

## Speaking of Racial Justice



**The 13th Amendment to the U.S. Constitution**, ratified in 1865 in the aftermath of the Civil War, abolished slavery in the United States. The 13th Amendment states:

**Section 1** - *Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.*

**Section 2** - *Congress shall have power to enforce this article by appropriate legislation.*

Despite the bold commitment to equality in the Declaration of Independence, slavery was legal in all of the thirteen colonies in 1776. By the start of the Civil War, four million people, nearly all of African descent, were held as slaves in 15 southern and border states. Slaves represented one-eighth of the U.S. population in 1860.

Many think that slavery ended with the Emancipation Proclamation, issued by President Abraham Lincoln on January 1, 1863. However, the Emancipation Proclamation freed only slaves held in the eleven Confederate states that had seceded, and only in the portion of those states not already under Union control.

The true abolition of slavery was achieved when the Thirteenth Amendment was ratified on December 6, 1865. The Amendment is unique in the Constitution because it bars every person from holding slaves or engaging in other forms of involuntary servitude, whereas most constitutional provisions only constrain or regulate the government. Impact of the 13<sup>th</sup> Amendment:

- Ends chattel slavery as it was practiced in the southern United States.
- Bars “involuntary servitude,” which covers a broader range of labor arrangements where a person is forced to work by the use or threatened use of physical or legal coercion.
- Violates ordering specific performance of a service contract.
- Allows a person convicted of a crime to be forced to work.
- Permits the government to require certain forms of public service, presumably extending to military service and jury duty.
- Allows Congress to pass laws pertaining to practices that violate the Amendment.

The year after the amendment’s passage, Congress used this power to pass the nation’s first civil rights bill, the Civil Rights Act of 1866. The law invalidated those laws put into place in the former Confederate states that governed the behavior of black people, effectively keeping them dependent on their former owners. Congress also required the former Confederate states to ratify the 13th Amendment in order to regain representation in the federal government.

Section Two of the Thirteenth Amendment has broader applicability as well. The Supreme Court has long held that this provision also allows Congress to pass laws to eradicate the “badges and incidents of slavery,” but has never defined the full scope of what the badges and incidents of slavery are. The Court has left it to Congress to flesh out a definition.

In *The Civil Rights Cases* (1883), the Court held that racial discrimination in private inns, theaters, and public transportation did not qualify as a badge or incident of slavery. In a series of cases in the 1960s and 1970s, however, the Court held that racial discrimination by private housing developers and private schools is among the badges and incidents of slavery that Congress may outlaw under Section Two of the Thirteenth Amendment.

Most recently, Congress has determined that Section Two provides a basis for a portion of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 (which criminalizes race-based hate crimes) and the Trafficking Victims Protection Act (which penalizes human trafficking and protects its survivors). The Supreme Court has yet to evaluate these laws.

The 13th Amendment sought to establish equality for black Americans; however, the struggle to achieve full equality and guarantee the civil rights of all Americans continues today.

Source: <https://constitutioncenter.org/>; <https://www.history.com>

**Bias** is the tendency to take a side for or against something based on a belief you already had, or a prejudice. It interferes with us making a fair judgement.

**Implicit** (unconscious) **bias** is the attitude or stereotype that affects our understanding, actions, and decisions in an unconscious manner. It operates outside of the person's awareness and can be in direct contradiction to a person's espoused beliefs and values. Studies show that racial implicit bias in an individual reflects the racial biases of the community in which that individual resides and does not necessarily reflect whether the individual acts in a racist manner.

**For example:** Police shootings of black people are more prevalent in communities with high racial implicit biases. (Herman, Eric)

**For more information see the podcast:**

Hidden Brain (NPR) - The Air We Breathe, June 12, 2020. <https://www.npr.org/transcripts/531587708>

**BIPOC** is an acronym that stands for **Black, Indigenous, and People of Color**.

**Black** can refer to dark-skinned peoples of Africa, Oceania, and Australia or their descendants, without regard for the lightness or darkness of skin tone, and who were enslaved by white people. **Indigenous**, here, refers to ethnic groups native to the Americas. **People of color** is an umbrella term for non-**white** people, especially as they face racism and discrimination in a white dominant culture. This includes Asians and Latinos.

According to the BIPOC Project website, "Using the term promotes the inclusion of all people of color who have also been mistreated, misrepresented and discriminated against for the color of their skin, their culture or their way of life. It unites marginalized communities together, uplifts their voices and highlights all multiracial backgrounds in a way that doesn't erase the identities of other people of color like Black and Indigenous people. It's a way of building a collective community and undoing Native invisibility, anti-Blackness, dismantling white supremacy and advancing racial justice."

Growing in use and awareness during the 2020 George Floyd protests against racism and police brutality, **BIPOC** is meant to emphasize the particular hardships faced by Black and Indigenous people in the US and Canada—especially because Indigenous people often get forgotten in social justice causes and anti-Black racism is particularly strong.

While some people feel **BIPOC** is more inclusive, others caution against using terms like **POC** or **BIPOC** to lump the diverse experiences of different minority groups under the same term. It can obscure the fact that different members of minority groups experience racism and oppression differently. Instead, they advocate for people to take the time to specify who they are referring to, not homogenize them.

Organizations like The BIPOC Project claim that when describing groups of people the important thing is to continue to move towards a more mindful and inclusive society.

**It is not our differences that divide us.**

**It is our inability to recognize, accept, and celebrate those differences."**

**Audre Lorde**

SOURCE: Thebipocproject.org; Acronyms Dictionary Online.

**Defund the Police** is the push to downsize funding or shift money from law enforcement to other social programs to address critical needs of communities. Activists who use the phrase may do so with varying intentions; some seek modest reductions, while others argue for full divestment as a step toward the abolition of contemporary police services. Activists who support the defunding of police departments often argue that investing in community programs could provide a better crime deterrent for communities; funds would go toward addressing social issues, like poverty, homelessness, and mental disorders. Police abolitionists call for replacing existing police forces with other systems of public safety, like housing, employment, community health, education, and other programs.

Critics argue that police officers and police departments provide too many services. According to this argument, the United States has an over-reliance on law enforcement, which is expected to handle an

unrealistically wide range of social issues. For these reasons, some activists have called for an unbundling of services. Under this model, many services that were previously provided by law enforcement would be provided by specialized response teams. These teams could include social workers, emergency medical technicians, conflict resolution specialists, restorative justice teams, and other community-based professionals.

Source: Wickapedia.com; thoughtco.com

**Discrimination** is the unjust or prejudicial treatment of different categories of people, especially on the grounds of race, age, or sex. It involves restricting members of one group from opportunities or privileges that are available to members of another group. Prejudice is the opinion or viewpoint; discrimination is the action that brings the prejudice to life through the choices we make.

**For example**, discrimination in the job market: A researcher sent pairs of college men to apply for 350 entry-level jobs in Milwaukee, Wisconsin. One team was African American, and one was White. The teams had identical resumes, except for one difference—on each team, one of the men said that they had served 18 months in jail for drug possession. Not surprisingly, men without a prison record were 2 to 3 times more likely to receive a callback from the job. However, there was also a significant racial difference—white men with a prison record were more likely to be offered a job than African American men who had a clean record!

**Resulting Action:** Because of this research study, Congress was asked to fund a \$300 million program to provide mentoring and other support to help former prisoners to get jobs. (Pager, D. (2003). “The Mark of a Criminal Record”, American Journal of Sociology 108(5): 937-975)

**The Doctrine of Discovery** is a principle of international law dating from the late 15th century. It has its roots in a papal decree issued by Pope Nicholas V in 1452 that specifically sanctioned and promoted the conquest, colonization, and exploitation of non-Christian territories and peoples. Hundreds of years of decisions and laws continuing right up to our own time can ultimately be traced back to the Doctrine of Discovery—laws that invalidate or ignore the rights, sovereignty, and humanity of indigenous peoples in the United States and around the world.

In 1823, the United States Supreme Court ruled in *Johnson v. M'Intosh* that the discovery rights of European sovereigns had been transferred to the new United States. Now all land was owned by the government in the United States, and discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or conquest.

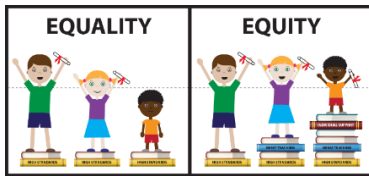
The doctrine has been primarily used to support decisions invalidating or ignoring indigenous possession of land in favor of modern governments. In a 2005 case, *Sherrill v. Oneida Nation*, the Supreme Court held that repurchase of traditional tribal lands 200 years later did not restore tribal sovereignty to that land.

SOURCE: [www.uua.org](http://www.uua.org)

FOR MORE INFORMATION: [Doctrine of Discovery - Bing video](#)

**Equality** is treating everyone the same. But **equity** is taking differences into account, so everyone has a chance to succeed.” *Small Great Things* by Jodie Piccoult p. 427.

**For example:** it might be a great idea to provide computers and internet to every home in the neighborhood (aka equality), but equity would take into account what is happening in each home—maybe some homes already have working computers and internet access. And maybe some households need access to free WiFi, a communal space to work or even have someone come over to teach them how to navigate a computer. At the end of the day, equity in this venture would mean creating the *opportunity* for everyone to have access to computers and internet in a way that makes sense individually.



**Indigenous Peoples' Day** is a holiday that celebrates and honors Native American peoples and commemorates their histories and cultures.

**When:** It is celebrated across the United States on the second Monday in October and is an official city and state holiday in various localities. This year it will be celebrated on October 11.

**Why:** It began as a counter-celebration held on the same day as the U.S. federal holiday of Columbus Day, which honors Italian explorer Christopher Columbus. Many reject celebrating him, saying that he represents "the violent history of the colonization in the Western Hemisphere", and that Columbus Day is a sanitization or covering-up of Christopher Columbus' actions such as enslaving Native Americans.

**The Beginning:** It was instituted in Berkeley, California, on October 12, 1992, to coincide with the 500th anniversary of the arrival of Columbus in the Americas on October 12, 1492. Two years later, Santa Cruz, California, instituted the holiday. Starting in 2014, many other cities and states adopted the holiday.

SOURCE: Wikipedia

**Jim Crow Laws** were a collection of state and local statutes that legalized racial segregation and were meant to marginalize African Americans by denying them the right to vote, hold jobs, get an education or other opportunities. Those who attempted to defy Jim Crow laws often faced arrest, fines, jail sentences, violence and death.

### Origin of the Jim Crow Laws

The origin of the phrase "Jim Crow" has often been attributed to "Jump Jim Crow", a song-and-dance caricature of black people performed by a white actor in blackface, which first surfaced in 1828. As a result of the actor's fame, "Jim Crow" by 1838 had become a pejorative expression meaning "Negro". When southern legislatures passed laws of racial segregation directed against black people at the end of the 19th century, these statutes became known as Jim Crow laws.

The roots of Jim Crow laws began as early as 1865, immediately following the ratification of the 13<sup>th</sup> Amendment, which abolished slavery in the United States. However, the amendment allowed involuntary servitude as punishment for a crime. Governmental leaders quickly realized they could use this loophole to control freed slaves and the landowners readily used this as a way to replenish their labor force. The legal system was stacked against Black citizens, with former Confederate soldiers working as police and judges, making it difficult for African Americans to win court cases and ensuring they were subject to Jim Crow laws.

### Jim Crow Laws Expand

Jim Crow laws mandated racial segregation in all public facilities in the states of the former Confederate States of America and in some others, beginning in the 1870s. Jim Crow laws were upheld in 1896 in the case of Plessy vs. Ferguson, in which the U.S. Supreme Court laid out its "separate but equal" legal doctrine for facilities for African Americans.

The legal principle of "separate but equal" racial segregation was extended to public facilities and transportation. As a body of law, Jim Crow institutionalized economic, educational, and social disadvantages for many African Americans living in the United States. It was common to see signs posted at town and city limits warning African Americans that they were not welcome there.

### Jim Crow Laws in the 20th Century

As the 20<sup>th</sup> century progressed, Jim Crow laws flourished within an oppressive society marked by violence. Following World War I, lynchings increased and so did race riots. The poverty of the Great Depression only deepened resentment, and after World War II, even Black veterans returning home met with segregation and violence.

### Jim Crow in the North

The North was not immune to Jim Crow-like laws. Some states required Black people to own property before they could vote, schools and neighborhoods were segregated, and businesses displayed "Whites Only" signs. After World War II, suburban developments in the North and South were created with legal covenants that did not allow Black

families, and Black people often found it difficult or impossible to obtain mortgages for homes in certain “red-lined” neighborhoods.

### **When Did Jim Crow Laws End?**

The post-World War II era saw an increase in civil rights activities in the African American community, with a focus on ensuring that Black citizens were able to vote. This ushered in the civil rights movement, resulting in the removal of Jim Crow laws.

In 1948 President Harry Truman ordered integration in the military, and in 1954, the Supreme Court ruled in *Brown v. Board of Education* that educational segregation was unconstitutional, bringing to an end the era of “separate-but-equal” education. In 1964, President Lyndon B. Johnson signed the Civil Rights Act, which legally ended the segregation that had been institutionalized by Jim Crow laws. And in 1965, the Voting Rights Act halted efforts to keep minorities from voting. The Fair Housing Act of 1968, which ended discrimination in renting and selling homes, followed.

Jim Crow laws were technically off the books, though that has not always guaranteed full integration or adherence to anti-racism laws throughout the United States.

Source: <https://www.history.com>; Wikipedia

**Juneteenth:** a blending of the words June and nineteenth – is the oldest nationally celebrated commemoration of the ending of slavery in the United States. It is also called Emancipation Day or Freedom Day.

**HISTORY:** In 1863, during the American Civil War, President Abraham Lincoln issued the Emancipation Proclamation, which declared more than three million slaves living in the Confederate states to be free. The Emancipation Proclamation only prohibited slavery in the states of secession, not in the border states so at the end of the Civil War, slavery still existed in Kentucky, New Jersey, and Delaware. The Thirteenth Amendment to the US Constitution was passed by Congress 31 January 1865 and ratified 6 December 1865 declaring, “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”

**FREEDOM FOR SLAVES IN TEXAS:** White slaveowners in Texas knew about the proclamation for freedom for the slaves in 1863, but it took more than two years, before the news reached African Americans living in Texas. It was not until Union soldiers arrived in Galveston, Texas, on June 19, 1865, that the state’s residents finally learned that slavery had been abolished. Union General Gordon Granger read the federal order effectively telling the story of liberation for African Americans in our country. When the state’s residents finally learned that slavery had been abolished the former slaves immediately began to celebrate with prayer, feasting, song, and dance.

**FIRST OFFICIAL CELEBRATION:** The following year, on June 19, the first official Juneteenth celebrations took place in Texas. The original observances involved church-centered community gatherings in Texas including prayer meetings and the singing of spirituals. Celebrants wore new clothes as a way of representing their newfound freedom. Within a few years, African Americans in other states were celebrating the day as well, making it an annual tradition.

**JUNETEENTH BECAME A HOLIDAY** in Texas in 1980, and a number of other states subsequently followed suit. In June 2005, Michigan Governor Jennifer M. Granholm signed legislation officially designating the third Saturday in June as Juneteenth National Freedom Day in Michigan. Organizations such as the National Juneteenth Observance Foundation are seeking a Congressional designation of Juneteenth as a national day of observance. Forty-eight of the 50 U.S. states and the District of Columbia have recognized Juneteenth as either a state holiday or ceremonial holiday, a day of observance (Hawaii and South Dakota do not). The day is also celebrated outside the United States, with organizations in a number of countries using the day to recognize the end of slavery and to celebrate the culture and achievements of African Americans.

**A microaggression** is a subtle behavior – verbal or non-verbal, conscious or unconscious – directed at a member of a marginalized group that has a derogatory, harmful effect. While microaggressions are sometimes conscious and intentional, on many occasions microaggressions may reflect the perpetrator’s implicit biases about marginalized group members. They are often given in what is intended to be a compliment but is heard as an insult given the presence of systemic racism.



**For example:**

- Saying to a Black person, "I don't see you as Black."
- Clutching your purse when a person of color walks by.
- Saying to a Black person, "Wow, you are so articulate."
- Blacks asked where they are going when pulled over by police in an affluent neighborhood where break-ins have recently occurred.
- Microaggressions can contribute to a campus climate where individuals who are members of marginalized groups may feel unwelcome or doubt their place at the institution.

## **Police Reform**

### **Early history**

- During the early 1700s, the Carolina Colony established "Night Watch" patrols dedicated to preventing enslaved persons from rebelling and escaping. Noted for maintaining social and economic order by helping plantation owners recover their freedom-seeking "human property," some of the Night Watches evolved into regular town police forces.
- The era of modern policing began during the late 1700s and early 1800s, when the explosive population driven by the Industrial Revolution led to an equally explosive growth in crime and civil unrest.
- Policing in colonial America was carried out by a combination of citizen volunteers along with elected sheriffs and local militias.
- After winning its independence from England in 1783, America’s need for professional policing grew rapidly. The first federal law enforcement agency, the United States Marshals Service, was established in 1789.
- The first full-time, dedicated city police department in the United States was established in Boston in 1838.
- The era of city political machines during the late 19th century brought the first obvious cases of police corruption. Local political party ward leaders, many of whom owned bars or ran street gangs, often appointed and paid off high ranking police officials to allow illegal drinking, gambling, and prostitution in their precincts.

### **1929**

Police corruption worsened during prohibition, prompting President Herbert Hoover to appoint the 1929 Wickersham Commission to investigate the procedures and practices of police departments nationwide. The Commission’s findings resulted in a drive to professionalize policing and redefine the role of the "career cop" that continues today.

### **1960s: the Johnson Administration and the Warren Court**

President Lyndon Johnson created the President's Commission on Law Enforcement and Administration of Justice. The Commission's final report, issued in 1967, has been described as "the most comprehensive evaluation of crime and crime control in the United States at the time". It laid out reorganization plans for police departments<sup>[11]</sup> and suggested a range of reforms. Several of the Commission's findings related to the poor treatment of juvenile offenders.

A series of U.S. Supreme Court decisions under the Warren Court led to important changes in policing, with respect to civil rights and constitutional law.

*Mapp v. Ohio (1961)* found that evidence obtained in violation of the Fourth Amendment protection against "unreasonable searches and seizures" may not be used in criminal prosecutions.

*Miranda v. Arizona*(1966) required that criminal suspects must be informed of their right to consult with an attorney and of their Fifth Amendment right against self-incrimination prior to questioning by police. These decisions began to set national standards for policing.

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### **1970s and 1980s**

Special commissions, such as the Knapp Commission in New York City during the 1970s, have been used to bring about changes in law enforcement agencies. Civilian review boards (permanent external oversight agencies) have also been used as a means for improving police accountability. Civilian review boards tend to focus on individual complaints, rather than broader organizational issues that may result in long-term improvements.

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### **1990 to 2010**

The 1994 Violent Crime Control and Law Enforcement Act authorized the United States Department of Justice's Civil Rights Division to bring civil ("pattern or practice") suits against local law enforcement agencies, to rein in abuses and hold agencies accountable. As a result, numerous departments have entered into consent decrees or memoranda of understanding, requiring the agencies to make organizational reforms. This approach shifts focus from individual officers to police organizations.

The Department of Justice also has a component called the Community Relations Service. Over the years, the Community Relations Service (CRS) has helped police departments and communities all over the country come to grips with the difficult task of maintaining law and order in a complex and changing multicultural society. Frequently, these efforts have involved minority citizens' complaints about police behavior, use of force, and hate groups.

In a 2003 document titled *Principles of Good Policing: Avoiding Violence Between Police and Citizens*, the DOJ Community Relations Service outlines a two-level strategy for reducing potential for violence by police:

To reduce the potential for violence, police executives must inculcate the values articulated by policy and procedure into two levels of the police department: the administrative level and the "line" or operational level. To accomplish the task of value-transition on one level without doing so on the other is futile, for no change in police behavior will result. In addition to the two levels of the organization which the police executive must address, two *dimensions* of law enforcement must also be addressed: the police culture and various community cultures. Thus, to effect change in police-community violence, police executives must take a multidimensional approach. Traditional approaches to reform have been one-dimensional and have met with little success.

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### **2010 to present**

Some law enforcement agencies in the United States in the early 2000s and 2010s began to emphasize de-escalation as a method of conflict resolution and obtaining voluntary compliance. There are also emphases on community policing to build relationships and community trust in law enforcement; the evidence-based policing approach of using data to assist with decision-making; and the importance of civilian oversight of police work.

**The George Floyd Justice in Policing Act** (2020) which sought to establish new requirements for federal law enforcement on both the use of deadly force and less lethal force passed the House but not the Senate.

“Fortunately, despite the refusal of too many members of Congress to confront the truths of our current system of policing, a number of states and localities have recognized the urgency of this moment and have taken steps to address police violence and egregious misconduct through landmark accountability legislation, and bold, creative interventions to transform public safety.” There has also been an explosion of support for BLM and others who protest police-initiated violence toward Black and Brown citizens particularly after George Floyd and Ahmaud Arbery’s murder and subsequent conviction of those police officers responsible.

Source: naacpldf.org; wikipedia.org;

**Prejudice** refers to a preconceived opinion or feeling toward a person based solely on their affiliation with a group. It often casts an unfavorable light on someone simply because they're a member of some ethnic group, religion, or organization.

**For example:** White people are viewed as individuals where the bad behavior of one white person does not reflect on the merits of the group. By comparison, African Americans and other people of color are not afforded that privilege. The actions of an individual are more likely to be considered the actions of the group.

**Privilege:** The black civil rights activist and one of the founders of NAACP W.E.B. Du Bois (1868-1963) was among the first people to describe the effects of privilege: when a person lives with certain advantages based on an aspect of their identity such as skin color, gender or sexuality. If you have privilege, you might not even be aware of it. For example, you've probably heard the term "white privilege". White Privilege refers to the fact that white people are more likely to get job interviews, loans and even access to better schools than their nonwhite peers. (New York Times, August 30, 2020)

**For More Information:** Book: *Waking Up White* by Debby Irving; Podcast: "Into an American Uprising: White Accountability", <https://www.msnbc.com/podcast/american-uprising-white-accountability-n1224191> June 3, 2020

**Racism is a system of advantage based on race.** David Wellman, *Portraits of White Racism*

**Racism** occurs when a racial collective prejudice is backed by the power of legal authority and institutional control. Robin DiAngelo, *White Fragility*

**Racism** is a powerful collection of racist policies that lead to racial inequity and are substantiated by racist ideas. Ibram X. Kendi, *How to be an Anti-racist*

**For example:** Black youth are twice as likely to be arrested for crimes in school as white kids, over 2.5 times as likely to be arrested for curfew violations as white kids, twice as likely as white kids to be arrested for all crimes, and much more likely to be held in detention than white kids, according to the [Sentencing Project](#).

**Learn More: Maya Wiley: Racial Justice (Apple Podcasts)**  
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