevens, and Supreme Court of the United States. *U.S. Reports: Rasul et al. v. Bush, President of the United States, et al.*, 542 U.S. 466. 2003, Library of Congress, accessed August 10, 2025, <https://www.loc.gov/item/usrep542466/>.

the dismissal. A 5-4 decision of the Supreme Court stated that because the procedures laid out in the Detainee Treatment Act were not adequate substitutes for the habeas writ, the Military Commissions Act operated as an unconstitutional suspension of that writ, and the detainees were not barred from seeking habeas or invoking the Suspension Clause.¹⁴ Boumediene and four of the six original plaintiffs were released from GITMO on May 15, 2009, after this decision came through. It was found that they were labeled as enemy combatants on insufficient evidence.¹⁵

GITMO and the Presidency

Upon the opening of GITMO as a detention center, Bush knew it should not last forever but understood that this unprecedented power would be hard to relinquish. A pattern developed. Starting with Obama, the Democratic Party wanted the closure of GITMO, and the Republican Party wanted GITMO to remain as it was. As Bush handed the presidential office over to Obama, a Democrat, the task of closing GITMO began. Obama ended up getting two terms in office and wanted to see the end of GITMO as a detention center under his presidency but was largely unsuccessful.

In 2009, Obama released Executive Order 13492, Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities. The purpose of this order was to mandate the closure of GITMO and outline the process for the removal of detainees. Obama set out to further develop the ideas of Common Article three from the Geneva Conventions, the four Geneva Conventions, and those being detained as enemy combatants. Obama's administration found that over 500 detainees had already been released and that many were being held for 4-6 years with no conviction. It also believed that it was both a domestic and international problem, since the detainees had the constitutional right to challenge their detention in a federal court. Obama's administration used this order to call for a review of each detainee to determine if further detention was needed and to prosecute if so. The main goal was to complete these reviews, make decisions, and transfer detainees elsewhere, enabling GITMO to close within the year. Obama argued that this plan was in the best interests of national

14 *Boumediene v. Bush*, Oyez, accessed November 6, 2024. <https://www.oyez.org/cases/2007/06-1195>; and Anthony M Kennedy, and Supreme Court of the United States, *U.S. Reports: Boumediene v. Bush*, 553 U.S. 723. 2007, Library of Congress, accessed August 10, 2025, <https://www.loc.gov/item/usrep553723/>.

15 Jess Bravin, "Judge Orders 5 Gitmo Inmates Released," *The Wall Street Journal*, last modified November 8, 2012, https://web.archive.org/web/20121108220430/http://online.wsj.com/article/SB122719994241444547.html?mod=googlenews_wsj.

security, foreign policy, and justice.¹⁶ On February 3, 2016, Obama stated just that in an address given in the Roosevelt Room:

For many years, it has been clear that the detention facility at Guantanamo Bay does not advance our national security—it undermines it. It’s counterproductive to our fight against terrorists, who use it as propaganda in their efforts to recruit. It drains military resources, with nearly \$450 million spent last year alone to keep it running and more than \$200 million in additional costs needed to keep it open in the future. Guantanamo harms our partnerships with allies and other countries whose cooperation we need against terrorism.¹⁷

Exactly one year later, on January 22, 2010, the review called for by Obama’s executive order was complete, and the *Final Report: Guantanamo Review Task Force* was released. All detainees were reviewed, and the Department of Justice, Department of Defense, Department of State, Department of Homeland Security, Office of the Director of National Intelligence, and Joint Chiefs of Staff all agreed on the proper disposition, transfer, prosecution, or continued detention of the remaining 240 detainees. The review determined that 126 detainees were approved for transfer, 44 detainees were referred for prosecution (36 remained the subject of active investigations), 48 detainees were determined to be too dangerous to transfer but not feasible for prosecution, and 30 detainees from Yemen were designated for “conditional” detention based on the current security

- 16 Barack Obama, “Executive Order 13492: Review and Disposition of Individuals Detained at the Guantánamo Bay Naval Base and Closure of Detention Facilities,” The American Presidency Project, last modified January 22, 2009, <https://www.presidency.ucsb.edu/documents/executive-order-13492-review-and-disposition-individuals-detained-the-guantanamo-bay-naval>. Common Article three from the Geneva Conventions states that “(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed ‘hors de combat’ by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.”. Review of *Article 3 - Conflicts Not of an International Character*. 1949. <https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-3>. The four Geneva Conventions include “(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, August 12, 1949 (6 UST 3114); (ii) the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, August 12, 1949 (6 UST 3217); (iii) the Convention Relative to the Treatment of Prisoners of War, August 12, 1949 (6 UST 3316); and (iv) the Convention Relative to the Protection of Civilian Persons in Time of War, August 12, 1949 (6 UST 3516).” Obama, “Executive Order 13492,” 2009.
- 17 Barack Obama, “Remarks by the President on Plan to Close the Prison at Guantanamo Bay,” The White House, last modified February 23, 2016, <https://obamawhitehouse.archives.gov/the-press-office/2016/02/23/remarks-president-plan-close-prison-guantanamo-bay>.

environment in Yemen.¹⁸ Obama's plan to close GITMO at this point was still coming together. According to the report, the task force was coming up with only 48 of the 240 detainees who they did not feel comfortable transferring due to either the instability of their home countries, the individuals' continued threats to the United States if they were to be released, or the crimes of terror they had imposed on the United States.¹⁹

When Obama left office, he left only 41 detainees in GITMO. His plan to completely shut the facility down ultimately fell short. The main reason Obama failed was that he lacked congressional approval, which he desperately needed. One way the Obama administration had planned on closing the facility was by transferring some of the detainees to maximum security prisons in the United States. Obama's plan lost favor with Congress in 2009 when he moved GITMO detainee Ahmed Khalfan Ghailani to New York to be tried in civilian court and then presented his plan to build a detention facility in Illinois. Congress did not want terrorists to be housed on American soil, so they barred Obama by legislation and withheld funds. This left Obama with only one viable option: transferring detainees to other countries. This option took much longer, and Obama ran out of time.²⁰

When Obama handed the presidential office to Donald Trump, political power moved from Democrats to Republicans. Sticking with the political trend, Trump and the Republican Party were in favor of keeping GITMO open as a detention facility. One of Trump's goals was to not only keep the facility open but also send more people there, including citizens of the United States. Similar to Obama, Trump issued an executive order regarding the status of GITMO.

Executive Order 13823, Protecting America Through Lawful Detention of Terrorists, came out January 30, 2018. This order reversed of Obama's 13492 executive order. Trump's administration found detention operations at GITMO to be legal and conducted according to domestic and international law. It also shared the concern of potential reengagement of some detainees if they were to be released or transferred. This executive order officially revoked Obama's order and ordered the continuation of the facilities'

18 "Final Report: Guantanamo Review Task Force," last modified January 10, 2010, <https://www.justice.gov/sites/default/files/ag/legacy/2010/06/02/guantanamo-review-final-report.pdf>.

19 "Final Report: Guantanamo Review Task Force," 2010.

20 William Glaberson, "Detainee to Be Transferred to U.S. for Trial," *The New York Times*, last modified May 21, 2009, <https://www.nytimes.com/2009/05/22/us/22gitmo.html>.; Amy Sherman, "Did Obama Need Congress to Close Gitmo?," Politifact, accessed November 6, 2024, <https://www.politifact.com/factchecks/2019/dec/20/joe-biden/congress-put-roadblocks-front-efforts-close-gitmo/>.

functions.²¹

Aside from his executive order, Trump also had a specific GITMO plan. This plan was leaked to CNN in 2018. According to CNN's Jim Sciutto, the basic outline of this document was Trump's intentions of keeping GITMO open as well as his plan to start sending American ISIS supporters there.²² This document has not been released to the public due to its classified nature.

In 2020, the doors to Trump's time in office closed and the torch was passed to Joe Biden, a Democrat who favored closing GITMO. He attempted to learn from Obama's shortcomings with GITMO and spent his presidency trying to move detainees out quietly. Biden and his administration planned to move out as many detainees as possible to other countries. His administration then wanted to go to Congress to see if it would be more willing to move the remaining detainees to maximum security prisons on United States soil and close GITMO. However, Biden ran into several issues that also plagued the Obama administration. One of the main issues is how long it takes to review prisoners and negotiate deals with other countries to get transfers to go through. Because of the lengthy legal processes involved in transferring detainees, Biden struggled to reduce the GITMO detainee numbers like he had hoped. Until the final few weeks of his presidency, he had only officially removed ten detainees. Biden was close in October of 2023 to transferring eleven detainees to other countries, but right before it could happen, Hamas attacked Israel, and Houthi rebels attacked ships off Yemen. This put a halt to proceedings.²³ This dramatic halt looked like it could be detrimental to the Biden administration's GITMO plan. It was uncertain whether the tumultuous relations in the Middle East would resolve quickly enough to give Biden another chance at the transfer before the next United States presidential election.

In the last two weeks of his presidency, right before Donald Trump took office again, Biden was able to revive his plan and transfer eleven Yemeni detainees to Oman. This move by Biden and his administration,

21 Donald J. Trump, Exec. Order No. 13,823, Protecting America Through Lawful Detention of Terrorists, 83 Fed. Reg. 4831 (Jan. 30, 2018).

22 "Trump's 'Gitmo' Plan Leaked," CNN Politics, accessed November 6, 2024, <https://www.cnn.com/videos/politics/2015/08/11/donald-trump-gitmo-plan-leaked-sciutto-nr.cnn>.

23 Carol Lee and Courtney Kube, "Biden Quietly Moves to Start Closing Guantánamo Ahead of 20th Anniversary of 9/11," NBC News, last modified June 9, 2021, <https://www.nbcnews.com/politics/national-security/biden-quietly-moves-start-closing-guant-namo-ahead-20th-anniversary-n1269937>; and Lee and Kube, "The U.S. Was Set to Move 11 Detainees out of Guantanamo. Then Hamas Attacked Israel," NBC News, last modified May 20, 2024, <https://www.nbcnews.com/politics/national-security/biden-ready-move-11-detainees-guantanamo-october-paused-seven-months-rcna152985>, accessed November 20, 2024.

so close to the end of his term, was seen as one of the most dramatic steps in several years to reduce GITMO's population. Oman agreed to take the eleven detainees and assist them in resettling them, as well as keeping them monitored for security purposes. With this transfer, Biden was able to bring GITMO's population down to fifteen prisoners, which is the lowest it has been since the prison first opened in 2002.²⁴ Despite this last push to move detainees out, it was too little too late. Biden did not have the time or the power to get Congressional approval of Obama's original plan of approving the transfer of the remaining detainees to maximum security prisons in the United States. With that, the door closed on Biden's presidency and once again opened on Trump's.

With the passing of the torch also came the switching of political parties. As of June 2025, Trump has been in office for his second term for six months, but he has already signed 162 executive orders. One is directly related to the functioning of GITMO.²⁵ While this order is technically a memorandum and therefore less formal and not required to be published in the *Federal Register*, it functions much the same as an executive order. *Expanding Migrant Operations Center at Naval Station Guantanamo Bay to Full Capacity* was signed by Trump on January 29, 2025. It gave the order for the Secretary of Defense and the Secretary of Homeland Security to "take all appropriate actions to expand the Migrant Operations Center at Naval Station Guantanamo Bay to full capacity to provide additional detention space for high-priority criminal aliens unlawfully present in the United States, and to address attendant immigration enforcement needs identified by the Department of Defense and the Department of Homeland Security."²⁶ This memorandum does more than keep GITMO open. With this, Trump has not only kept GITMO in operation, but he has ordered its expansion to its full capacity of a potential 30,000 people.²⁷ On February 4, 2025, the first round of undocumented

24 Sacha Pfeiffer, "U.S. Transfers 11 Yemeni Prisoners from Guantánamo to Oman," NPR, last modified January 6, 2025, <https://www.npr.org/2025/01/06/nx-s1-5249126/u-s-transfers-guantanamo-prisoners-oman>.

25 "2025 Donald Trump Executive Orders," Federal Register, National Archives, accessed June 20, 2025, <https://www.federalregister.gov/presidential-documents/executive-orders/donald-trump/2025>.

26 Donald J. Trump, "Expanding Migrant Operations Center at Naval Station Guantanamo Bay to Full Capacity," The White House, last modified January 29, 2025, <https://www.whitehouse.gov/presidential-actions/2025/01/expanding-migrant-operations-center-at-naval-station-guantanamo-bay-to-full-capacity/>.

27 Donald J. Trump, "POTUS Memo 'Expanding Migrant Operations Center at Naval Station Guantánamo Bay to Full Capacity' Directs DOD and DHS to Prepare for Detention of Migrants," Immigration Policy Tracking Project, accessed June 20, 2025. <https://immpolicytracking.org/policies/eo-expanding-migrant-operations-center-at-naval-station-guantanamo-bay-to-full-capacity-directs-departments-of-defense-and-homeland-security-to-begin-preparing-guantanamo-bay-for-detention-of-migrants/>.

peoples, all members of a Venezuelan gang known as Tren de Aragua (translating in English to Aragua Train), were flown to GITMO.²⁸

This memorandum has created a lot of questions and reopened a multitude of arguments about the human rights and constitutional integrity of GITMO. On March 1, 2025, the American Civil Liberties Union (ACLU), Center for Constitutional Rights, and International Refugee Assistance Project of the District of Columbia filed a lawsuit against the Trump administration on behalf of undocumented immigrants living in the United States who were at risk of or had already been sent to Guantanamo Bay. These groups filed the lawsuit as an attempt to stop the transfer of immigrants to Cuba. They made statements within the lawsuit claiming that the Trump administration's actions on this subject are not only illegal and unprecedented but also illogical. One such quote came from Eunice Cho, the senior staff attorney with the ACLU's National Prison Project, stating

Never before has the federal government moved immigrants held in the United States on civil immigration charges to Guantanamo. People are suffering under this new order, and the Trump administration's lawless actions will not go unchallenged.²⁹

The Trump administration claimed in *Expanding Migrant Operations Center at Naval Station Guantanamo Bay to Full Capacity* that it would only send high priority criminal aliens to GITMO. However, the *Memorandum of Understanding Between the U.S. Department of Homeland Security (DHS) and The U.S. Department of Defense (DOD) For DOD Support At Naval Station Guantanamo Bay (NSGM) to U.S. Immigration And Customs Enforcement (ICE) For DHS/ICE Detention of Illegal Aliens Subject to Final Orders of Removal*, signed on March 7, 2025, indicated that the Trump administration gave officials a lot of leeway in deciding which migrants were to be considered high priority. Section 3 of the *Memorandum* goes as far as to say,

When the nature of an alien's entry into the United States is uncertain, DHS/ICE may assert a nexus where DHS/ICE reasonably believes the alien to have paid a TCO [transitional criminal organizations] to be smuggled into the United States if the alien is from a country where the preponderance of aliens from that country enter the United States in that

28 "Tren de Aragua," InSight Crime, last modified April 25, 2025, <http://insightcrime.org/venezuela-organized-crime-news/tren-de-aragua/>.

29 "Groups Sue Trump Administration to Halt Transfer of Immigrants from U.S. to Guantánamo Bay," American Civil Liberties Union, accessed June 20, 2025, <https://www.aclu.org/press-releases/groups-sue-trump-administration-to-halt-transfer-of-immigrants-from-u-s-to-guantanamo-bay>.

fashion.³⁰

DHS/ICE has been given permission to assume criminality, and with the lack of criminality assessments to determine the level of threat posed by any given migrant. There is the opportunity for low-risk migrants, potentially even migrants with no criminal record, to be sent to GITMO. The guidelines for deciding eligibility to be sent to GITMO are blurred, and this *Memorandum* contradicts President Trump's initial promises, thus leaving the United States open for ridicule and more lawsuits.

Public Opinion and Human Rights

Aside from the political aspect of GITMO, there are many differing public opinions. A substantial number of people view GITMO as a human rights violation. The Universal Declaration of Human Rights (UDHR) has been permanently applied at both the global and regional levels but was originally integrated into the United Nations General Assembly on December 10, 1948. The UDHR serves as a standard of achievements for all peoples and all nations as well as states the fundamental human rights that are to be universally protected, proclaiming that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."³¹ The UDHR is composed of 30 articles in addition to the preamble. In summary, it declares that every individual is born free and equal in dignity and rights. It affirms essential freedoms, such as speech and belief, and protections from torture and slavery. It emphasizes legal protections and asserts economic and social rights, including the right to work, education, and an adequate standard of living, as well as the right to participate in cultural and political life.³²

One of the main arguments that human rights advocates use is the lack of humane treatment of detainees during interrogations. But where the human rights advocates view this treatment as torture, the government labels it as enhanced interrogation. During the Bush administration, John Yoo, serving as the deputy assistant attorney general in the Office of Legal

30 DOD and DHS, "Memorandum of Understanding Between the U.S. Department of Homeland Security (DHS) and The U.S. Department of Defense (DOD) For DOD Support at Naval Station Guantanamo Bay (NSGM) to U.S. Immigration And Customs Enforcement (ICE) For DHS/ICE Detention of Illegal Aliens Subject to Final Orders of Removal," DOD and DHS, last modified March 7, 2025. https://www.justsecurity.org/wp-content/uploads/2025/04/2025-04_mou_guantanamo-dhs-dod.pdf.

31 United Nations, "Universal Declaration of Human Rights," accessed June 28, 2025. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

32 United Nations, "Universal Declaration of Human Rights."

Counsel of the Department of Justice, wrote the *Memorandum for William J. Haynes, IT, General Counsel of the Department of Defense, Re: Military Interrogation of Alien Unlawful Combatants Held Outside the United States*. This document is known as the *Torture Memo*. This memo is an examination of domestic and international law and was written to determine the legal limits for the torture of GITMO detainees following September 11.³³

Part one of the *Torture Memo* determines that the Fifth and Eighth Amendments of the Constitution of the United States of America do not extend to 'alien' enemy combatants. Part two determines that federal criminal laws of general applicability do not apply to interrogations of enemy combatants undertaken by the United States military in the course of a conflict. After looking at the U.N. Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the *Torture Memo* concludes,

The United States' obligation extends only to conduct that is 'cruel and unusual' within the meaning of the Eighth Amendment or otherwise 'shocks the conscience' under the Due Process Clauses of the Fifth and Fourteenth Amendments.³⁴

It also finds that international law cannot impose standards onto the United States that differ from United States obligations, because international law is not federal law, and the "President is free to override it at his discretion."³⁵ The *Torture Memo* concludes by suggesting defenses to allegations that the interrogation methods might violate any of the various criminal prohibitions discussed.³⁶

In 2008, the Office of the Inspector General of the United States Department of Justice wrote *A review of the FBI's involvement in and Observations of Detainee Interrogations in Guantanamo Bay, Afghanistan, and Iraq*. Concerning GITMO, this report examines prior reports of detainee mistreatment, the FBI's role and knowledge of these reports, and the military structure and FBI activities in GITMO. The report lays out the background of interrogation policies in chapter four and then the FBI's concerns regarding interrogations in chapter five. It then goes into the FBI's observations and the

33 John Yoo, "Memorandum for William J. Haynes IT, General Counsel of the Department of Defense Re: Military Interrogation of Alien Unlawful Combatants Held Outside the United States," U.S. Department of Justice, last modified March 14, 2003, https://www.aclu.org/sites/default/files/pdfs/safefree/yoo_army_torture_memo.pdf.

34 Ibid.

35 Ibid.

36 Ibid.

responses to those observations, as well as interrogation training.³⁷

About GITMO, *A Review of the FBI's Involvement in and Observations of Detainee Interrogations in Guantanamo Bay, Afghanistan, and Iraq* focuses on the treatment of Muhammad Ma'ana Al-Qahtani. The FBI found that despite their recommendations and outright objections, they, along with the DOJ, were ignored by GITMO prison interrogators and generals. It states:

On November 12, 2002, General Hill orally approved the use of Category I and II techniques on Al-Qahtani. The next day, he approved an interrogation plan for Al-Qahtani against the FBI's objections. The plan described 20-hour interrogation sessions, followed by 4-hour rest periods. It stated that Al-Qahtani had been 'segregated with minimal human contact' for several months, and that this appeared to be having an effect on his mental state. [...] In addition, the plan stated that he was uncooperative, he would be placed in stress positions and blindfolded. [...].³⁸

It was later found out that during interrogation, when FBI and DOJ officials were not present. Al-Qahtani was put through stress positions, extreme temperature changes, sexual harassment, and religious humiliation. These interrogation techniques eventually sent Al-Qahtani to the hospital.³⁹ The FBI used Al-Qahtani as an example for their review, but these methods were used against most detainees.

Due to growing public access to news and government reports, such as the *Torture Memo* and *A Review of The FBI's Involvement in and Observations of Detainee Interrogations in Guantanamo Bay, Afghanistan, and Iraq*, people started to question the lengths to which the United States federal government was willing to go for the sake of national security. For many, GITMO was seen as a symbol of human rights abuses, and they called for its closure. After the release of the *Torture Memo*, Yoo received a recommendation to be sent before his state bar association for investigation

37 "A Review of the FBI's Involvement in and Observations of Detainee Interrogations in Guantanamo Bay, Afghanistan, and Iraq." U.S. Department of Justice, last modified May 2008, <https://permanent.fdlp.gov/lps104770/usdoj/www.usdoj.gov/oig/special/s0805/final.pdf>.

38 "A Review of the FBI's Involvement in and Observations of Detainee Interrogations in Guantanamo Bay, Afghanistan, and Iraq." Category techniques are part of a three-tiered system used by the U.S. military in the early 2000s to classify the severity of methods. Category I refers to techniques such as yelling, deception, playing on love or hate for a particular group. Category II refers to techniques such as forced grooming, isolation, sensory deprivation, stress positions, dietary manipulation, fear, etc. "Table of Interrogation Techniques Approved by U.S. Officials," accessed June 20, 2025, <https://www.hrw.org/legacy/backgrounder/usa/0819interrogation.htm>.

39 "A Review of the FBI's Involvement"

and potential prosecution for professional misconduct under anti-torture and anti-war crimes statutes. This recommendation was later overturned for lack of clear evidence, but the document and allegations opened people's eyes to what the federal government was allowing.⁴⁰

Aside from the enhanced interrogation methods, human rights advocates also have a problem with the unlawful detainment of detainees, who in many instances were detained without due process and the writ of habeas corpus. There have been a few times throughout history that habeas corpus has been withheld during a war because prisoners are held as a practical matter. It is thought that if released, they would return to fighting for the enemy. This executive power was used at GITMO. Since there was no rebellion or invasion, there was no official suspension of habeas corpus, but the jailing of prisoners outside the jurisdiction of United States courts was used as an unofficial way to suspend the writ.⁴¹

Hamdan v. Rumsfeld in 2006 was a Supreme Court case that examined the writ of habeas corpus in regard to GITMO detainees. Salim Ahmed Hamdan, Osama bin Laden's former chauffeur, was captured and sent to GITMO and labeled as an enemy combatant. He filed a petition for a writ of habeas corpus to challenge his detention. The district court granted Hamdan's habeas petition but ruled that there had to be a hearing to see if he fell under the protection of the Geneva Conventions before he could be tried by a military commission. The Circuit Court of Appeals for the District of Columbia reversed the decision. This case went to the Supreme Court asking if the rights protected by the Geneva Convention could be enforced in federal court through habeas corpus petitions. At issue was also the question of whether the military commission established to try Hamdan and others for alleged war crimes in the War on Terror was authorized by Congress or by the inherent powers of the president. In a 5-3 decision, the Supreme Court held that neither Congress nor the president's powers authorized the sort of military commission at issue in this case. It was found that the commission had to comply with the laws of the United States and the laws of war. The Geneva Convention could be enforced. Hamdan's exclusion from certain parts of his trial violated this ruling, and the prosecution was therefore

40 Kasie Hunt, "Justice: No Misconduct in Bush Interrogation Memos," Politico, February 19, 2010, <https://www.politico.com/story/2010/02/justice-no-misconduct-in-bush-interrogation-memos-033206>.

41 HLS News Staff, "The War and the Writ: Habeas Corpus and Security in an Age of Terrorism," *Harvard Law School*, accessed September 13, 2024, <https://hls.harvard.edu/today/the-war-and-the-writ-habeas-corpus-and-security-in-an-age-of-terrorism/>.

illegal.⁴²

Many books have argued for the closure of GITMO due to the heavy accusations of human rights violations and legal ambiguity. A popular book on the topic is *The Terror Courts: Rough Justice at Guantanamo Bay* by *Wall Street Journal* journalist Jess Bravin. Through this book, Bravin aims to raise urgent questions about judicial integrity, national security, wartime justice, human rights, and ethical responsibility to suspected terrorists. Bravin has followed this story since GITMO first opened under Bush in 2002, offering readers a look at the legal chaos and loopholes surrounding Guantanamo Bay's military commissions courts. Using both his law degree and journalism career, Bravin gained access to court transcripts, government documents, and interviews to expose how GITMO's justice system has often bypassed judicial integrity and basic human rights when it comes to terror suspects. These government documents are what makes Bravin's book transparent with the public and how he is able to show the consequences of rough justice that come from a lack of accountability in the federal government.⁴³

While there is a great number of people in favor of GITMO's closure, there is an opposing viewpoint. Others see it as completely legal. John Yoo's case was dismissed, and the *Torture Memo*, while viewed as poor taste by his peers, was deemed legal because all the things outlined in the document had found loopholes in federal and international law.⁴⁴ There was also the argument that GITMO was just a name, and if it had not been used to house prisoners, somewhere else would have been used in its place. The problems would not go away.⁴⁵

Another popular argument for keeping GITMO open is the fear of reengagement, or the act of rejoining terrorist organizations, if those held in GITMO are released. The Director of National Intelligence's reengagement summary from 2020 provides statistical evidence that there is reengagement in several instances. This document lays out the number of detainees transferred out of GITMO and then breaks down how many of those released have reengaged with terrorist organizations. It also shares how many of those reengaged have died, are in foreign custody, or are still at large. By 2020, 729 GITMO prisoners had been transferred. Of the 729, 125

42 *Hamdan v. Rumsfeld*, Oyez, accessed November 13, 2024, <https://www.oyez.org/cases/2005/05-184>.; Stevens, John P., and Supreme Court Of The United States, *U.S. Reports: Hamdan v. Rumsfeld*, 548 U.S. 557. (2005), Library of Congress, accessed August 10, 2025, <https://www.loc.gov/item/usrep548557/>.

43 Jess Bravin, *Terror Courts: Rough Justice at Guantanamo Bay* (New Haven and London: Yale University Press, 2013).

44 Hunt, "Justice."

45 Charlie Dunlap, and J.D., "Why Guantanamo Won't (and Probably Shouldn't) Close," *Lawfire* (blog), May 26, 2017, <https://sites.duke.edu/lawfire/2017/05/26/why-guantanamo-wont-and-probably-shouldnt-close/>.

had re-engaged or rejoined terrorist organizations, and 104 were suspected of reengagement. Now, not all of them were at large; some of them had been killed or recaptured by foreign governments, but the statistics still back up the fact that some former GITMO detainees are still dangerous and pose a credible threat upon release.⁴⁶

Activists, the public, journalists, and government officials are not the only people with opinions on the GITMO matter. There have been several instances of former detainees writing their own books on their experiences. Mansoor Adayfi wrote his memoir *Don't Forget Us Here: Lost and Found at Guantanamo*. Adayfi was detained at GITMO for fifteen years after he was kidnapped and sold by Afghan warlords to the Americans as a jihadi after September 11. He provides first-hand account of his unlawful detainment at GITMO.⁴⁷ Mohamedou Slahi wrote of his experiences in his book *Guantanamo Diary*. He was held in GITMO for fourteen years without charge. Slahi wrote the book in 2005 while he was still being detained, and seven years later, after 2,500 redactions, the diary was released to his lawyer. The diary was published while Slahi was still being detained. In 2017, after Slahi was released, the book was republished after Slahi was able to rewrite the lines that United States government officials had redacted. This book provides an insider, firsthand account of the daily life of a detainee, the conditions they endured, and the stressors of detention without trial.⁴⁸

Conclusion

Over the last twenty-plus years, GITMO has turned into what seems to be an unsolvable and never-ending tangle of webs left by imperialism and the War on Terror in the post-September 11 era. Between national security, lack of accountability, shifting policies and political parties, legal ambiguity, and human rights questions, it has sparked controversy as to the correct proceedings of the containment and treatment of suspected terrorists, and now migrants, especially during a time of war. With the United States being a world power, GITMO is not just a domestic concern but a global one whose legacy remains deeply contested and open to scrutiny. Bush acknowledged several times in 2006 and 2007 that “it should be a goal of the nation to shut down Guantánamo,” and “[...] it is not as easy a subject as some may think on the surface.” So far, those statements have rung true as GITMO is an issue

46 Director of National Intelligence, “Summary of the Reengagement of Detainees Formerly Held at Guantanamo Bay, Cuba,” last modified December 18, 2020, https://www.dni.gov/files/documents/Newsroom/12-18-20_Report_Summary_GITMO_Reengagement_20-01043_U_CR-OGC-Final.pdf.

47 Mansoor Adayfi, *Don't Forget Us Here: Lost and Found at Guantanamo* (New York: Hachette Books, 2021).

48 Mohamedou Slahi, *Guantanamo Diary* (New York: Back Bay Books, Little, Brown and Company, 2017).

that gets far more complex with each passing year.⁴⁹ Repeated efforts to close the facility have fallen short due to constantly shifting political landscapes. This is especially true under President Trump's recent implementation of expanded operations. Only time will tell which side will, if any, win out. Regardless, GITMO's presence will continue to raise fundamental questions about justice, sovereignty, humanity, and the cost of war, both domestic and foreign.

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Paul Thornhill

Law, Order, and the Death Penalty: The Struggle Over Capital Punishment in 20th-Century America

“In the United States, as in other nations of the western world, the struggle about this punishment has been one between ancient and deeply rooted beliefs in retribution, atonement or vengeance, on the one hand, and, on the other, beliefs in the personal value and the dignity of man” - Justice William J. Brennan¹

As Justice Brennan articulated, the debates surrounding capital punishment in mid-twentieth century America were not solely about legality or constitutionality but were part of a larger debate over the ethics of retributive justice. These debates were shaped not only by moral belief but also by political affiliation, racial tension, and fears of rising crime. Autobiographies and popular media, such as Hollywood movies, helped spark national conversations about the efficacy of capital punishment. Meanwhile, African Americans had a lingering distaste for the death penalty originating in the legacy of the lynch mob. Eventually, despite a moratorium on capital punishment resulting from the landmark case *Furman v. Georgia* (1972), a broader cultural shift toward law and order undercut the movement to abolish the death penalty. Ultimately, the history of capital punishment in mid-twentieth-century America reveals that its application was shaped less by justice and deterrence than by political opportunism, racial prejudice, and cultural narratives that made its reform or abolition not only a legal issue but a moral and societal imperative.

When America Began to Question

It was not until the aftermath of World War II that the abolition of capital punishment began to occur in the West, driven by a new sensitivity to state violence and human rights. As opposition to capital punishment gained momentum in Europe, the movement also began to influence American perspectives. In 1953, a Gallup poll revealed that although a strong majority of Americans still supported the death penalty, 25 percent opposed its use

¹ *Furman v. Georgia*, 408 U.S. 238 (1972).

for murder.²

Yet it was this minority that helped ignite a movement sparked by a petty criminal named Caryl Chessman. Chessman did not fit the image Americans had of dangerous criminals; he was a remarkably intelligent, literate, White man. At the same time, McCarthyism was at its height, causing distrust in the American justice system to be all too prevalent. A time when Senator Joseph McCarthy employed tactics of public accusations of disloyalty in the midst of the red scare. These tactics resulted in major rights violations, serious false accusations, and unsavory investigatory methods.³ Given the ill-fitting image and widespread distrust, when Chessman was found guilty of kidnapping, sexual assault, and robbery, the public listened to his pleas of innocence.

He released an autobiography from his cell, titled *Cell 2455 Death Row*, in 1955. In his autobiography, he recounts his childhood and refers to himself by his nickname, Whit. He describes a tragic car crash that killed his mother and bankrupted his father, the event that ultimately led to his introduction into petty crime as he wrestled with the injustices of this world. Of course, he also proclaimed that he was falsely accused of being the so called '*Red light bandit*,' the crime for which he was sentenced to death.⁴ Chessman's book became so popular publishers around the world translated it, releasing editions in Milan, Oslo, Buenos Aires, Mexico City, Tokyo, Taipei, and Athens.⁵

Interestingly, the message that Chessman repeated throughout the concluding chapters of the book is not his innocence. He acknowledged that his execution is inevitable and insisted the book is not a desperate attempt to avoid it. Rather, he hoped to be understood, believing that an understanding of his perspective carries a large social significance.⁶ One quote that clearly expresses his argument is:

The ultimate development of an antisocial personality is invariably the end result of the impact of powerfully felt extrinsic forces upon the young mind, spirit, or soul. As well, I believe the story demonstrates,

2 Gallup Organization, Gallup Poll # 1953-0522: Employment/Korea/Death Penalty/Political Parties, Question 9, USGALLUP.53-522.Q07A, Gallup Organization (Cornell University, Ithaca, NY: Ro percenter for Public Opinion Research, 1953), DOI: 10.25940/ROPER-31087506.

3 Free Speech Center, "McCarthyism," accessed June 25, 2025, <https://firstamendment.mtsu.edu/article/mccarthyism/>.

4 J. C. Oleson "The Celebrity of Infamy: A Review Essay of Five Autobiographies by Three Criminal Geniuses," *Crime, Law, and Social Change* 40 (December 2003): 391-408.

5 Stuart Banner *The Death Penalty: An American History* (Cambridge, Massachusetts: Harvard University Press, 2002), 256.

6 Caryl Chessman, *Cell 2455, Death Row* expanded ed. (Englewood Cliffs, N. J: Prentice-Hall, 1960), 346.

with equal force and clarity, the fact that even those who, as adults, violently menace society do not spring full grown from hell. They are a result of a complex called environment.⁷

Chessman challenged the simplistic idea that some people are born evil and, although they do hold accountability for their own actions, they do not personally hold the entirety of the blame and guilt. Instead, he challenged the readers to view evil or hate as an affliction within society. Most importantly, he said that the idea of social vengeance as a correctional device is self-defeating and only an aggregate to hate, which he described as cancer in our society.⁸

Eventually, just a week before his execution date, the California legislature met in Sacramento in a special session called by Governor Edmund Brown to debate capital punishment. Though called to debate capital punishment, in effect the session was to decide the fate of Chessman.⁹ This event revealed the depth of public support Chessman was able to garner. Just to name a few examples, an auto caravan that pulled into Sacramento brought 384 University of California faculty signatures on a petition urging abolition of capital punishment. A rodeo rider, billed as a "minuteman," drove his horse from San Francisco to Sacramento, picking up save-Chessman signatures along the way. At the capitol building, demonstrators displayed signs reading "STOP INSTITUTIONALIZED MURDER."¹⁰ Following the popularity of this book and the subsequent attention of his trial, "Save Chessman" became a symbol of the potential for injustice associated with capital punishment. Leading news outlets like *Time Magazine* to call him "the world's most famous prisoner" and the "center of impassioned arguments on both sides of the Atlantic."¹¹

Chessman's book was just one piece of popular media that reflected the growing distaste for the death penalty. Another notable piece of popular media was the 1958 Hollywood movie "*I Want to Live!*" (1958). This movie follows a real capital case that occurred a few years prior to the movie. The defendant in the case was a woman named Barbra Graham who was arrested for first-degree murder and executed in 1955. At the time, many saw her trial as unfair and riddled with rights violations. It was due to this controversial nature that her case was chosen for a movie adaptation. Walter Wagner produced the movie to share what he saw as a realistic representation of death row. He even attended an actual execution himself in

7 Ibid., 346.

8 Ibid., 353

9 "Justice: The Chessman Affair," *Time*, March 21, 1960.

10 Ibid.

11 Ibid.

preparation for the movie. Wagner seemed to have been strongly opposed to the death penalty given the film portrayed it in a clearly negative light.¹²

Upon viewing the film, the attempt to offer a contrasting view of condemned criminals is clear. A mother named Barbra, referred to by the more intimate nickname 'Babs' throughout the film, has made bad choices in life but has never acted in violence. After she is falsely accused of murder, she becomes entrapped by a coerced confession. She maintains her innocence to the last moment before the execution, a scene that felt designed to evoke a sense of tragic injustice.¹³ As Bosley Crowther of the *New York Times* put it, "She is compelled to endure a grim succession of legal maneuvers that put the Chinese water torture to shame." Crowther continued, "It is a miserable set of circumstances . . . arranged to show the ultimate dilemma in which peccable people can be plunged when legal trickery and newspaper pressure are thrown against them."¹⁴ The *Daily Variety* review stated, the film "is perhaps the most damning indictment of capital punishment ever presented in any entertainment medium," after calling it "one of the year's best pictures, and one that sets a milestone for boldness and realism."¹⁵ This was an extremely successful movie, even winning Academy Awards.

While popular media brought much of the general public to question the death penalty, many Black Americans had long resented it. The height of the horrific practice of lynch mobs was only a few decades earlier, so the terror and trauma associated with it still lingered.¹⁶ Tragically, many felt that this period of White authorities, who declared executions just and used them to target Black communities, had not ended. As lynchings began decreasing in the twentieth century, courts continued to carry out executions in situations that previously drew lynch mobs.¹⁷ Shockingly, Governor Albert H. Roberts of Tennessee, refused to commute the death sentence of a man in 1919 despite alibi witnesses and work records indicating he could not have committed the crime. He said that the execution would be the "most certain remedy against the disease of mob violence which is too prevalent in this country," an admission that directly replaced mob lynching for legal

12 David M. Oshinsky, *Capital Punishment on Trial: Furman v. Georgia and the Death Penalty in Modern America* (Lawrence: University Press of Kansas, 2010), 13.

13 *I Want to Live!*, directed by Robert Wise (Beverly Hills, CA: United Artists, 1958), 1:55:00.

14 Bosley Crowther, "Vivid Performance by Susan Hayward: Actress Stars in 'I Want to Live' Death-House Drama Produced by Wanger," *New York Times*, November 19, 1958.

15 "Turner Classic Movies: *I Want to Live!*" Accessed July 20, 2025, <https://www.tcm.com/tcmdb/title/78889/i-want-to-live#notes>.

16 Margaret Vandiver, *Lethal Punishment: Lynchings and Legal Executions in the South* (Rutgers University Press, 2006), <https://www.jstor.org/stable/j.ctt5hj42q>.

17 *Ibid.*, 9.

execution.¹⁸

While the two practices seem to have distinct differences, the reality is that lynchings and early-twentieth century legal executions in the south were shockingly similar.¹⁹ Trials were often swift, and some trials were even held under threat of a White mob that was present. In one exceptional case in 1934, more than 350 soldiers were gathered in northern Mississippi required to protect the DeSoto County courthouse from a mob numbering in the thousands. This resulted in the jury finding the defendants guilty and sentencing them to death all within just seven minutes.²⁰ Not only did court trials eerily resemble lynch mobs, but lynch mobs often imitated the courts. They would often bring the suspect to the alleged victim for identification, hear from witnesses, seek confessions, and pronounce guilt, before carrying out the death sentence.²¹ Yet, the most important similarity between racially charged legal executions and lynchings was the preservation of the White power structure. Both lynching and capital punishment served as a medium by which the White authority could demonstrate their capacity for deadly violence as well as their immunity to any measures to stop them.²²

The allegation that is most commonly associated with demonstrating White authority is the rape of a White woman by a Black man. An allegation that could be easily fabricated as the investigatory methods often consisted of bringing the perpetrator before the victim for identification and then obtaining a confession through torture if necessary.²³ This was also a highly publicized topic after the 1931 case of the Scottsboro Boys, in which, nine African American boys were falsely accused of raping two White women. Armed White men apprehended the boys after the deputy sheriff of Paint Rock, Alabama, informally deputized every White man with a gun.²⁴ They were then paraded twenty miles in a flatbed truck to the Paint Rock jail where the victim formally identified six of the boys. The victims made these identifications despite sexual exams showing no signs of rape and one defendant having an advanced and painful case of syphilis making rape very unlikely.²⁵ By the opening day of the trials a mob of ten thousand converged on Scottsboro, with the only distinguishing factor between this

18 Ibid., 13.

19 Ibid.

20 David M. Oshinsky, *Worse than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Free Press, 1996), 210–11.

21 Andrew S. Buckser, "Lynching as Ritual in the American South," *Berkeley Journal of Sociology* 37 (1992): 11–28.

22 Ibid., 20.

23 Ibid., 17.

24 Ibid., 17.

25 James A. Miller, *Remembering Scottsboro: The Legacy of an Infamous Trial* (Princeton, NJ: Princeton University Press, 2009), 14.

spectacle and a lynch mob being the formal setting of the courthouse.²⁶

In a rapid trial with no legal defense, eight of the nine boys were sentenced to death, and one received a life sentence. However, the American Communist Party took notice and argued that it was a capitalistic repression of the poor, eventually bringing the case to the Supreme Court. The court reversed the conviction on the grounds of inadequate due process.²⁷ This highly publicized case made national headlines, drawing attention to the racial dynamics of capital punishment in the south. Northern papers like the *New York Times* covering a protest against the trial say that “Eight negroes in Alabama were ‘Railroaded,’”²⁸ A popular Black newspaper, the *Chicago Defender* published an article saying, “while 10,000 curious and mob-minded White people came from far and near to make carnival, nine lives were judged in a hat just as a cat would toy with a mouse.” The *Chicago Defender* even interviewed the mother of two of the Scottsboro boys. She gave an emotional plea for innocence.²⁹ Although the Scottsboro boys’ case was one that made headlines, this was not an isolated event, the shockingly disproportionate amount of Black people executed for rape went on for decades. One study showing that between 1930 and 1972, 455 men were executed for rape across the United States, 405, or 89.1 percent, were African American. The vast majority, 443, of these executions occurred in former Confederate states.³⁰

Given this history, one could easily understand why much of the African American community held many qualms about the death penalty. The *Chicago Defender* wrote in 1924 that “capital punishment is meant primarily for our people and Mexicans.”³¹ *Chicago Defender* remained firmly consistent on this stance, one example thirty-five years later in 1969 saying, “the racial element, present in capital punishment, is another reason why Americans should be ashamed to revive the practice.”³² According to Miachel W. Combs and John C. Comer, the racial disparity in approval ratings remained evident well into the 1970s. When support for capital punishment among the Black community lingered around 35 percent to 45 percent, whereas support

26 Ibid., 10.

27 Faust Rossi, “The Scottsboro Trials: A Legal Lynching,” *Cornell Law Forum* 29, no. 2 (Winter 2002).

28 “Protest at Executions: Speakers Here Say Eight Negroes in Alabama were ‘Railroaded,’” *New York Times*, June 29, 1931.

29 “Tells True version of Scottsboro Case: Mother of 2 Condemned Boys Talks Mrs. Ada Wright in Plea for Justice,” *Chicago Defender*, May 30, 1931.

30 “Enduring Injustice Race and the Death Penalty,” *Death Penalty Information Center* 88 (2020): 17.

31 “Three Wise Men of Texas Want Lawful Murder: Say That Capital Punishment Is Meant Primarily For Our People and Mexicans,” *Chicago Defender*, March 1, 1924.

32 Harry Golden “Death Row And The U.S. Court,” *Chicago Daily Defender*, October 25, 1969.

among White people was around 66 percent to 74 percent.³³

While racial injustice shaped much of the Black community's opposition to the death penalty, popular media continued to shift broader public sentiment. By 1960, the percentage of those opposed the death penalty for the crime of murder had risen to thirty-six percent.³⁴ The "Save Chessman" Movement had become an international crusade with pleas for clemency pouring into California Governor Edmund Brown's office. This included letters from the Queen Mother of Belgium, the Vatican, and even a Brazilian Petition to save Chessman including 2 million signatures.³⁵

Governor Brown was personally sympathetic to the abolitionist cause and strongly opposed the death penalty on the grounds of morals, religious belief, ineffectiveness, and racial bias.³⁶ He had an extensive career in law. In his own words, he had spent "16 years in intimate and personal experience with the death penalty," half of which were as California Attorney General.³⁷ Brown was very outspoken about his opinion, even stating in his second inaugural address, "You are all aware of my position on capital punishment" before denouncing its degrading effect on man and its failure to deter crime.³⁸ Given his strong opposition, Governor Brown did what he could for Chessman. He granted stays of execution and even proposed a bill to abolish the death penalty in the state of California. Although the bill was ignored by legislature and expired in committee, it marked a milestone in the legal battle against capital punishment. His reasoning for proposing the bill, although radical at the time, embodies the ideas that led to the barring of the death penalty about a decade later, Brown said:

It has neither protected the innocent nor deterred the wicked....It is primarily inflicted on the weak, the poor, the ignorant, and against racial minorities....The entire history of our civilization has been a struggle to bring a greater measure of humanity, compassion, and dignity among us.³⁹

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- 33 Michael W. Combs and John C. Comer, "Race and Capital Punishment: A Longitudinal Analysis," *Phylon* 43, no. 4 (1982): 350–59.
- 34 Gallup Organization, Gallup Poll # 625, Question 3, USGALLUP.60-625.Q003A, Gallup Organization, (Cornell University, Ithaca, NY: Ro percenter for Public Opinion Research, 1960), Survey question, DOI: 10.25940/ROPER-31087609.
- 35 Oshinsky, *Capital Punishment on Trial*, 14.
- 36 *Ibid.*, 15.
- 37 Edmund Brown "Message to the Legislature by Governor Edmund Brown Relating to the Abolition of the Death Penalty in California," *Assembly Daily Journal*, March 2, 1960.
- 38 "Governors of California - Edmund G. 'Pat' Brown. Second Inaugural Address," Accessed July 7, 2025, <https://governors.library.ca.gov/addresses/32-Pbrown02.html>.
- 39 Edmund Brown "Message to the Legislature by Governor Edmund Brown Relating to the Abolition of the Death Penalty in California," *Assembly Daily Journal*, March 2, 1960.

This quote highlights the three main points most commonly argued by abolitionists. The death penalty does not achieve its purpose of deterrence. It is inflicted arbitrarily, falling primarily on the poorly represented and racial minorities. Finally, it is time for our society to evolve past this practice and turn our focus to rehabilitation over punishment.

It was not until the 1960s that these ideas would be argued in court, beginning the NAACP's crusade on capital punishment. The NAACP's Legal Defense Fund (LDF) began their attack on capital punishment after they had won the case of *Brown Vs. Board of Education* (1954), after which resources had been freed up. Lawyers like Jack Greenberg wanted to direct these resources towards the abolition of what was, in the eyes of many, the blatantly racist application of capital punishment.⁴⁰ According to him, the single greatest determinant of whether a defendant will be sentenced to death is the race of the victim.⁴¹ The blame may fall on the largely uncontrolled use of prosecutorial discretion which results in wide variations in the application of the death penalty. In addition to general arbitrariness, the use of prosecutorial discretion also means that racial biases become an inevitability. Even if the prosecutor does not intend to discriminate, all Americans share a common historical and cultural heritage in which racism has played, and may still play, a dominant role. It is not that a prosecutor is overtly racist, but the idea that prosecutors can always isolate themselves from the racial divisions affecting US society is questionable.⁴²

Given this controversy, the LDF initiated its campaign against capital punishment with *Hamilton v. Alabama* (1964). Thomas Hamilton was a Black mentally challenged man sentenced to death for breaking into an elderly woman's home and exposing his genitals. The LDF chose this case to launch the attack on capital punishment, because the defendant was mentally challenged and because no physical harm had been done.⁴³ After winning this case the LDF continued to fight capital cases on behalf of the condemned. By the mid-1960s, the LDF argued seventeen capital punishment cases.⁴⁴

In the case of *Boykin v. Alabama* (1969), LDF lawyer Tony Amsterdam formulated what became the LDF's definitive argument against capital punishment. In this case he argued:

because capital punishment is applied infrequently and irregularly, against only poor, despised sectors of society, who are largely racial

40 Jack Greenberg, *Crusaders in the Courts: How a Dedicated Band of Lawyers Fought for the Civil Rights Revolution* (New York: Basic Books, 1994), 441.

41 *Ibid.*, 444.

42 Charles R. Lawrence III, "The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism," *Stanford Law Review* 39 (1987): 322.

43 *Hamilton v. Alabama*, 376 U.S. 650 (1964).

44 Greenberg, *Crusaders in the Courts*. 441.

minorities, the statute that authorizes it does not express contemporary standards of decency: It is a freakish aberration, a rare, extreme act of violence, visibly arbitrary, probably racially discriminatory.⁴⁵

This is the argument that would later win *Furman v. Georgia* in 1972 and bring down capital punishment at the federal level.⁴⁶

Conservative Shift in National Politics

While the NAACP found much success in the 1960s, the decade also saw a surge in violent crime, and what is arguably more impactful, a surge in the fear of violent crime. Between 1960 and 1970, the crime rate in America increased by 126 percent. Violent crime rose from 0.16 percent per 100,000 people in 1960 to 0.36 percent in 1970. Although a seemingly small fraction statistically, to the average American, the likelihood of becoming a victim of violent crime had effectively doubled.⁴⁷ Although the chance of victimization remained low, especially for those who have moved out of inner cities, the consequence of crime went far beyond the monetary or physical loss from the crime itself. The social consequence of fear remained.⁴⁸

The fear and insecurity that permeated in American society was an issue that politicians had to address.⁴⁹ The current president, Lyndon B. Johnson, addressed the rising crime rate in 1964 by declaring a “war on crime,” chiefly on root causes of crime. This was stated directly in the president’s Commission on Law Enforcement and Administration of Justice, which “charged the commission with inquiring into the causes of crime and the adequacy of the existing system of law enforcement, criminal justice and corrections.”⁵⁰

While the Johnson administration pursued a progressive solution to crime, the Republican Party had a much different response. Republican politicians like Barry Goldwater, George Wallace, and Richard Nixon began to launch an unforgettable campaign on law and order. The rise in crime rates was a concern for many Americans on both sides of the political spectrum. Though to more conservative leaning Americans whose ideologies

45 Ibid., 448.

46 *Furman v. Georgia*, 408 U.S. 238 (1972).

47 Melissa Erickson, “From Hope to Fear: The 1960s Started Comfortably - Then We Realized No One Was Safe,” *Columbus Dispatch*, May 25, 2017, <https://www.dispatch.com/story/lifestyle/2017/05/25/from-hope-to-fear-1960s/20784584007/>.

48 Frank Clemente and Michael B. Kleiman, “Fear of Crime in the United States: A Multivariate Analysis,” *Social Forces* 56, no. 2 (1977): 519–31.

49 Michael W. Flamm, *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York: Columbia University Press, 2005), 28–29.

50 “The President’s Commission on Law Enforcement and Administration of Justice: Organization and Goals,” *American Criminal Law Quarterly* 4, no. 3 (Spring 1966): 118–129.

did not align with the social change occurring at the time, street crime was not the only threat. They felt that the social movements of the 1960s were characterized by social unrest, violence, urban riots, and unruly student protests. Law and order became a rallying cry for conservative Americans calling for the return of the discipline and values of the past.⁵¹ A rallying cry that was first picked up by the Republican Party presidential nominee, Barry Goldwater. It fueled the conservative shift in national politics that was to come.⁵²

While crime rhetoric had once been local, limited to counties and cities that elected sheriffs and voted on police department budgets, this changed with the emergence of the Civil Rights Movement and anti-segregation protests. Civil Rights activists were seen by southern communities as ushering in a breakdown of law and order. In response, law and order had to be discussed in national politics.⁵³ Goldwater claimed the Civil Rights Movement caused “citizens of all races accept as normal the use of riots, demonstrations, boycotts, violence, pressure, civil disorder, and disobedience as an approach to serious problems.” He declared that he “cannot in conscience now condone or support the breakdown of civil order.”⁵⁴ He blamed the movement for producing disorder and disintegrating public safety.⁵⁵ Alabama Governor George Wallace and his supporters also shared the association of the Civil Rights Movement with the breakdown of law and order. As staunch segregationists, they often intimately associate the fear of integration with the fear of crime.⁵⁶ During one convention at Serb Hall in Milwaukee, an argument erupted between the rally organizer, Bronko Gruber, and a Black activist in the crowd. Gruber claimed his friend was “assaulted by three of your countrymen or whatever you call them” and then continued with claims that “they beat up old ladies 83 years old, rape our womenfolk. . . . They mug people, they don’t work.” All his claims drew cheers and whistles from the packed crowd.⁵⁷ Both Goldwater and Wallace ran presidential campaigns promising to federalize law and order. Although neither won the elections, both garnered a significant following, mostly from conservative southern communities.

A quote from former president Eisenhower, demonstrates the nationalization of law and order as it is delivered during his speech at the 1964 GOP National Convention. He stated:

51 Allen K. Rostron, “The Law and Order Theme in Political And Popular Culture,” *Oklahoma City University Law Review* 37 (2012): 323.

52 Flamm, *Law and Order*, 32.

53 Rostron, “The Law and Order Theme,” 325.

54 Qtd. in Flamm, *Law and Order*, 33.

55 Flamm, *Law and Order*, 33.

56 *Ibid.*, 34.

57 *Ibid.*, 34.

And let us not be guilty of maudlin sympathy for the criminal, who roaming the streets with switchblade knife and illegal firearms seeking a helpless prey, suddenly becomes upon apprehension, a poor, underprivileged person who counts upon the compassion of our society and the weakness of too many courts to forgive his offense.⁵⁸

This conservative stance places the blame for crime solely on the criminal, resulting in criminals being perceived as undeserving of any sympathy. Consequently, this encourages strict punishment over rehabilitation and implies that punitive measures are the best path to deterrence.

As crime continued to rise, the public continued to become more sympathetic to law and order politics. In the midst of this growing conservatism, the Johnson administration maintained its progressive attitude, and the courts also appeared indifferent, while legal battles against the death penalty persisted.⁵⁹ For example, the notoriously liberal Warren court continued to allow “soft-on-crime” policies to protect the accused in criminal procedure, such as the Miranda Warning.⁶⁰ In contrast, the support for the abolition of the death penalty among the public began to steadily decline after coming to a peak in 1966 at 47 percent.⁶¹ This waning support for the abolition of capital punishment, coupled with the public’s growing desire for law and order, aligned perfectly with Nixon’s 1968 presidential campaign, which acted on these sentiments.

A window into the political views of Nixon’s campaign is an ad from 1968, simply titled “Crime.” The entirety of this ad is a slideshow of violence, guns, police, and victims. The first ten seconds have no words, just horror music behind the depictions of violence. The first words are a man in a serious tone listing off scary statistics, and then a message: “We owe it to the decent and law-abiding citizens of America to take the offensive against the criminal forces that threaten their peace and security.”⁶² This message exemplifies many of the ads which was reflecting the growing mentality among many Americans, an “us versus them” mentality whereby

58 Dwight D. Eisenhower, “Transcript of Eisenhower’s Speech to the G.O.P. Convention,” *New York Times*, July 15, 1964, <https://www.nytimes.com/1964/07/15/archives/transcript-of-eisenhowers-speech-to-the-gop-convention.html>.

59 Neil Vidmar and Phoebe Ellsworth, “Public Opinion and the Death Penalty,” *Stanford Law Review* 26 (1973): 1245–70.

60 Darryl K. Brown, “The Warren Court, Criminal Procedure Reform, and Retributive Punishment,” *Washington and Lee Law Review* 59 (2002): 1411–76.

61 Vidmar and Ellsworth, “Public Opinion and the Death Penalty.”

62 “Presidential Ad: ‘Crime’ – Richard Nixon vs. Hubert Humphrey vs. George Wallace [1968],” YouTube video, posted by The New York Historical, 2020, <https://www.youtube.com/watch?v=UcgedBioXDQ>.

law-abiding citizens deserve safety and criminals are threats who must be incarcerated, or worse. Once again, the blame for crime would rest solely on the individual, an ideology that fosters support for capital punishment.

The growing desire for law and order and the crackdown on crime is even evident in a popular form of media at the time: crime shows. Since the 1950's the "police genre" portrayed police in a way that would be compatible with the Johnsons attitude towards law and order. They were portrayed as effective professionals who aided the community, such as *Highway Patrol* (1955) and *The Untouchables* (1959). Television also portrayed criminal defense lawyers in a positive light with shows like *The Defenders* (1961).⁶³

However, according to author and lawyer Allen Rostron, after the 1968 Nixon campaign, the attitude towards crime in television and movies shifted. For example, the Western movie genre was undergoing a transition, turning outlaws into heroes, and vilifying the officials pursuing them.⁶⁴ However, during the Nixon presidency this quickly halted. In fact, John Wayne's first movie release after Nixon took office, *True Grit* (1969), depicted him as "the meanest deputy around." In an early scene, he sits on the witness stand and faces accusations from a slick lawyer over violations of criminal rights. The movie is set in a time where formal law is setting over the West, and the main characters' vision of natural and personal justice is fading. The plot surrounds the murder of a woman's father who has to hire the protagonist when formal law fails her.⁶⁵

This rhetoric continued to evolve and in 1971 the fantasy of an extraordinary super-cop, opposed by an outright pro-criminal justice system appeared on screen in *Dirty Harry*. This movie, said to be one of the most influential of its time and depicts Harry, played by Clint Eastwood, as a violent and brutal cop. He arrests a rooftop serial killer but due to Harry violating his civil rights, the killer is put back on the streets. Harry must now find and kill this criminal because death is the only just option left.⁶⁶ Popular movie critique, Roger Ebert, said the character "understands the Bill of Rights, understands his legal responsibility as a police officer, and nevertheless takes retribution into his own hands." He went as far as to say the movie had a "fascist moral position" but interestingly does not condemn the movie since, in his own words, "films are more often a mirror of society than an agent of change."⁶⁷ *Dirty Harry* was a major box office success and

63 Rostron, "The Law and Order Theme," 351.

64 Ibid., 353

65 Don Siegel, director, *Dirty Harry* (1971; Burbank, CA: Warner Bros., 2008).

66 Ibid.

67 Roger Ebert review of *Dirty Harry*, January 1, 1971, <https://www.rogerebert.com/reviews/dirty-harry-1971>.

was popular enough to inspire four sequels.

Throughout Nixon's term, law and order maintained its relevance in the media and public opinion on the abolition of capital punishment continued to fall, with one survey in 1970 showing only 37 percent of the poll takers opposed.⁶⁸ Despite this, the courts continued to appear indifferent to the shifting public sentiment. With the 1972 election approaching and law and order campaigns were in full swing, the NAACP continued to find success in their fight against capital punishment. However, by the time the campaigns concluded in November, the gloomy disconnect between majority conservative opinion and recent rulings by U.S. courts regarding capital punishment was unmistakable.⁶⁹

This disconnect is perfectly illustrated by a proposition on the California ballot in 1972. California Proposition 17 was a ballot initiative to reverse the recent California Supreme Court ruling that declared capital punishment unconstitutional. The decision was made in the case *People v. Anderson* (1968) in which the California Supreme Court concluded that capital punishment "is impermissibly cruel. It degrades and dehumanizes all who participate in its processes. It is unnecessary to any legitimate goal of the state and is incompatible with the dignity of man and the judicial process."⁷⁰ Immediately, capital punishment supporters, including California Governor Ronald Reagan, launched a citizen-initiated ballot requiring 520,806 valid signatures.⁷¹ Within days after the *People v. Anderson* decision, initiative petitions seeking to overturn it were put into circulation. Backers of the proposition cited infamous killers like Charles Manson and Robert F. Kennedy's assassin, Sirhan Sirhan, to argue that capital punishment was essential in combating domestic terrorism and violent crime. Not only did the petition easily get the signatures it needed, but Proposition 17 was voted into law by a staggering two-to-one margin.⁷²

Landmark Case of *Furman v. Georgia*

It was in this context that the landmark Supreme Court case of *Furman v. Georgia* was heard. One where the courts continued to conflict with popular opinion, as public support for the abolition of capital punishment was plummeting and the call for law and order was in everyone's ears.

68 Virginia Slims, Virginia Slims Poll: August 1970, Question 154, USHARRIS.70VSM2.RM07C, Louis Harris & Associates (Cornell University, Ithaca, NY: Roper Center for Public Opinion Research, 1970), Survey question, DOI: 10.25940/ROPER-31107584.

69 Oshinsky, *Capital Punishment on Trial*, 58.

70 *People v. Anderson*, 70 Cal. 2d 15, 447 P.2d 942, 1968.

71 "California Proposition 17, Death Penalty Is Constitutional Initiative (1972)," *Ballotpedia*, accessed August 3, 2025, [https://ballotpedia.org/California_Proposition_17_Death_Penalty_Is_Constitutional_Initiative_\(1972\)](https://ballotpedia.org/California_Proposition_17_Death_Penalty_Is_Constitutional_Initiative_(1972)).

72 Oshinsky, *Capital Punishment on Trial*. 58.

Nonetheless, on June 29, 1972, the Supreme Court heard the case of *Furman v. Georgia*. In 1967, a jury found William Furman, a 26-year-old Black man, guilty of felony murder. It should also be noted that Furman's highest level of education was sixth grade and had a formal diagnosis of mental deficiency following his arrest.⁷³ On the night of the murder, Furman broke into a White man's house, looking to "pick up a radio or two." When the man came down to confront him, Furman blindly shot one round out of his .22 Caliber pistol into the darkness and ran. This one shot, to the surprise of Furman, killed the man. Furman's lawyer at the time recalled that "it was a Black on White murder . . . that did it. A White judge, a White jury . . . the Black man was done for."⁷⁴

To the surprise of many, the Supreme Court ruled to reverse this death sentence and effectively bar capital punishment on a federal level. However, it was not the death penalty itself that was declared unconstitutional but the arbitrary application of the death penalty. While the court ruled to reverse, the justices were as split as could be with a 5-4 decision. Each judge also wrote his own opinion. Nevertheless, the court came to the final decision that "the imposition and carrying out of death penalty in these cases held to constitute cruel and unusual punishment in violation of Eighth and Fourteenth Amendments."⁷⁵

One of the Justices, Thurgood Marshall, who had helped found the LDF, was a long-time opponent of capital punishment. He was a guaranteed vote to reverse. Justice Douglass stated that if capital punishment were to only apply to people who are poor, Black, or unpopular/unstable it would be clearly incompatible with the idea of fair and equal protection. Justice Douglass claimed that, although not written in law, this was the unfortunate reality of capital punishment.⁷⁶ Justice Stewart was pro-capital punishment but voted to reverse, because,

these death sentences are cruel and unusual in the same way being struck by lightning is cruel and unusual. . . . I simply conclude that the eighth amendment cannot tolerate the infliction of a death sentence so wantonly and so freakishly imposed.⁷⁷

Most justices who voted to uphold capital punishment were stern believers in the practice, arguing that it achieves deterrence, retribution, and incapacitation. The exception was Justice Blackmun, who stated that "I yield to no one in my distaste, antipathy, and abhorrence of the death penalty"

73 *Furman v. Georgia*, 408 U.S. 238 (1972).

74 Oshinsky, *Capital Punishment on Trial*, 2.

75 *Furman v. Georgia*, 408 U.S. 238 (1972)."

76 *Ibid.*

77 *Ibid.*

and that “were I a legislator, I would vote against the death penalty.” He then went on to explain that Justices are not legislators, and it is not his place to strike down this punishment.⁷⁸

After this major victory, The LDF team had a grand celebration and even had a band renamed “The Eighth Amendment” play at the party.⁷⁹ Bobby Mayfield, Furman’s original lawyer, heard the news on the radio and drove down to the Georgia State Hospital to tell William Furman the news in person. Sadly, Furman stared blankly at his lawyer, unable to recognize him, let alone the history they had just made.⁸⁰ However, only 32 percent of people agreed with this ruling. 56 percent disagreed, and 12 percent had no opinion.⁸¹ It seems that, in spite of the Supreme Court’s decision, the contemporary standards of decency had not evolved.

Capital Punishment Resumed

Though capital punishment was now federally barred, it was not the practice itself that was declared unconstitutional but rather how it was imposed that determined its legality. Immediately, states began reforming and restoring their laws regarding their application of the death penalty. The day after the Court announced its judgment on *Furman v. Georgia*, legislators in five states professed their intention to introduce bills to resurrect capital punishment.⁸² *Furman v. Georgia*, in a sense, had the opposite effect that LDF intended. Every state that had supported capital punishment, renewed its laws, and restored it. North Carolina even created mandatory death sentences for crimes such as murder.

The two directions of reform were clear, one solution was to take discretion away from the jury by returning to the old practice of mandatory sentencing, defining a class of crimes for which the penalty would always be death. However, in the 1976 case of *Woodson v. North Carolina*, the Supreme Court deemed mandatory death sentences unconstitutional.⁸³ The other solution was guided discretion, legislating standards that would narrow the jury’s discretion in determining who would live and die. In order to sentence the defendant to death, the jury would have to find at least one aggravating circumstance present. If it was, then the jury was determined

78 Ibid.

79 Greenberg, *Crusaders in the Courts*, 451.

80 Oshinsky, *Capital Punishment on Trial*, 55.

81 Opinion Research Corporation, ORC Public Opinion Index, Question 8, USORC.072072.R08, Opinion Research Corporation, (Cornell University, Ithaca, NY: Ro percenter for Public Opinion Research, 1972), Survey question, DOI: 10.25940/ROPER-31107770.

82 Banner, *The Death Penalty: An American History*, 258.

83 Harry Henderson, *Capital Punishment*, rev. ed., Library in a Book (New York: Facts on File, 2000), 103

whether the presence of any mitigating circumstances called for leniency. The point was to specify precisely what the jury was to consider in choosing the appropriate sentence.⁸⁴

In 1976, in the case of *Gregg v. Georgia*, the Supreme Court upheld the implementation of guided discretion.⁸⁵ After this decision, to the relief of much of the public, capital punishment was back on the books. If *Furman* did not influence the direction of change, it almost certainly influenced the speed of change. *Furman* suddenly made capital punishment a more salient issue than it had been in decades, perhaps ever.⁸⁶

Conclusion

The debates surrounding capital punishment in mid-twentieth century America were shaped by more than questions of constitutionality or deterrence. It also reflected deep tensions over race, justice, and authority. Popular media such as Caryl Chessman's book, *Cell 2455 Death Row* and Hollywood movies like *I Want to Live!* helped spark national conversations about the efficacy of capital punishment. Meanwhile, the legacy of lynching and the disproportionate execution of Black Americans revealed the racial injustice at the core of the practice. As the NAACP's LDF challenged capital punishment in the courts, political leaders exploited rising fears of crime to restore public support for harsh punitive measures. Despite the temporary federal ban established in *Furman v. Georgia*, the movement to abolish the death penalty was undercut by a broader cultural shift toward law and order. Ultimately, the story of capital punishment during this era shows that its use was never solely about justice. It was more a mirror of America's political divides, racial hierarchy, and evolving values.

However, the question still stands, even if a criminal committed a heinous act and contemporary standards allowed for the penalty of death, why do we feel the compulsion to pursue such a vengeful punishment when a lifetime in prison achieves the same level of incapacitation? Some argue that executing a criminal achieves a greater deterrent effect, yet it is widely agreed that, due to its arbitrary application, capital punishment does not achieve deterrence.⁸⁷ The only end that might possibly be achieved is retribution, which according to Georg Hegels theory of retribution, aims to establish an equilibrium where the punishment is equal to pain inflicted on the victim.⁸⁸ However, we do not follow this principle in any other function

84 Banner, *The Death Penalty: An American History*, 269.

85 *Gregg v. Georgia*, 428 U.S. 153 (1976).

86 Banner, *The Death Penalty: An American History*, 268.

87 Matthew B. Robinson, *Death Nation: The Experts Explain American Capital Punishment* (Upper Saddle River, NJ: Prentice Hall, 2008), 148.

88 Paul Campos, "The Paradox of Punishment," *Wisconsin Law Review* (1992), <https://scholar.law.colorado.edu/articles/858/>.

of our justice system. For example, while we allow police to use force to arrest a criminal, we will mount a righteous attack against any physical abuse inflicted once they are detained. Nor could we ever imagine torturing a torturer.⁸⁹ According to socio-philosopher Marvin E. Wolfgang, it might be a symptom of a larger flaw in which we believe criminals to be solely responsible for their evils and refuse to acknowledge the failures of society at large for creating the environment that fostered them. While these failures may be inevitable, inflicting the ultimate punishment of death upon the individual allows us to ignore more deeply rooted flaws.⁹⁰ Perhaps Caryl Chessman was right: those who violently menace society do not spring full grown from hell, and pursuing social vengeance as a correctional device is self-defeating. Social vengeance only adds to the hate that acts as a cancer in our society.

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- 89 Marvin E. Wolfgang, "The Death Penalty: Social Philosophy and Social Science Research," *Criminal Law Bulletin* 14 (1978): 20.
- 90 Ibid. 24-25.

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Deborah Zimmerman

Economic Consequences of Japanese Incarceration

The definition of “Concentration Camp” is a place where large numbers of people, especially political prisoners or members of persecuted minorities, are deliberately imprisoned. During the Second World War, the U.S. government justified creating concentration camps as a necessary military measure in order to prevent espionage and sabotage. It claimed that people of Japanese ancestry posed a threat to national security. In reality, the incarceration of Japanese Americans during World War II was the culmination of anti-Japanese sentiment that started in the early 1900s. Japanese Americans were discriminated against from their arrival to the U.S. mainland in 1900. Anti-Asian coalitions were created and legislation was passed by xenophobic politicians at both the state and federal level.

After the attack on Pearl Harbor, anti-Asian groups and many others successfully lobbied for the forced exclusion of the Japanese from the West Coast. The forced exclusion of Japanese Americans resulted in immediate and long-term economic effects. In the immediate, crops ready for harvest went unpicked and unsold while farm corporations profited off the land of the incarcerated. In the long term, Japanese Americans who were attending college were forced to drop out and many lost their jobs when they were evacuated. They lost vital education and job experience, which put them half a decade behind their fellow Americans. For the United States, building and operating these camps cost millions of taxpayer dollars in addition to the eventual reparations the government had to pay in the 1980s, which totaled billions. The forced incarceration of Japanese Americans did irreparable damage to Japanese Americans and cost the government billions of dollars.

Japanese Americans in United States: Arrival, Settlement, and joining the West Coast Economy

For almost 200 years prior to 1853, Japan was an isolationist country. That year it reopened its borders to begin trading with the United States. However, Japanese people did not immigrate to the mainland United States until around 1900. Many Japanese people worked on farms as agricultural laborers; they were often desired by smaller agriculturalists as the Japanese

tended to be reliable, hardworking and could be paid less than their white counterparts.¹ This form of economic exploitation was substantial until at least 1909. In that year a study by the California Commissioner of Labor found that white agricultural workers earned on average \$1.80 per day while Japanese workers earned \$1.54.² A 1909 US Immigration Commission report corroborated this discrepancy and concluded that “there is a discrimination of about \$0.25 per day in favor of white men against Japanese and other Asiatics engaged in the same work.”³

Japanese agricultural laborers in the early twentieth century tended to be better educated than their American counterparts as a result of the Meiji Restoration. Thus, they arrived with agricultural knowledge and skills that made them essential to the industry.⁴ Eventually many were able to launch their own businesses, serving the needs of their community with restaurants, boarding houses, and shops. They opened department stores and tailoring chains that catered to the general public. They created cooperative societies, such as the Japanese associations, that provided financial support and advice to many of these fledgling businesses. Japanese agriculture laborers would underbid others in order to gain more work, then call for higher wages and better working conditions. This led to a rising labor solidarity that was met with resistance by white management and by white labor leaders.⁵

Despite the passage of anti-Asian laws, like the 1913 Alien Land Law, Japanese immigrant farmers operated 5,152 farms in some capacity totaling 361,276 acres by 1920.⁶ Often, Japanese farming methods were more

- 1 Keith Aoki, “No Right to Own?: The Early Twentieth-Century ‘Alien Land Laws’ as a Prelude to Internment,” *Boston College Third World Law Journal* 19, no. 1 (December 1, 1998): 16.
- 2 “The Japanese Problem in the United States ; an Investigation for the Commission on Relations with Japan Appointed by the Federal Council of the Churches of Christ in America,” Immigration to the United States, 1789-1930 - CURIOUSity Digital Collections, 120, accessed November 15, 2024, <https://curiosity.lib.harvard.edu/immigration-to-the-united-states-1789-1930/catalog/39-990014247430203941>; Gary Y. Okihiro et al., “The Concentration Camps and Japanese Economic Losses in California Agriculture, 1900–1942,” in *Japanese Americans*, ed. Roger Daniels, Sandra C. Taylor, and Harry H. L. Kitano, REV-Revised, 2, From Relocation to Redress (University of Washington Press, 1991), 1, <https://www.jstor.org/stable/j.ctvcwnbcj.37>; and Robert Higgs, “Landless by Law: Japanese Immigrants in California Agriculture to 1941,” *The Journal of Economic History* 38, no. 1 (1978): 5.
- 3 Okihiro and Drummond., “The Concentration Camps and Japanese Economic Losses in California Agriculture, 1900–1942;” Higgs, “Landless by Law;” and Millis, “The Japanese Problem in the United States ; an Investigation for the Commission on Relations with Japan Appointed by the Federal Council of the Churches of Christ in America.”
- 4 Aoki, “No Right to Own?” 18.
- 5 Aoki, “No Right to Own?.”
- 6 Masao Suzuki, “Important or Impotent? Taking Another Look at the 1920 California Alien Land Law,” *The Journal of Economic History* 64, no. 1 (2004): 128.

advanced than American farming methods due to agricultural advances in Japan prior to immigration to the United States. These immigrants and new citizens became the textbook example of the American Dream. With anti-Japanese legislation rising, Japanese landowners circumvented the law in elaborate ways. They registered their property in the names of white Americans or in the names of their American-born children, the Nisei or the second generation. This group was more likely to speak English, practice Christianity, and engage with American food, sports, music and social norms. More broadly, Japanese Americans integrated into the American economy on the West Coast as they established their own businesses, farms, and worship centers that became integral parts of their communities.

The Anti-Japanese Movement

In order to understand the placement of Japanese Americans into concentration camps, one must first understand the anti-Asian movement that was happening in the West coast prior to Pearl Harbor. There were 40 years of racism and xenophobia leading up to Executive Order 9066. In 1905 the Asiatic Exclusion League was formed with the intent to restrict immigration from Asia.⁷ It was driven by fears of economic competition from Asian laborers and the belief that Asian immigrants threatened the “white American” identity. Legislation was passed in order to control land ownership among immigrants, as well as their very presence in the United States. Most of this legislation was specifically directed at Asian immigrants. California Attorney General Ulysses S Webb, author of the 1913 Alien Land Law made the exclusionist intent of the law and other similar legislation explicit when he said.

The fundamental basis of all legislation upon this subject, state and federal, has been and is, race undesirability.... the simple and single question is, is the race desirable... it [the law] seeks to limit their presence by curtailing their privileges which they may enjoy here; for they will not come in large numbers and long abide with us if they may not acquire land. And it seeks to limit the numbers who will come by limiting the opportunities for their activity here when they arrive.⁸

Initially, Alien Land Laws were implemented in western states as a positive form of legislation that guaranteed that aliens could hold lands the same as citizens. This was to encourage migrants to move to these territories.

7 James Miura, “West Coast Tensions: The Push for Internment in World War II,” *Hohonu* 16 (2018): 14-17. <https://hilo.hawaii.edu/campuscenter/hohonu/volumes/documents/2018HohonuOriginal.pdf>

8 Okihiro and Drummond., “The Concentration Camps and Japanese Economic Losses in California Agriculture, 1900–1942.”

The alien land laws that are most commonly associated with anti-Japanese racism were designed to prevent large-scale absentee landlords from buying up land by giving preferences instead, to resident aliens and citizen farmers. This means that they were implemented to prevent immigrants who did not officially live in the country from owning land.⁹ However, as racial tensions rose against Chinese immigrants in the mid-19th century, western states passed laws to prevent them from owning land. For example, in 1879, California rewrote its constitution, adding Section 17, which stated:

Foreigners of the white race or African descent, eligible to become citizens of the United States under the naturalization laws thereof. While bona fide residents of these states, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of property as native-born citizens.¹⁰

Following in the footsteps of the 1870 Naturalization Act, which removed the “white” restriction on citizenship to include those of African descent, this 1879 law excluded any applicants who were neither, leaving Asian immigrants ineligible for naturalization.¹¹

Due to anti-Japanese hysteria, the belief that Japanese workers were creating economic competition, and increasing Japanese land ownership, the California Alien Land Law act was passed. The law barred “aliens ineligible to citizenship” from owning land or from entering into leases for said land for longer than three years.¹² Japanese farmers were able to exploit loopholes in this legislation through federal laws. Because of this, another act was passed in 1920 to close those loopholes. Many can agree that the 1913 version of the law was not as successful due to the loopholes that Japanese workers were able to exploit. This can be shown via the rapid expansion of farms operated by Japanese in California as well as the acres of land that they controlled.¹³ The Alien Land Law of 1920 had a major impact on land ownership in the short run and caused long term damage. After the Law was passed, the number of farms operated by Japanese in California fell

9 U.S. Congress, House, Select Committee Investigating National Defense Migration, *National Defense Migration: Hearings Before the Select Committee Investigating National Defense Migration*, 77th Cong., 2nd sess., 1942.

10 California Constitution, art. 1, sec 17.

11 “H. R. 40, Naturalization Bill, March 4, 1790 | U.S. Capitol - Visitor Center,” accessed November 13, 2024, <https://www.visitthecapitol.gov/artifact/h-r-40-naturalization-bill-march-4-1790>.

12 Herbert P. Le Pore, “Prelude to Prejudice: Hiram Johnson, Woodrow Wilson, and the California Alien Land Law Controversy of 1913,” *Southern California Quarterly* 61, no. 1 (1979): 99–110, <https://doi.org/10.2307/41170813>; and Aoki, “No Right to Own?: The Early Twentieth-Century ‘Alien Land Laws’ as a Prelude to Internment.”

13 Suzuki, “Important or Impotent?,” fig. Table 1.

from 5,152 to 3,956.¹⁴ Some attribute this to the Law, while others say that it worked in conjunction with the agricultural depression that took place from 1920-1921.

Who Stood to Benefit from Forced Exclusion

In theory, eliminating an entire population of perceived competition would be the ideal scenario for the agricultural groups who opposed the Japanese farmers. Japanese farmers were innovative; through intensive cultivation and the application of scientific techniques, Japanese farmers in 1920 produced land crops that were valued at 67 million dollars.¹⁵ Due to how profitable Japanese farms were, they were worth around 500% more than the average farm. The average value of a farm in 1940 was \$37.94 per acre whereas the average value of a Japanese run farm was \$279.98 per acre.¹⁶ Agricultural groups stood to gain a lot of money when Executive Order 9066 was issued, which was issued to exclude Japanese Americans from the West Coast. Japanese farmers were forced to sell their land for pennies on the dollar.¹⁷ In the February 1942 issue of *The Western Grower and Shipper*, the author of the issue commented "the alien Japanese elements are going out of the wholesale produce trade in Los Angeles, and many of the large farms are on the market for a few cents on the dollar."¹⁸

As a result of Executive Order 9066 the government needed to replace the Japanese Farmers, preferably with white counterparts. Some farms went to Dust Bowl refugees who were able to buy, or lease said land for much cheaper than what it was worth. Even then, not all the farms were sold off, and they still needed labor to pick the crops that were ready for harvest. Therefore, the Bracero Program began in 1942, which brought migrant labor from Mexico by offering work visas to Mexicans who came to the United States to do agricultural labor. While this program sent Mexican laborers all over the United States, many workers were sent to the West Coast to make up for the labor that was lost. This only covered approximately one third of unattended farms. Agricultural companies were interested in managing

14 Suzuki, fig. Table 1.

15 Masakazu Iwata, "The Japanese Immigrants in California Agriculture," *Agricultural History* 36, no. 1 (1962): 31.

16 Commission on Wartime Relocation and Internment of Civilians, *Personal Justice Denied Report of the Commission on Wartime Relocation and Internment of Civilians* (Seattle: University of Washington Press and Washington D.C.: Civil Liberties Public Education Fund, 1997).

17 Okihiro and Drummond., "The Concentration Camps and Japanese Economic Losses in California Agriculture, 1900-1942," 171.

18 Okihiro and Drummond., "The Concentration Camps and Japanese Economic Losses in California Agriculture, 1900-1942."

those properties but were wary of the risks that came with it.¹⁹ Thus, the formation of a parent organization was the solution to their problems. As stated in a report regarding the running of Japanese farms without them, "These were indeed 'dummy' corporations, for their officers were the employees of different fruit shipping and canning companies operating in some of the areas evacuated."²⁰ Fruit companies received generous and risk-free government loans to subsidize their operations. They used farm equipment at no cost, and in most cases shared half of the profits on the sale of the 1942 crops.²¹ "All of us understood that if there were any losses on any individual ranches or ranch-the corporations or individuals would not be held responsible...[otherwise] I wouldn't have stuck my name on those papers," admitted one of the operators of the corporations that took advantage of the loans.²² All fifteen of these farm corporations received over 1 million dollars in FSA (Farm Security Administration) loans to operate 250 Japanese farms totaling around 6,000 acres of land. These companies and their parent corporations held a monopoly over the Japanese producers under their control, which was ensured by the swift evacuation of Japanese growers from their farms. The operating procedure became "buy cheap, sell cheap." Although the farm corporations would realize little or negative gain on paper, they parasitically drew money and resources from the Japanese farms. This was done by accepting loans from the government to pay bills for goods and services that did not actually cost the corporation anything.

An example of this phenomenon is Northern Farms, a subsidiary of Nash-De-Camp. The parent company charged Northern Farms \$7,309.86 for "supervision and overhead," \$20,602.64 for "the commercial packing of fruit" and other costs, as well as \$1,437.76 "tractor hire," effectively handing themselves the bill. The tractor hire was what was most confusing. As previously stated, these companies were able to use the farming equipment on these ranches for free.²³ For Northern Farms, 19 of the 33 ranches operated by them showed a return of \$2,017.19 while the remaining 14 had a loss of \$8,619.33. It was evident that the profits were split evenly between the evacuees and the corporations; however, the losses were sustained in full

19 Okihiro and Drummond., 172; Japanese American Evacuation and Resettlement Study "Operation of Evacuated Japanese Farms by Farm Corporations," accessed December 4, 2024, <https://oac.cdlib.org/ark:/28722/bk0014b1j30/?brand=oac4>.

20 Okihiro and Drummond., "The Concentration Camps and Japanese Economic Losses in California Agriculture, 1900-1942"; "Operation of Evacuated Japanese Farms by Farm Corporations."

21 "Operation of Evacuated Japanese Farms by Farm Corporations."

22 Okihiro et al., "The Concentration Camps and Japanese Economic Losses in California Agriculture, 1900-1942."

23 "Operation of Evacuated Japanese Farms by Farm Corporations," 16-17.

by the evacuees.²⁴ These farms were acquired for extremely low prices or through agreements to run them so that they did not remain empty during the evacuation. This means that even if Japanese Americans got their farms back after the occupation, they had been poorly operated for the last five years, all the while certain corporations made a lot of money.

Internal Colonialism and Its Consequences

Economists warned against the concentration camps, saying that they would have detrimental effects to the California economy.²⁵ Japanese farms accounted for 37% of vegetables produced in California, and were valued at \$32.78 million.²⁶ As of July 2, 1941, Japanese farmers were responsible for delivering around 185 thousand tons, or 27%, of California's fruits and vegetables.²⁷ By suddenly incarcerating an entire labor force, the federal government caused a labor shortage that threatened wartime food security and crops worth millions of dollars went abandoned.²⁸ One example was a tomato farm in Palos Verdes Estates in Los Angeles County. "the *Los Angeles Times* reported later in September that the farm's tomatoes 'may never reach the United States Army, contract canneries or city markets unless there is some vital change in the labor outlook'"²⁹

On March 15, 1942, the Farm Security Administration (FSA) was given the responsibility to ensure the "continued proper use of Japanese farms" as well as "providing for an equitable transfer from Japanese to non-Japanese operators."³⁰ There were over 6,000 Japanese farms that needed to be transferred to non-Japanese operators without disrupting the agriculture industry. Many companies that relied on Japanese workers for the season's harvest urged delaying the removal of Japanese farmers until

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- 24 "Operation of Evacuated Japanese Farms by Farm Corporations," 17.
- 25 "Hearings Before The Select Committee Investigating National Defense Migration... Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones.," accessed November 17, 2024, <https://ia800204.us.archive.org/15/items/nationaldefensem31unit/nationaldefensem31unit.pdf>.
- 26 "Hearings Before The Select Committee Investigating National Defense Migration... Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones.," app. Table 6.
- 27 "Hearings Before The Select Committee Investigating National Defense Migration... Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones.," 11833 exhibit 2.
- 28 Yu Tokunaga, "Japanese Internment as an Agricultural Labor Crisis: Wartime Debates over Food Security versus Military Necessity," *Southern California Quarterly* 101, no. 1 (2019): 79–113.
- 29 Tokunaga, 29; *Los Angeles Times* 1942-09-22: Vol 61 (Los Angeles Times Communications LLC, 1942), http://archive.org/details/sim_los-angeles-times_los-angeles-times_1942-09-22_61.
- 30 Okihiro and Drummond., "The Concentration Camps and Japanese Economic Losses in California Agriculture, 1900–1942,".

after the harvest. However, their pleas went relatively unanswered. The labor shortage was looking serious, as the Governor of California Culbert Olson, sent a Telegram to President Franklin Roosevelt urging him to bring Mexican workers as soon as possible: "Olson explained the serious citation of California agriculture in which crops were 'waiting and spoiling', even through '[e]very possible use is being made of all local supplies of labor."³¹

In addition to causing issues with production in agriculture, the cost of running the concentration camps and paying reparations after the fact are in the billions. According to the Final Report, issued by General John L. Dewitt detailing the removal of Japanese Americans from the West Coast, the cost of keeping Japanese farms running with "substitute operators" totaled to \$6.9 million.³² This figure only covers the cost of property management; it cost the government another \$56 million just to build the camps.³³ Running the camps was another story entirely, as the Final Report was submitted in late 1942 when evacuation was near completion, so the following figures were predictions of cost rather than true cost. On average Dewitt expected the camps to spend 38 cents per day per person on food. A majority of people spent three years or more in the camps, which brought the cost to \$603.44 per person. Clothing was pre-bought by the WRA (War Relocation Authority), costing \$586,900. After the Japanese-Americans were released from imprisonment, the Evacuation Claims Act was passed as a way to claim compensation for "damage to or loss of real or personal property."³⁴ 26,568 claims were filed, which totaled \$148 million; however, the amount distributed by the government was approximately \$37 million.³⁵ One of the main reasons as to why it is so hard to assess the total damage done to the Japanese in terms of loss of income is also why it was difficult to distribute the proper amount of money to those who filed claims. The income tax returns of evacuees from the years 1939-1942 were destroyed by the Internal Revenue Service.³⁶ However, in 1988 reparations were passed via the Civil Liberties Act and \$20,000 was given to 82,219 individuals who were

31 Tokunaga, "Japanese Internment as an Agricultural Labor Crisis," 32.

32 J. L. (John Lesesne) De Witt et al., *Japanese Evacuation from the West Coast, 1942 : Final Report* (Washington, D.C. : U.S. Govt. Print. Off., 1943), 143, <http://archive.org/details/japaneseevacuati00dewi>.

33 "National Park Service: Confinement and Ethnicity (Chapter 3)," accessed November 20, 2024, https://www.nps.gov/parkhistory/online_books/anthropology74/ce3h.htm.

34 Commission on Wartime Relocation and Internment of Civilians, *Personal Justice Denied Report of the Commission on Wartime Relocation and Internment of Civilians* (Seattle: University of Washington Press and Washington D.C.: Civil Liberties Public Education Fund, 1997). 118

35 "Personal Justice Denied, Chapter Four: Economic Loss," 118.

36 "Personal Justice Denied, Chapter Four: Economic Loss," 118.

incarcerated, which amounted to about \$1.6 billion.³⁷ Adjusted for inflation, the total cost of all the initiatives listed is approximately \$6.9 billion. This is by no means a definitive number, but rather an estimate based on limited resources. Due to lack of proper record keeping and other variables, the scope of economic loss for the general economy and the Japanese people may never be truly grasped. This also includes the amount of government programs that missed out on funding because of incarceration. However, we can be certain that it had a devastating effect on the Japanese people.

Economic Exploitation, Japanese Economic Loss

Finding the true scope of the economic loss amongst Japanese Americans is difficult and complex. The government documents that would have helped determine the figures were destroyed.³⁸ There are many factors that contribute to this number: property loss from being in the camps; the scramble to dispose of their belongings and property, causing them to sell their things for abysmal prices; and the loss of civilian labor market experience, skills, and advantageous job matches.³⁹ Those who were able to work in the camps were poorly compensated, as the wages varied from \$8 to \$16 per month.⁴⁰ The federal minimum wage was \$0.30 per hour in 1939 and \$0.40 per hour in 1945. If a person in the camps was working a 40-hour work week, they would make \$48 monthly. Many people lost their businesses, farms, and other important properties. They were unable to pay their mortgages, as only Nisei were able to get jobs while incarcerated. Many Japanese families did not discuss what happened to them during their incarceration until the late 1970s and early 1980s, when advocacy groups began to form. People stopped teaching the Japanese language to their children, they stopped practicing their traditional religion, and cultural traditions were lost due to the shame that incarceration instilled into many Japanese Americans.

The Commission on Wartime Relocation and Internment of Civilians (CWRIC) estimated that economic losses were as high as \$6.2 billion, Adjusted for inflation, this figure is approximately \$18 billion today.⁴¹ This figure includes property and income loss but does not account for pain and

37 "Civil Liberties Act of 1988," accessed November 17, 2024,

38 "Personal Justice Denied, Chapter Four: Economic Loss."

39 Okihiro et al., "The Concentration Camps and Japanese Economic Losses in California Agriculture, 1900–1942"; "Personal Justice Denied, Chapter Four: Economic Loss."

40 De Witt et al., *Japanese Evacuation from the West Coast, 1942*; "History of Federal Minimum Wage Rates Under the Fair Labor Standards Act, 1938 - 2009," DOL, accessed November 20, 2024, <https://www.dol.gov/agencies/whd/minimum-wage/history/chart>.

41 "Personal Justice Denied, Chapter Four: Economic Loss."

suffering. Many people were forced to quit their higher education because they were incarcerated, some lost jobs and experience, and thousands of children lost their childhoods.

Conclusion

The justification of placing Japanese Americans in concentration camps during World War II was the culmination of the decades of xenophobia and racism Japanese Americans have had to endure since their arrival to the U.S. mainland. The forced exclusion of an entire population resulted in labor shortages and posed a threat to the farming industry on the West Coast. It had a severe economic impact on those who were forced into the concentration camps due to the corresponding loss of property wages and job opportunities as well as the psychological damages they faced. Putting Japanese Americans into concentration camps was a way to eliminate the perceived economic competition they created, however, resulted in the federal government paying for their actions for many years later.

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