

# Illiberal economic institutions and racial intolerance in the United States

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## Abstract

This article presents the history of anti-black racism in the United States as a case study of the interrelation between economic institutions and racial (in)tolerance. It begins by reviewing the current social science on the topic of economic systems and tolerance. It then moves from the history of slavery through Reconstruction and the Jim Crow era to the Civil Rights movement, demonstrating that government intervention in the economy helped maintain a racial hierarchy and solidify racist attitudes. The article concludes by arguing that liberal economic institutions are a means of dissolving segregated racial orders and creating more tolerant, integrated ones.

## KEYWORDS

discrimination, Jim Crow, racism, Reconstruction, segregation, slavery, tolerance

## JEL CLASSIFICATION

A13, J15

## 1 | INTRODUCTION

Up to the 1940s, organised baseball in the United States remained a segregated affair. Yet, in April 1947, Jackie Robinson became the first African-American man to play in the major leagues as number 42 of the Brooklyn Dodgers. A couple years prior to Robinson taking

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the field, a supposed vote regarding racial integration was held by the 16 Major League club owners. The vote was 15–1 in favour of continued segregation, the lone dissenter being the Dodgers' general manager, president, and part-owner Branch Rickey. In Rickey's view, "The greatest untapped reservoir of raw material in the history of the game is the black race! The Negroes will make us winners for years to come, and for that I will happily bear being called a bleeding heart and a do-gooder and all that humanitarian rot" (Ward & Burns, 1994, p. 284).

While one of Rickey's biographers notes "a genuine Wesleyan Methodist conscience at work", he recognises that

Rickey understandably wanted to be the first to mine the vast, untapped market of black talent and to sign the best players to the Dodgers ... After he had found the right black player to be the race pioneer and had signed others of great skill, he fully expected the Dodgers would be contenders and champions for years to come. (Lowenfish, 2007, p. 354)

As former Dodger Ralph Branca put it, "I think Rickey did it for the money. Rickey knew we were going to draw a lot of people. And we did." Rickey himself explained that he was uninterested in being "a crusader"; only in being "fair to all people" and "win[ning] baseball games" (St. John, 1997). Sportswriter Wendell Smith (1947, p. 15) seems to have caught on to the economic motivation behind Rickey's hiring of Robinson with the following rhyme: "Jackie's nimble, Jackie's quick, Jackie's making the turnstiles click!"

The story of Rickey and Robinson appears to be an excellent example of *doux commerce*. As the French political philosopher Montesquieu (1748, p. 338) wrote, "Commerce cures destructive prejudices, and it is an almost general rule that everywhere there are gentle mores, there is commerce and that everywhere there is commerce, there are gentle mores". Despite the parallels between the observations of Montesquieu and Robinson's breaking of the baseball colour line, the latter could be explained away as merely an outlier. After all, other owners were obviously willing to put their prejudices above potential profit. Did economic exchange and market competition play a part in dissolving racial intolerance?

This article presents the history of anti-black racism in the United States as a case study of the interrelation between economic institutions and racial (in)tolerance. It argues that illiberal economic institutions allow racial prejudices to flourish by creating barriers to valuable exchange and by warping economic association. These barriers restrict certain subsets of society to a particular status, fusing class and race/ethnicity in the construction of a racial hierarchy. Economic illiberalism can both create and exacerbate racist tendencies by "lower[ing] the private cost of discriminating against the racially less-preferred person" (W. E. Williams, 2011, p. 49). It allows for what Saumitra Jha (2018) refers to as "ethnic cronyism".

The article begins by reviewing the current social science on the topic of economic systems and tolerance. It then moves from the history of slavery through Reconstruction and the Jim Crow era to the Civil Rights movement, demonstrating that government intervention in the economy helped maintain a racial hierarchy and solidify racist attitudes. The article concludes by arguing that liberal economic institutions are a means of dissolving segregated racial orders and creating more tolerant, integrated ones.<sup>1</sup>

## 2 | THE ECONOMICS OF TOLERANCE

In *Capitalism and Freedom*, the late Milton Friedman dedicates a chapter to the market's relation to discrimination. Drawing on Gary Becker's (1971) groundbreaking work, Friedman (1982, pp. 109–10) writes, “[T]he preserves of discrimination in any society are the areas that are most monopolistic in character, whereas discrimination against groups of particular color or religion is least in those areas where there is the greatest freedom of competition”. He explains that this is due to the higher costs of discrimination:

The man who objects to buying from or working alongside a Negro, for example, thereby limits his range of choice. He will generally have to pay a higher price for what he buys or receive a lower return for his work. Or, put the other way, those of us who regard color of skin or religion as irrelevant can buy some things more cheaply as a result.<sup>2</sup>

Multiple empirical studies support the broader observation of Friedman and Becker: higher economic freedom is associated with greater tolerance.

Numerous studies find that anti-capitalist and anti-trade attitudes are associated with greater nationalism, ethnocentrism, localism, prejudice, isolationism, and racism (e.g. Granzin et al., 1997; Lindgren, 2013; Mansfield & Mutz, 2009; 2013; Mayda & Rodrik, 2005; O'Rourke & Sinnott, 2001; Weiss, 2003).<sup>3</sup> Berggren and Nilsson (2013; 2014; 2015; 2016; 2020) have produced several studies that suggest economic institutions can have an influence on the level of tolerance within a society, with greater economic freedom – as defined by the Economic Freedom of the World Index<sup>4</sup> – and globalisation producing greater tolerance. Virgil Henry Storr and Ginny Choi (2019, pp. 172–7) find that people in market societies are more cosmopolitan: they are more open to having neighbours who speak a different language and are of a different race, religion, sexual orientation, and nationality. A clever set of experiments with Bangladeshi rice buyers also demonstrates the erosion of ethnic discrimination under market competition. The researchers conclude that both local (monopsonist) and wholesale buyers (competitive) are prejudiced against ethnic minorities. Yet the wholesale buyers quote the same price for both ethnic majority and minority farmers whereas the local buyers do not. “This suggests that the taste-based discrimination that these buyers have against the ethnic minority group ... can be eliminated if competition is strong enough” (Siddique et al., 2020, p. 5). Another set of experiments (Müller & Paetzel, 2021) finds that markets decrease taste-based discrimination by increasing participants' focus on their personal gains and reducing their identification with their social in-group.

Other research indicates that market liberalisation is associated with less violence and corruption along with greater trust, cooperation, fairness, and protection of human rights (e.g. W. Wright, 2018): all of which can be manifestations of higher tolerance. These findings demonstrate that the liberalised market can act as “a social space where meaningful extraeconomic social relationships can be developed” (Storr, 2008, p. 138) and a form of “other-regardingness” can emerge (Oman, 2016, p. 44). Far from being “wishful thinking” as Cass Sunstein (1991, p. 23) has argued, market competition and liberal economies do appear to erode intolerant views and behaviours. To be clear, this is not to say that discrimination does not occur in more liberal economic environments (e.g. Bertrand & Duflo, 2017; Neumark, 2018). But the evidence suggests that intolerance is more likely to flourish amid economic illiberalism than its liberal opposite. And one of the greatest forms of economic illiberalism in the history of the United States was the institution of slavery.



### 3 | THE NATURE OF AMERICA'S RACIALISED SLAVE ECONOMY

Slavery was by no means new when 20 African slaves were brought ashore to Jamestown in 1619. According to Jeremy Black (2011, pp. 12–13), slavery is “[a]n important part of human history” and “has no starting point...When slavery began in the prehistoric world is a matter of supposition...Slavery was certainly common in Bronze Age Egypt and the Ancient Near East, probably from the third millennium BCE, and in the Eastern Mediterranean from the second millennium BCE.” While physical distinctions between master and slave have certainly existed throughout world history, they were not an integral part of the institution. Nonetheless, slaves throughout the centuries have often been depicted as physically distinct, intrinsically different, and culturally, socially, and intellectually inept, even if ethnically similar to the masters. However, the emphasis on racial differences played a far bigger role in the Western slave trade (Davis, 2006; Kolchin, 2003).

New World slavery helped solidify a racially intolerant world view, embodying the two main elements of racism identified by the late George Fredrickson (2002, p. 9): *difference* and *power*. These elements represent an “us vs. them” mentality that finds the differences between two groups to be “permanent and unbridgeable”.<sup>5</sup> This in turn motivates those in power (*Us*) to suppress *Them*. Racism “either directly sustains or proposes to establish a racial order, a permanent group hierarchy that is believed to reflect the laws of nature or the decrees of God” (Fredrickson, 2002, p. 6). This perceived gap between white slaveowners and black slaves in the antebellum South is espoused by Solomon Northup’s (1853, pp. 266–7) former master Edwin Epps in the memoir *Twelve Years a Slave*. When asked about the difference between white men and black men, Epps responds, “All the difference in the world ... You might as well ask what the difference is between a white man and a baboon.”

These beliefs stemmed in part from the need to rationalise a system of forced labour – the most extreme form of labour market illiberalism – that deprived a certain minority of social, political, and economic rights. “If all men were created equal”, argues Thomas Sowell (2005, p. 128),

as the Declaration of Independence proclaimed, then the only way to justify slavery was by depicting those enslaved as not fully men. A particularly virulent form of racism thus arose from a particularly desperate need to defend slavery against telling attacks that invoked the fundamental principles of the American republic...Racism was a result, not a cause, of slavery...

Evidence for this kind of justification can be found in the years leading up to the American Civil War. In his infamous opinion in *Dred Scott v. Sandford*, Roger Taney (1860, p. 11) reasons that

it is too clear for dispute, that the enslaved African race were not intended to be included, and formed no part of the people who framed and adopted [the Declaration of Independence]; for if the language, as understood in that day, would embrace them, the conduct of the distinguished men who framed the Declaration of Independence would have been utterly and flagrantly inconsistent with the principles they asserted...

Similarly, Mississippi senator Albert G. Brown (1859, p. 336) declared that only “in the slaveholding states is there a living, breathing exemplification of the beautiful sentiment, that all men are created equal”. Then, using the slaveholding sins of James Madison, Thomas Jefferson, and George Washington to make his case, Brown clarifies that “negroes are not men, within the meaning of the Declaration ... But men, white men, the kind of men spoken of in the Declaration of Independence, are equal in the South, and they are so nowhere else.”<sup>6</sup> In Brown’s mind, slavery “equalizes white men, puts them on a level with one another” by creating a “caste” of “honorable and menial labor” in which “certain menial employments ... belong exclusively to the negro...” This indicates that not only were African slaves forced into labour, but whites were kept from engaging in particular kinds of labour. According to Brown, this enforced hierarchy of labour was meant to protect the social status of white men and create separate racial spheres. Epps (Northup, 1853, p. 267, edited) was perhaps the most forward and crass in his description of this racial caste: while the Declaration of Independence says all *men* are equal, “n\*\*\*\*rs, and monkeys *ain’t* [men].”

Others argued that participation in this illiberal economic order produced greater racial intolerance. Thomas Jefferson (1787, pp. 172–3) – himself a slaveowner – worried about the “unhappy influence on the manners of our people produced by the existence of slavery among us”. Writing in *Notes on the State of Virginia*, he describes the relationship between slave and master as “a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other”. Children grow up “learn[ing] to imitate” this behaviour, “giv[ing] a loose to [their] worst of passions, and [are] thus nursed, educated, and daily exercised in tyranny...”

Arguably, the best depiction of the tolerance-corroding effects of slavery on the masters themselves is found in Frederick Douglass’s description of one of his former owners, Sophia Auld. Upon meeting her, Douglass (1845, pp. 32–3) describes her as “a woman of the kindest heart and finest feelings” who had never owned a slave before, somewhat shielding her from “the blighting and dehumanizing effects of slavery”. Douglass recalls being “utterly astonished at her goodness”. Unfortunately, slavery’s

fatal poison of irresponsible power ... soon commenced its infernal work. That cheerful eye, under the influence of slavery, soon became red with rage; that voice, made all of sweet accord, changed to one of harsh and horrid discord; and that angelic face gave place to that of a demon.

Early on, Mrs Auld began teaching Douglass how to read and write until she was instructed by her husband to cease. However, Douglass (1845, p. 36) notes.

that she did not adopt this course of treatment immediately. She at first lacked the depravity indispensable to shutting me up in mental darkness. It was at least necessary for her to have some training in the exercise of irresponsible power, to make her equal to the task of treating me as though I were a brute.

The intolerant nature of the slave/master relationship went to work on this “kind and tender-hearted woman”. Douglass (1845, p. 37) describes the transformation as follows:

In entering upon the duties of a slaveholder, she did not seem to perceive...that for her to treat me as a human being was not only wrong, but dangerously so. Slavery



proved as injurious to her as it did to me. When I went there, she was a pious, warm, and tender-hearted woman...Slavery soon proved its ability to divest her of these heavenly qualities. Under its influence, the tender heart became stone, and the lamblike disposition gave way to one of tiger-like fierceness. The first step in her downward course was in her ceasing to instruct me. She now commenced to practise her husband's precepts. She finally became even more violent in her opposition than her husband himself. She was not satisfied with simply doing as well as he had commanded; she seemed anxious to do better.

While it may be easy to assume that the slave trade was itself part of an economically liberal system,<sup>7</sup> it is important to recognise that government funding and enforcement carefully maintained this established racial order. The American slave economy was what one economic historian calls “a slave-oriented mercantilist regime of protective tariffs and industrial subsidies” (Magness, 2020, p. 19). Granted, some recent historical work – known as the New History of Capitalism (NHC) – argues that American capitalism can trace its roots back to slavery (e.g. Baptist, 2014; Beckert, 2014; Beckert & Desan, 2018; Beckert & Rockman, 2016; Johnson, 2013; Schermerhorn, 2015). Summarising this scholarship, Matthew Desmond (2019) writes that slavery was “the birthplace of America’s low-road approach to capitalism...It is not surprising that we can still feel the looming presence of this institution, which helped turn a poor, fledgling nation into a financial colossus.” However, the empirical economic literature as well as numerous historians have found NHC scholarship to be severely flawed (e.g. Burnard, 2015; Burnard & Riello, 2020; Clegg, 2015; Coclanis, 2018; Engermen, 2017; G. Wright, 2017; 2020; Hilt, 2017; 2020; Huston, 2019; Logan, 2022; Magness, 2018a; 2020; McCloskey & Carden, 2020, pp. 122–7; Murray et al., 2015; Neptune, 2019; Oakes, 2016; 2021; Olmstead & Rhode, 2018). Issues with the NHC literature range from slippery, unfixed definitions of ‘capitalism’ to major accounting errors that skew GDP calculations. What’s more, economic research shows that slavery has negative effects on long-term economic development, the American South being no exception (e.g. Hummel, 2012; Meyer, 2008; Nunn, 2008a; 2008b; 2010; 2017; R. Wright, 2017; Sokoloff & Engermen, 2000).

Moreover, despite the seemingly small government, states’ rights rhetoric of the seceding slave states, the Confederacy’s economy was a heavily centralised, state-managed enterprise. John Majewski (2009, p. 7) explains that the ‘limited government’ or ‘free market’ views of the Confederacy contradict the facts on the ground:

Scholars have classified the Confederate central government as a form of “war socialism.” The Confederacy owned key industries, regulated prices and wages, and instituted the most far-reaching draft in North American history. The Confederacy employed some 70,000 civilians in a massive (if poorly coordinated) bureaucracy that included thousands of tax assessors, tax collectors, and conscription. The police power of the Confederate state was sometimes staggering ... Political scientist Richard Franklin Bense writes that “a central state as well organized and powerful as the Confederacy did not emerge until the New Deal and subsequent mobilization for World War II.”

Prior to secession, these defenders of states’ rights had been more than willing to wield federal power to protect slavery in forms such as the Fugitive Slave Act of 1850. Protecting slavery and

its racial hierarchy was the leading cause of the South's secession (Dew, 2001). In the South's view,

Lincoln's election portended a weakened commitment to [slavery's] public subsidization. Secession may accordingly be viewed as a response to the impending loss of a political-regulatory capture, the 'benefits' to slavery provided by that capture deriving not from its strict legal or constitutional status but from an ability to muster public resources to its aid and to the alleviation of the enforcement costs of its perpetuation. (Magness, 2018b, pp. 61–2)

Declarations from South Carolina, Georgia, Mississippi, Texas, and Florida name the failed enforcement of the Fugitive Slave Act as a major motivator for secession (Magness, 2018b, pp. 62–5). Political and economic rents are what made the slave economy go round. Furthermore, Southern free traders found their views challenged by the growing Confederate nationalism and the industrial interests of the Upper South, particularly Virginia. Secessionists ended up rejecting or redefining free trade through a proposed tariff on northern goods (Majewski, 2009, pp. 108–39).<sup>8</sup> In short, a racial hierarchical system such as slavery required increasingly more economic centralisation, government subsidisation, and trade restrictions to survive. It seems that Mrs Auld's disposition was not coarsened by the liberal exchange of the market, but instead warped by the exclusionary restrictions of the slave economy.

#### 4 | LIBERALISING THE LABOUR MARKET

In the decades leading up to the Civil War of 1861–65, anti-slavery advocates began pushing a particular reading of the Constitution, one that emphasised its use of the word 'persons' rather than 'slaves'<sup>9</sup> as well as its natural law framing by the Declaration of Independence. This anti-slavery constitutionalism sought to restrict the expansion of slavery and choke it out of existence, arguing that slavery was a *local* institution rather than a *national* one. Only through positive law and government interference at the local level could enslaved people be labelled as property in contrast to the Constitution's recognition of their personhood. Beyond the borders of the slave state, freedom should prevail (Oakes, 2013). According to the Radical Republican Charles Sumner (1853, p. 3), "the true spirit of the Constitution" rendered "FREEDOM, and not *slavery* ... NATIONAL" and "SLAVERY, and not *freedom* ... SECTIONAL". For these anti-slavery constitutionalists, the illiberalism of local slave laws debased the personhood of the enslaved, whereas the freedom offered by the Constitution treated them as equals with inalienable rights. As abolitionist Theodore D. Weld (1838, p. 41) argued, the abolition of slavery would signal that "*private property* shall not *be* taken; and those who have been robbed of it already, shall be kept out of it no longer; and since every man's right to his own body is *paramount*, he shall be protected in it."<sup>10</sup>

The anti-slavery parties eventually coalesced into the Republican Party, whose "affirmation of the Negro's natural rights included the right to participate as a free laborer in the marketplace, and...they demanded that he be protected in such legal rights as were essential to that participation" (Foner, 1995, p. 296). Case in point, Abraham Lincoln (1856) recognised "free labor" as an essential part of "free Government," which made the United States "the wonder and admiration of the whole world" and had "given [America] so much prosperity". Free labour, it was argued, allowed for upward economic and social mobility: "every man can make himself ...



[Southerners] think that men are always to remain laborers here – but there is no such class. The man who labored for another last year, this year labors for himself, and next year he will hire others to labor for him.” In Lincoln’s (1861) view, the “leading object” of government “is to elevate the condition of men” by “lift[ing] artificial weights from all shoulders” and “clear[ing] the paths of laudable pursuit for all; to afford all an unfettered start and a fair chance in the race of life.” Lincoln (1860) believed that all should “have the chance – and I believe a black man is entitled to it – in which he can better his condition – when he may look forward and hope to be a hired laborer this year and the next, work for himself afterward, and finally to hire men to work for him! That is the true system.” Yet, Lincoln was more concerned with “the *institution* [of slavery], and not necessarily...its black victims. Slavery, for Lincoln, was any relationship of economic restraint, or any systemic effect to box ambitious and enterprising people like himself into a ‘fixed condition of labor for his whole life’” (Guelzo, 2004, p. 23; emphasis added).

Just as Republicans opposed slavery at least in part for being contrary to labour market liberalisation,<sup>11</sup> many of slavery’s most ardent defenders opposed market liberalisation for the very same reason (Magness, 2018a; 2020). One such example is George Fitzhugh, who Charles Sumner (1863, p. 69) described as “a leading writer among Slave-masters”. In *Sociology for the South*, Fitzhugh (1854, pp. 7–8) argues that “*Laissez-faire* [what he also calls “free competition”] and ‘*Pas trop gouverner*’ [‘Govern not too much’] are at war with all kinds of slavery, for they in fact assert that individuals and peoples prosper most when governed least”. Elsewhere, Fitzhugh (1857, p. 79) defines “political economy” as “‘*Laissez-faire*,’ or ‘Let it alone’” and describes it as “the false philosophy of our age”. It is “tainted with abolition, and at war with our institutions”. Therefore, his recommendation to the South is “to throw Adam Smith, Say, Ricardo & Co., in the fire” (Fitzhugh, 1857, pp. 88–9). For this pro-slavery intellectual, the liberal economy of Adam Smith, David Ricardo, and others was antithetical to the South’s racial hierarchy. ‘Free competition’ was deemed a threat to slavery’s anti-competitive protectionist racket.

Many pro-slavery advocates maintained that Southern slavery was far less exploitative than the ‘wage slavery’ found in the North and in Britain. These advocates believed chattel slavery to be a form of benevolent Christian paternalism that cared for an inferior race unable to care for itself (Genovese & Fox-Genovese, 2011; Kolozi, 2017). While they believed every society was built on some form of inequality, Southern slavery was to them the most acceptable. In their eyes, “Southern chattel slavery bound the laborer to his superior (slave owner) in a paternalistic relationship of domination and control that obligated the lord or master to protect and provide for his subjects in times of both plenty and scarcity. Under capitalism, these bonds did not exist” (Kolozi, 2017, p. 39).

Pro-slavery intellectuals like Fitzhugh were influenced by.

British parliamentary reports on the conditions in England’s textile mills and iron mines, as well as criticisms of industrial capitalism by English Christian Socialists, and...drew heavily on British conservative journals...Fitzhugh was most profoundly influenced by [the famous Scottish essayist] Thomas Carlyle’s critiques of *laissez-faire* of Manchester economics. (Kolozi, 2017, p. 35)<sup>12</sup>

Carlyle coined the term ‘the dismal science’ in an 1849 article as a description of economics (Levy, 2001; Levy & Peart, 2001). Far from being a “gay science”, Carlyle (1849, p. 530–1) linked the “dismal science” to “Exeter Hall Philanthropy”<sup>13</sup> and the “sacred cause of black emancipation”. In his view, the marriage of these two would “give birth to progenies and prodigies; dark extensive moon-calves, unnameable abortions, wide-coiled monstrosities, such as the world has



not seen hitherto!” Carlyle recognised economic liberalisation as being emancipatory in nature,<sup>14</sup> much to his dismay.

Perhaps *laissez-faire*'s most egregious offence to Southern slaveholders and the like was that it “threatened the conservative social order” (Kolozi, 2017, p. 36). For example, when President Lincoln attempted to introduce federally compensated gradual emancipation to the Border slave states during the Civil War, some critics understood the implications:

Underneath the states' rights rhetoric and the maneuvering for party advantage lay the deep concern that the official end of slavery would be followed by equality for African-Americans...Republicans were accused of attempting “to place the Negro on a footing of equality with the white man.” One Delaware newspaper observed that Lincoln's emancipation plan was but “the first step; if it shall succeed, others will follow tending to elevate the Negro to an equality with the white man or rather to degrade the white man by obliterating the distinction between races”. (W. H. Williams, 1996, p. 175)

While it may seem obvious and even uninteresting that emancipation was a step towards equality, it is important to note the implication of these critics' fear: racial hierarchies were maintained largely through government coercion. If the government no longer enforced slavery, racial intolerance would begin to dissipate, and equality emerge. The protected and exclusionary status of whites would begin to falter. This is what many believed they were witnessing both during and following the Civil War. Reflecting on the Northern victory at Vicksburg, one Union soldier wrote,

Already the freedmen here are enjoying their liberty in a greater degree than one could have supposed. Prejudice against color is fast going away, and the negroes, anxious to learn to read and write, provide for themselves, and show themselves men, will soon prove to the white race that they are not such an inferior race as they have been represented to be. (Nind, 1865, p. 291)

In 1872 John W. Forney, former Clerk of the US House of Representatives and Secretary of the Senate, observed the social changes that followed in the wake of the war and the end of slavery:

Congressional habits and manners have changed with the times, and the change is marvelous. In fact, social life at the nation's capital has itself been revolutionized ... Colored men in Congress, colored men before the highest judicial tribunal, also colored men in the local courts, deliberate and practice without insult or interpretation. In 1857–58 a white man could not safely advocate ordinary justice to a black man ... The Southern leaders were models of politeness till their peculiar institution was touched. Then the mask was dropped, and arrogance expelled all courtesy ... Now all is changed ... And this social, political, and intellectual revolution is vindicated by results, which, like the glorious works of nature, give joy to all and real sorrow to none. (Forney, 1873, p. 321–3).

This brief overview of American slavery indicates that slavery was an institution of government coercion that both bred and sustained racial hierarchy and intolerance. Many of slavery's critics



and defenders recognised that a liberal market economy was antithetical to the institution, with a number of the defenders noting that without these economic restrictions, racial equality was the likely outcome. Unfortunately, following the end of the Civil War and the ratification in 1865 of the 13th Amendment of the US Constitution that abolished slavery, further economic restrictions were implemented to maintain the racial orders of the pre-Civil War era.

## 5 | RECONSTRUCTION AND THE EMERGENCE OF JIM CROW

The notion of a ‘white man’s government’ continued to be pushed by Southern governments after the American Civil War. For example, Benjamin F. Perry, the provisional governor of South Carolina, declared that “this is a white man’s government, and intended for white men only” (Perry, 1865, p. 1). A campaigning North Carolinian politician echoed Perry virtually word-for-word: “This is a white man’s government, and intended for white men only, as even Connecticut, in New England itself, has just decided” (Andrews, 1866, p. 154). In his inaugural address, Alabama Governor Robert M. Patton told his audience, “[I]t must be understood, that politically and socially, ours is a white man’s government” (Patton, 1865, p. 2). Thus, for many Southerners following the war and the end of slavery, racial hierarchies had to be constructed in new ways if they were to survive. This became abundantly clear during the period of Reconstruction.

Despite some important gains among blacks, the attempt to rebuild the fractured Union while also protecting the rights of emancipated blacks was largely a failure (e.g. Foner, 1983; 1988; 2019; Gates, 2019; Guelzo, 2018a). Once again, this was due in large part to an illiberal, government-enforced racial order. Foner (2019, pp. 47–8) explains, “The southern governments established under Andrew Johnson’s Reconstruction program proceeded to enact a series of laws called the Black Codes to define and circumscribe the freedom that African-Americans now enjoyed...” While these Black Codes provided some new freedoms, “these provisions were secondary to the attempt to stabilize the black work force and limit its economic options” (Foner, 2014, p. 93). These laws were ultimately “designed to bind the freedmen into, for all practical purposes, peonage” (Guelzo, 2018a, p. 26).

Case in point, the Black Codes of Mississippi (Library of Congress, 1867, pp. 192–5) declared that “all freedmen, free negroes and mulattoes in this State, over the age of eighteen years ... without lawful employment or business, or found unlawfully assembling themselves together ... shall be deemed vagrants” and subject to a fine. Furthermore, “written evidence” of “a lawful home or employment” was required. Failure to pay a tax would be considered “*prima facie* evidence of vagrancy, and it shall be the duty of the sheriff to arrest such ... and proceed at once to hire for the shortest time such delinquent tax-payer to any one who will pay the said tax...” A black who “quit the service of the employer before expiration of his term of service” would “forfeit his wages for that year up to the time of quitting”. The black could then be subject to “arrest and carr[ied] back to his or her legal employer”, with the arresting party receiving \$5 out of “the wages of said deserting employe”. Anyone who persuaded freedmen to leave their employment before term or would “knowingly employ such” were found “guilty of a misdemeanor” and fined. Freedmen were also restricted to renting lands “in incorporated towns or cities”, which prevented them from developing their own farmland. The Southern institutions during Reconstruction curbed the freedom – particularly the economic freedom – of freedmen and freedwomen, continuing the previous “bullwhip feudalism” without the literal bullwhip

(Guelzo, 2018b). This led to the collapse of Reconstruction and the emergence of the segregationist era known as Jim Crow.<sup>15</sup>

An excellent example of the effects these illiberal economic institutions had on race relations in the wake of the Civil War is the railroad situation towards the end of the nineteenth century (Ayers, 2007). African-Americans won several court cases against discriminatory railroads during the 1880s. The results and rulings of these cases allowed for a 'separate, but equal' policy among railroads, laying the groundwork for the infamous *Plessy v. Ferguson* ruling in 1896. In an attempt to avoid these issues altogether, some railroads stopped selling first-class tickets to blacks, leading to boycotts. However, as Edward Ayers (2007, p. 143) points out, railroads "in parts of the South where blacks did not make up a large part of the clientele ... were reluctant to go to the considerable expense and trouble of running twice the number of cars." They

neither wanted to police Southern race relations and then be sued for it nor to run extra cars. It was clear that white Southerners could not count on the railroads to take matters in hand. Some whites came to blame the railroads for the problem, for it seemed to them that the corporations as usual were putting profits ahead of the welfare of the region.

In other words, market competition eroded prejudiced business practices and ultimately promoted greater integration.

Jennifer Roback's investigation of Jim Crow streetcar segregation laws draws a similar conclusion. Exploring laws across Georgia, Florida, Alabama, Tennessee and Texas, Roback (1986, p. 894) finds "that segregation laws did not simply codify an already existing, well-established social custom. On the contrary, contemporary reports indicate that whites and blacks customarily sat where they chose on municipal streetcars in the absence of segregation ordinances." Furthermore, "the streetcar companies frequently resisted segregation, both as custom and law". In line with Ayers's insight above, Roback finds that the top reason given for resisting segregation was the cost of separate cars. Overall, Roback (1986, p. 916) concludes, "There is little indication that streetcar companies initiated legislation or that they would have segregated in the absence of legislation". In other words, left to the market, greater tolerance would have prevailed.

Elsewhere, Roback (1984a; 1984b) identifies a number of labour market restrictions that were a means of solidifying white supremacy. Drawing on the work of Robert Higgs (1977), Roback (1984a, pp. 1163–4) points to four main labour market regulations:

- (1) enticement laws and contract-enforcement laws, which were designed to limit competition in the labor market to the beginning of each contract year;
- (2) vagrancy laws, which were designed to prevent blacks from being unemployed or otherwise out of the labor force;
- (3) emigrant-agent laws, which were designed to restrict the activities of labor recruiters; and
- (4) the convict-lease system, which provided punishment for blacks who violated the above or other laws.

Roback finds that all four laws reduced black labour competition, both directly and indirectly. She notes that if racial intolerance at the social level had been enough to exclude blacks from the labour force, these laws would have been unnecessary. The very existence of the laws indicate that blacks proved to be competitive in the labour market when allowed to freely engage in



exchange. “When social pressure, economic power, and custom proved insufficient to...enforce discrimination against blacks”, Roback writes (1984b, p. 43), “the southern elite resorted to restrictive labor laws. The evidence indicates that the laws were invoked to keep the market from bettering the condition of blacks.”

Other scholars have come to similar conclusions. For example, various researchers have pointed to the white union-backed minimum wage laws that were implemented for the purpose of crowding out competitive blacks (along with immigrants and women) from the market (e.g. Bernstein, 2001; Leonard, 2016; W. E. Williams, 2011). Or the later government-backed denial of loans to minority neighbourhoods (‘redlining’) and segregation in housing (e.g. Rothstein, 2017; Taylor, 2019), much of which materialised only when private means of segregation were no longer effective (Troesken & Walsh, 2019). Even the supposedly progressive policies of the New Deal of the 1930s have been described by Ira Katznelson (2005, p. 45) as “a form of policy apartheid”. Mehra Baradaran (2017, p. 101) explains,

The only way [US President] Roosevelt could enact his progressive platform was with the backing of the Senate’s southern Democrats. And this strong, influential, and coherent political wing of the party was adamant that their economic structure and racial hierarchy be protected ... Without explicit racial exclusions, the laws were crafted in such a way as to exclude most blacks from the social welfare programs ... The purpose of these exclusions, as expressed by southern legislators, was to maintain the inferior status of black laborers in the southern economy.

Racial hierarchies were maintained throughout Reconstruction and the Jim Crow era by means of illiberal economic institutions. When private prejudices proved too weak to maintain a racial caste, regulators were sought to reinforce it. By restricting the market and engaging in a form of protectionism for whites, a government-enforced racial order – along with its racial intolerance – was able to continually thrive. With the passing of Civil Rights legislation in the 1960s and implementation of desegregation, the protectionist rackets that maintained the intolerant racial hierarchy in the American South began to be dismantled. Gavin Wright (2013, p. 101) notes the “remarkable ... collective coevolutionary learning” that took place as both southern businesses and customers “learned that desegregation was not as bad as they had feared ...” While this by no means indicates that all forms of racial hierarchies were thrown down in the Civil Rights era, it does demonstrate how much of a role economic illiberalism played in propping up America’s racial caste and, consequently, racial intolerance.

## 6 | CONCLUSION

In the Jackie Robinson biographical film *42*, Branch Rickey (played by a gruff Harrison Ford) summarises his economic outlook with the quip, “Dollars aren’t black and white. They’re green” (MV Clippings, 2021). Empirical analysis suggests that National League baseball teams – such as Rickey’s Dodgers – were overall more likely to integrate than American League teams due to the former’s higher competitiveness. Racial integration was a form of entrepreneurial innovation that created competitive advantage, revealed the costs of discriminatory tastes, and, consequently, shifted social norms (Coyne et al., 2007; Goff et al., 2002; Gwartney & Haworth, 1974). When barriers to entry were lowered, social change took place.

Robinson's story is the story of African-Americans in microcosm. The history of African-Americans in the United States has been the heartbreaking tale of governments coercively preventing (among other things) economic association and exchange.<sup>16</sup> Racial prejudices were reinforced and, arguably, bred out of illiberal economic institutions that required continual government protection in order to survive market competition. The proponents of the American caste system were often well aware that if racial hierarchies were no longer enforced, racial intolerance would wane along with their protected status. Economic liberalisation lowers the barriers to exchange and economic association, allowing greater opportunity for people who are different from one another to engage in positive-sum interactions. Value for the participants is created through the exchange, but value also begins to be assumed of the participants *themselves*. Through these liberal economic institutions of exchange and value-creation, segregated racial orders begin to dissolve and more tolerant, integrated ones arise in their place. Or, in the words of the English theologian and scientist Joseph Priestley (1788, pp. 327–8):

By commerce we enlarge our acquaintance with the terraqueous globe and its inhabitants, which tends to greatly expand the mind, and to cure us of many hurtful prejudices ... [N]o person can taste the sweets of commerce, which absolutely depends upon a free and undisturbed intercourse ... but must grow fond of *peace*, in which alone the advantages he enjoys can be had.

## NOTES

- <sup>1</sup> Of course, American anti-black racism cannot be boiled down to economics alone. Revisionist history, pseudoscience, popular literature, and caricatured visualizations also helped perpetuate racist stereotypes and white supremacy (e.g. Gates, 2019).
- <sup>2</sup> Recent research finds that discrimination negatively impacts firm survival (Pager, 2016).
- <sup>3</sup> While these studies find a correlation between various forms of prejudice and trade attitudes, a 2014 study indicates that prejudice and nationalism play a *primary, causal* role in American opposition to international trade (Sabet-Esfahani, 2014). Whichever the direction of causation flows, each of these studies demonstrates that support for global commerce conflicts with intolerant attitudes towards foreigners and other ethnicities.
- <sup>4</sup> The Economic Freedom of the World Index is published annually in the Fraser Institute's *Economic Freedom of the World* report (Gwartney et al., 2021). It defines economic freedom based on five major areas: (1) size of the central government, (2) legal system and the security of property rights, (3) stability of the currency, (4) freedom to trade internationally, and (5) regulation of labour, credit, and business.
- <sup>5</sup> Fredrickson points to the association of Jews with the devil and witchcraft in the thirteenth and fourteenth centuries as the first inklings of a modern racist world view. In the predominantly Christian public eye, Jews evolved from having false beliefs and the guilt of the Crucifixion of Jesus on their hands to being demonic and thus intrinsically different from their Christian counterparts. Similarly, the enslavement of black Africans was justified largely because blacks were considered heathens (white enslavement had declined in Europe since the Middle Ages in part due to the belief that it was wrong to enslave fellow Christians). As conversions to Christianity took place among slaves, scriptural justification for continual enslavement was found in Genesis 9 and the infamous Curse of Ham (or, more accurately, his son Canaan): "And Ham, the father of Canaan, saw the nakedness of his father, and told his two brethren without ... And Noah awoke from his wine, and knew what his younger son had done unto him. And he said, Cursed be Canaan; a servant of servants shall he be unto his brethren. And he said, Blessed by the LORD God of Shem; and Canaan shall be his servant" (Genesis 9:22, 24–26, KJV). Africans were believed to be descendants of Ham. So while black slaves were no longer heathens, but they did have "heathen ancestry" (Fredrickson, 2002, p. 45).
- <sup>6</sup> Some went so far as to reject the principle of equality outright. For example, former Vice President John C. Calhoun (2012, p. 425) argued in an 1848 speech that the principle that "all men are created equal" was



“an utterly false view” that was beginning “to germinate, and produce its poisonous fruits” throughout the nation. Black men were, in Calhoun’s eyes, “utterly unqualified to possess liberty ...”

- <sup>7</sup> For example, Ibram Kendi (2019) has argued that racism, slavery, and capitalism are inseparably linked, though he uses a unique definition of capitalism to do so.
- <sup>8</sup> In the United Kingdom, John Stuart Mill (1984, pp. 131–2) noted in 1862 “a theory in England” that claimed the Confederacy’s fight was over tariffs and free trade. But Mill was quick to point out that the Confederates “say nothing of the kind. They tell the world, and they told their own citizens when they wanted their votes, that the object of the fight was slavery.” He further recognised that while the US government at the time was “not an Abolitionist party”, it was “against [slavery’s] extension ... The world knows what the question between the North and South has been for many years, and still is. Slavery alone was thought of, alone talked of ... the South separated on slavery, and proclaimed slavery as the one cause of separation.”
- <sup>9</sup> During the Constitutional Convention of 1787, James Madison “thought it wrong to admit in the Constitution the idea that there could be property in men. The reason of duties did not hold, as slaves are not like merchandise, consumed, &c” (Lillian Goldman Law Library, 2008; see also Wilentz, 2018).
- <sup>10</sup> Property was foundational to John Locke’s political philosophy, for “every man has a *property* in his own *person*; this nobody has any right to but himself” (*Second Treatise of Civil Government* [1689]; see Locke, 1995, p. 397; emphasis in original).
- <sup>11</sup> This is not to say that Republicans were for complete liberalisation, seeing that they were heavily pro-tariff during this period (Irwin, 2017).
- <sup>12</sup> Manchester liberalism was led by the likes of Richard Cobden, the anti-slavery free traders who successfully led the fight against the British Corn Laws (Palen, 2016).
- <sup>13</sup> Exeter Hall was a meeting place used often by Christian groups as well as the anti-slavery movement, becoming synonymous with the Anti-Slavery Society in the decades prior to the Civil War. It was the location of the World Anti-Slavery Convention in 1840 (Alexander, 2018; Levy & Peart, 2001).
- <sup>14</sup> Peter Boettke (2021, p. 3; emphasis in original) explains, “The liberal project ... was born as an *emancipation project* – freeing individuals from subjugation by the Crown, from the dogma of the Altar, from the violence and oppression of the Sword, from the bondage of Slavery, from the miserable poverty of the Plough and from the special privileges granted to the Mercantile Interests”. Or, as Rosolino Candela (2021, p. 36; emphasis in original) points out, market “competition tends to *liberate* the individual from arbitrary assignments of resources and income based on creed, gender, race, or legal status”, whereas political competition over legal privileges “tends to *confine* an individual’s potential for self-actualization to such arbitrary assignments”.
- <sup>15</sup> The term ‘Jim Crow’ comes from the music and minstrel shows of Thomas ‘Daddy’ Rice, a nineteenth-century white entertainer who was one of the first to perform blackface. Jim Crow was a stock character of Rice’s minstrel shows – which portrayed blacks in highly exaggerated and offensive ways – and the name soon became a racist epithet for blacks. The popularity of Rice’s minstrel shows earned him label of ‘father of American minstrelsy’ (Lewis & Lewis, 2009, pp. 1–4; Pilgrim, 2012).
- <sup>16</sup> Desmond King and Rogers Smith (2005, p. 75) have argued that “American politics has historically been constituted in part by two evolving but linked ‘racial institutional orders’: a set of ‘white supremacist’ orders and a competing set of ‘transformative egalitarian’ orders”. However, King and Smith note that their “approach analyzes the ‘political economy’ of American racial systems by stressing the ‘political,’ not the ‘economy’”. Based on this article, it could be argued that the corresponding economic dimension to these two orders are, respectively, illiberal (white supremacist) and liberal (transformative egalitarian) economic institutions.

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