

An overview of the ongoing legacies of colonialism in contemporary legal systems in the Black Diaspora

Neena Albarus*

ABSTRACT

This perspective paper explores the ongoing legacies of colonialism in contemporary legal systems and policies in the Black Diaspora. Drawing on examples from Africa, the Caribbean, Latin America and the United States, this paper argues that colonial legal systems and policies continue to shape the legal and political landscape of these regions, perpetuating systemic inequalities and discrimination against Black communities. The paper mentions movements for decolonization that are challenging these legacies and advocating for more just and equitable legal systems and policies in the Black Diaspora. Overall, the paper highlights the importance of understanding the ongoing impact of colonialism on contemporary legal systems and policies in order to advance social justice and equity for Black communities.

Keywords: Black Diaspora, common law, legal history, legal systems, colonialism, systemic inequalities, decolonization

ABSTRACT.....	15
INTRODUCTION.....	16
I. HISTORICAL CONTEXT	16
II. THE ONGOING LEGACIES OF COLONIALISM	22
A. Disproportionate incarceration.....	22
B. Criminalizing Drugs	25
C. Capital punishment	26
D. Inequitable land ownership.....	28
E. Banning same-sex relationships.....	30
F. Suppression of religion and forced assimilation	31
III. EFFORTS TO DECOLONIZE LEGAL SYSTEMS AND POLICIES IN THE BLACK DIASPORA	33
CONCLUSIONS AND RECOMMENDATIONS	34

INTRODUCTION

The Black Diaspora comprises a global community of people of African descent who have been separated from their ancestral homelands due to slavery, colonialism, and economic exploitation. The lasting impact of colonialism is evident in the legal systems and policies of many countries in the Black Diaspora, which have influenced land ownership, property rights, natural resource extraction, and criminal justice systems. Legal systems are a process for interpreting and enforcing law. This process involves various institutions, including courts, law enforcement agencies, and legal professionals, who work together to interpret and apply the law to specific situations. To ensure the practical application of law is effective, it is important to understand the cultural perspective that is implicitly embedded in legal doctrine. In the Black Diaspora, the impact of colonialism on legal systems has been significant, as legal systems have historically been used to enforce systems of racial hierarchy and oppression. The imposition of European-based laws and institutions by colonial forces often suppressed local legal traditions and perpetuated land and economic inequality, environmental degradation, and systemic biases against minority communities. Today, many countries in the Black Diaspora continue to confront these legacies of colonialism, which affect the lives of millions of people across the world.

This perspective paper aims to explore how these legacies have influenced the legal systems and policies of countries in the Black Diaspora, with a particular focus on the US, Caribbean, Latin America, and other regions. Through this examination, the paper intends to contribute to ongoing efforts to address the challenges faced by the Black Diaspora and gain a deeper understanding of the dynamics of colonialism and the rule of law. By gaining a deeper understanding of the cultural perspective that underlies legal doctrine and promoting a more inclusive and equitable legal profession, we can work towards a legal system that is more responsive to the needs and concerns of marginalized communities.

I. HISTORICAL CONTEXT

The roots of colonial-era legal systems and policies in the Black Diaspora can be traced back to the period of European colonization in the 15th century. During this time, European powers imposed their own legal systems and policies on the colonies, often with the aim of exploiting their natural resources and labor.¹ One of the defining features of these colonial-era legal systems and

DOI: <https://doi.org/10.15779/Z38QV3C50B>

*. PhD Student, UC Berkeley School of Social Welfare; MSW, The University of the West Indies, Mona, Jamaica. Neena draws inspiration from the lessons of Sankofa, and the enduring resilience and strength of the Black diaspora.

1. Bernard, D. P. (2014). *The impact of the English common law on Caribbean society*. Institute of Advanced Legal Studies, 2014(97), 19–24. <https://doi.org/10.14296/ac.v2014i97.2268>; see also Beuermann, D. W., & Schwartz, M. J. (Eds.). (2018). *Nurturing institutions for a resilient Caribbean*. Inter-American Development Bank.; see also Nielsen, M. O., & Robyn, L. (2003).

policies was their emphasis on racial and ethnic hierarchies. European colonizers considered themselves superior to the Indigenous, African, and Afro-descendant peoples they encountered, and they created legal systems and policies that reinforced this worldview. Colonial forces generally imposed external legal systems on the indigenous population, rather than the natives voluntarily receiving them. In some cases, the indigenous legal systems were eliminated and replaced with the conqueror's legal elite.

Legal imperialism universally imposed law where civil stability and order were at stake, where economic penetration—whether land tenure or modern trade and commercial development—was at issue, and, most crucial, where the authority and power of the conqueror might be threatened by invocation of indigenous law. With imposition of conqueror's law inevitably came replacement of indigenous legal and judicial elites by those of the conqueror, at least until a subservient indigenous elite was trained and screened.²

This was particularly evident in North, South, and Central America, where even complex civilizations such as the Aztec and Inca empires had their legal systems eradicated and replaced with the conqueror's legal regime. It is worth examining the specific colonial groups that imposed their legal systems on the Black Diaspora, including Spain, England, France, Portugal, and the Netherlands. The use of external legal systems varied among colonial forces, but from 1492 to 1800, there were some common characteristics. For example, in Spanish colonies in the Caribbean and Central and South America, mercantilism was the guiding principle for trade and commercial law. This led to the exclusion of foreigners and foreign ships, the development of colonial industries and agriculture for Spain's benefit rather than the colony's, and the monopoly of trade by a closed merchant corporation subject to the Spanish Crown until 1798.³ The colonial period in Latin America began in the 16th century and lasted until the 19th century, during which time European powers, particularly Spain and Portugal, established a system of forced labor and exploitation of indigenous and African populations. This exploitation gave rise to a system of racial hierarchy, which was enshrined in law and determined social and legal status.⁴ In the mid-19th century, a shift occurred towards punishment rather than rehabilitation, with private individuals being given direct authority over large numbers of incarcerated people and the products of their labor. This shift continued, leading

Colonialism and Criminal Justice for Indigenous Peoples in Australia, Canada, New Zealand and the United States of America. Indigenous Nations Studies Journal, 4(1), 29–44.

2. Schmidhauser, J. R. (1992). *Legal Imperialism: Its Enduring Impact on Colonial and Post-Colonial Judicial Systems.* International Political Science Review, 13(3), 321–334. <https://doi.org/10.1177/019251219201300307>

3. *Id.*

4. Fisher, A. B., & O'Hara, M. D. (2009). Introduction: Racial Identities and Their Interpreters in Colonial Latin America. 1-37. *Imperial Subjects.* Duke University Press. <https://doi.org/10.1215/9780822392101-001>

to issues of overcrowding, violence, and human rights violations in many countries' prison systems in the region.

The British colonial era in the Caribbean saw the imposition of legal systems based on English common law. These systems were used to govern the enslaved population and maintain social control during the amelioration era, apprenticeship, and the first post-slavery decades.⁵ Following the abolition of slavery, the British legal system in the Caribbean underwent modifications to address new forms of labor exploitation and social control, such as indentured servitude and the criminalization of certain cultural practices associated with Afro-Caribbean religions. However, these modifications served to perpetuate the legacy of colonialism, as they continued to disadvantage Black populations and restrict their social and economic mobility. Newton highlights how the post-emancipation prison and judicial systems in the British Caribbean continued to oppress the Black population, leading to ongoing challenges in addressing systemic inequality and injustice:

Even after emancipation, abolitionist prison reformers in the British Caribbean spoke in uncompromising tones about the prison as a form of 'enslavement,' frequently imposed punishments such as whipping and hard labor, which deliberately recalled the experience of slavery. At every level, Caribbean judicial and penal systems invoked enslavement as the ultimate determinant of degrees of 'less eligibility' for a majority Black population in a post-slavery context. Judicial recourse to transportation as a punishment for slave rebellions and other 'crimes' of which only slaves could possibly be guilty, and the clearly racialized and exploitative geographies of black transportation in particular, can be read as an echo of the displacement first initiated by the slave trade.⁶

The Jamaican legal system continues to be heavily influenced by English common law. This legal system is founded on legal precedents established by courts in England and other British colonies, which means that the Privy Council in London serves as the final court of appeal for Jamaica, as well as for other countries that are part of the Commonwealth. As Rediker writes:

The plantation economy was big business for the British, who understood that the "rule of law" was necessary to protect their "property" – slaves and fertile landholdings. Although slave-owners had unchecked powers to punish their slaves, the British developed a colonial court system to hear disputes and punish criminals. The JCPC [Judicial Committee of the Privy Council] was the region's highest court, dictating policy and precedent that

5. Newton, M. J. (2011). Freedom's Prisons: Incarceration, Emancipation, and Modernity in No Bond but the Law. *Small Axe: A Caribbean Journal of Criticism*, 15(1 34), 164–175. <https://doi.org/10.1215/07990537-1189602>; see also Rediker, E. (2013). Courts of Appeal and Colonialism in the British Caribbean: A Case for the Caribbean Court of Justice. *Michigan Journal of International Law*, 35(1), 213–250.

6. Newton, M. J. (2011). Freedom's Prisons: Incarceration, Emancipation, and Modernity in No Bond but the Law. *Small Axe: A Caribbean Journal of Criticism*, 15(1 34), 164–175. <https://doi.org/10.1215/07990537-1189602>

affected thousands of lives. But even after the region's independence in the 1960s, the JCPC remained its highest court. Countries like Jamaica and Trinidad still have their most important legal matters decided by judges in London. The weight of the past has deeply shaped the present legal system.⁷

The use of the law as a tool of oppression and control by colonial forces extended beyond the period of slavery and into the post-emancipation era. In many cases, the legal system was designed to perpetuate racial and class inequalities and to maintain the dominance of the white ruling class. Paton argues that in post-emancipation Jamaica, punishment was used as a tool of social control, with the legal system being heavily biased against Black people:

The arguments for flogging and privatized punishment entailed the construction of a more overtly violent and dehumanizing racial discourse, in which Black people were marked out not just by their passivity but by their brutality and lack of civilization. These arguments were significant not just for the implications they had for penal policy, but perhaps more significantly because they prepared the way for the indiscriminate violent repression that followed the 1865 Morant Bay rebellion.⁸

The reintroduction of flogging and the "Penal Servitude Act" in 1854 exacerbated this situation.⁹ The act required convicts to work as agricultural laborers for three-quarters of their remaining sentences, earning a meager wage per day. This effectively turned prisoners into forced laborers, who had no say in where they were sent or to whom they were bound, and their licenses could be revoked at any time. The policies implemented in the mid-19th century, which gave private individuals direct authority over convicts and their labor, strikingly resemble human trafficking. This raises ethical concerns about using prison labor to benefit private individuals. The use of prisons to generate profits for private interests appears to contradict the fundamental principles of justice and rehabilitation that are postured as the basis of the penitentiary system. To further elaborate, according to Roper (2017), the Jamaican colonial government's efforts to address juvenile delinquency was motivated by concerns about the perceived moral degradation of the working-class population, which was viewed as a threat to social stability.¹⁰ Roper analyzed the legislative measures that were implemented during this period, such as the Juvenile Offenders Act of 1881, the Industrial Schools Act of 1898, and the Young Criminals Law of 1904. Roper contended that these legislative measures were often implemented in a discriminatory manner, with working-class and Black children being

7. Rediker, E. (2013). Courts of Appeal and Colonialism in the British Caribbean: A Case for the Caribbean Court of Justice. *Michigan Journal of International Law*, 35(1), 213–250.

8. Paton, D. (2001). *The Penalties of Freedom: Punishment in Post emancipation Jamaica*. In *Crime and Punishment in the Postemancipation Jamaica*. Duke University Press.

9. *Id.*

10. Roper, S. (2017). "A Depraved Class": Regulating Juvenile Delinquency through Legislation in Colonial Jamaica 1881-1904. *The Journal of the History of Childhood and Youth*, 10(1), 62–80. <https://doi.org/10.1353/hcy.2017.0004>

disproportionately targeted. In addition to Roper's analysis of the legislative measures implemented during the colonial period, other scholars have also highlighted the ways in which colonial laws and institutions were used to regulate and control the lives of marginalized groups:

All of the people involved in the debate around punishment saw Black Jamaicans as different from and inferior to white people, but the reasons for and appropriate response to this supposed inferiority changed over time. The program of rehabilitative imprisonment assumed that all people responded in the same way to the same environment, and posited an idealized disciplined, responsible, and respectable worker as the goal to be achieved. This ideal stood in opposition to the stereotype of the feckless, irresponsible, and demoralized slave.¹¹

The regulation of enslaved women's behavior and bodies was also a significant aspect of the colonial legal system. Enslaved women were subjected to laws and regulations that controlled their reproductive capacities, as their ability to bear children was considered crucial to the plantation economy. Enslaved women were forced to marry and have children to produce future generations of laborers, and their sexual relationships were regulated by laws that punished them for engaging in relationships deemed inappropriate by their masters. Enslaved women were also subjected to sexual violence and exploitation by their masters, which was rarely punished by the legal system. Shepherd highlights the ways in which colonial laws were used to regulate the behavior of enslaved women, particularly in relation to sexuality and reproduction.¹² She argues that the exploitation of enslaved women's labor and bodies was a fundamental aspect of colonialism in the Caribbean, and that the ongoing struggle for reparations must address the legacy of this exploitation.

The French legal system in the Caribbean is based on the Napoleonic Code, which was implemented during French colonial rule. Ironically, the alleged principles of equality, liberty, and fraternity France boasted did not extend to the colonies. The French established legal systems in their colonies that were based on their respective civil law traditions. The Code Noir was a set of laws established by the French colonial government in 1685 to regulate the treatment of slaves in their colonies. The code dictated everything from the clothes slaves were allowed to wear to the punishments they could receive. The code also provided a legal framework for slave ownership, sale, and punishment.¹³ It was often applied in a discriminatory manner, with different legal systems and procedures being used for French and non-French residents of the colonies. The Dutch legal system in the colonies was similar to the French system, with the

11. Paton, D. (2001). The Penalties of Freedom: Punishment in Post emancipation Jamaica. In *Crime and Punishment in the Postemancipation Jamaica*. Duke University Press.

12. Shepherd, V. A., & Reid, A. (2019). Women, Slavery and the Reparation Movement in the Caribbean. *Sir Arthur Lewis Institute of Social and Economic Studies, University of the West Indies*, 68(3), 31–59.

13. Breathett, G. (1988). Catholicism and the Code Noir in Haiti. *The Journal of Negro History*, 73(1–4), 1–11. <https://doi.org/10.1086/JNHv73n1-4p1>

Dutch Civil Code being the primary legal document. Dutch colonial law aimed to integrate local customary law with Dutch law, but Dutch laws were often imposed without regard for local customs and traditions. The Dutch used their legal system to establish colonial institutions and exploit resources, which included prioritizing Dutch landowners over local people through land tenure laws, resulting in the dispossession of indigenous communities.¹⁴ The Dutch legal system was also used to enforce labor contracts, leading to the exploitation of enslaved people and indentured laborers. These legal systems established by European colonial forces in the Caribbean also contributed to the systemic inequalities and racial hierarchies that persist in the region.

In the Americas, European powers established legal systems that were designed to govern the enslaved African population. These legal systems were used to maintain the institution of slavery and to justify the oppression of Black people. Slave Codes were laws established by British colonies in North America to regulate the behavior of slaves and the relations between slaves and their owners. These laws prohibited enslaved people several fundamental things like owning property, learning to read and write, and gathering in groups without the presence of a white person.¹⁵ These Slave Codes were later adopted and expanded by the United States government, with the Fugitive Slave Act of 1850 being a particularly disturbing example. This legal framework not only perpetuated slavery but also created a system of racial segregation and discrimination that continued long after the abolition of slavery. Even after the Civil Rights movement of the 1960s, the effects of this legal framework continue to be felt today, with systemic inequalities and racism being major issues in the US. The US criminal justice system has a long history of racial discrimination, which can be traced back to its roots in slavery and Jim Crow segregation.

Colonial legal systems were also established in other regions of the world, such as Australia, Asia, and the Pacific. For example, British colonialism in India and Southeast Asia led to the establishment of legal systems that were based on English common law and were used to maintain colonial rule and extract resources from these regions. These legal systems were used to govern the indigenous populations and to legitimize the expropriation of land and resources. They often excluded indigenous peoples from political participation and other rights and privileges enjoyed by European colonizers and contributed to the marginalization of indigenous societies. Besides imposing their legal system, colonial forces had a significant impact on their colonies in areas such as

14. Allen, M. (1990). Struggle and Synthesis—Toward Theory for the Dutch Caribbean Experience. In *The Dutch Caribbean—Prospects for Democracy* (pp. 269–288). Routledge.; See also Oostindie, G., Klinkers, I., & Klinkers, I. A. J. (2003). *Decolonising the Caribbean: Dutch policies in a comparative perspective*. Amsterdam University Press.; see also Young, A. H. (1990). Decolonization in the Dutch Caribbean—Lessons from the commonwealth Caribbean. In *The Dutch Caribbean—Prospects for democracy*. 253–268. Routledge.

15. Middleton, S. (2020). Repressive Legislation: Slave Codes, Northern Black Laws, and Southern Black Codes. In S. Middleton, *Oxford Research Encyclopedia of American History*. Oxford University Press. <https://doi.org/10.1093/acrefore/9780199329175.013.634>

education, health, local administration, and self-government. Research has demonstrated that the identity of the colonizer is a more reliable indicator of post-colonial growth rates than legal origin alone because the colonizer's identity encompasses a range of historical, political, and economic factors, including policies and practices, investment, and exploitation.¹⁶ The ongoing struggle for decolonization and justice requires a critical examination of these colonial legal systems and their legacy. By considering these broader factors, we can gain a more comprehensive understanding of the complex relationship between colonialism and post-colonial development.

II. THE ONGOING LEGACIES OF COLONIALISM

A. *Disproportionate incarceration*

The impact of colonialism on contemporary legal systems and policies in the Black Diaspora is a pervasive issue, perpetuating discrimination, unequal access to justice, and economic and political inequalities.¹⁷ In many former colonies, Black people still face systemic discrimination in the legal system, including racial profiling and harsher sentencing compared to their white counterparts.¹⁸ One of the most significant consequences of this ongoing legacy is the disproportionate incarceration of Black people. The United States criminal justice system has long been criticized for its racial disparities in the treatment of Black Americans, and the use of prisons as a means of social control has been heavily criticized by scholars and activists.¹⁹ Numerous studies have shown that Black Americans face disproportionately harsher treatment in the criminal justice system, including higher rates of arrest, conviction, and longer prison sentences. These disparities are driven by various factors, including racial profiling, mandatory minimum sentencing laws, and over-policing of Black communities by state police.

16. Klerman, D. M., Mahoney, P. G., Spamann, H., & Weinstein, M. I. (2011). Legal Origin or Colonial History? *Journal of Legal Analysis*, 3(2), 379–409. <https://doi.org/10.1093/jla/lar002>

17. Nielsen, M. O., & Robyn, L. (2003). Colonialism and Criminal Justice for Indigenous Peoples in Australia, Canada, New Zealand and the United States of America. *Indigenous Nations Studies Journal*, 4(1), 29–44.

18. Kamalu, N. C., Coulson-Clark, M., & Kamalu, N. (2010). Racial Disparities in Sentencing: Implications for the Criminal Justice System and the African American Community. *African Journal of Criminology & Justice Studies*, 4(1).; see also Lang, K., & Spitzer, A. K.-L. (2020). Race Discrimination: An Economic Perspective. *Journal of Economic Perspectives*, 34(2), 68–89. <https://doi.org/10.1257/jep.34.2.68>

19. Agyepong, T. E. (2018). Race-ing Innocence: The Emergence of Juvenile Justice and the Making of Black Delinquency. In T. E. Agyepong, *Criminalization of Black Children* (pp. 7–37). University of North Carolina Press. <https://doi.org/10.5149/northcarolina/9781469636443.003.0002>; see also Alexander, M. (2010). *The new Jim Crow: Mass incarceration in the age of colorblindness* (Revised edition). New Press.; see also Bailey, Z. D., Krieger, N., Agénor, M., Graves, J., Linos, N., & Bassett, M. T. (2017). Structural racism and health inequities in the USA: Evidence and interventions. *The Lancet*, 389(10077), 1453–1463. [https://doi.org/10.1016/S0140-6736\(17\)30569-X](https://doi.org/10.1016/S0140-6736(17)30569-X)

The legal system and police force in the US were designed to maintain a racial hierarchy, and this legacy persists to this day.²⁰ It has resulted in patterns of violence and abuse against Black people by police officers, as well as a culture of impunity and lack of accountability for such abuses. Black people are also more likely to be subjected to excessive use of force, harassment, and other forms of mistreatment by police.²¹ For example, in San Francisco, Owens found that Black and Latinx defendants experience worse criminal justice outcomes, with racially disparate booking charges as the main driver of these disparities.²² The authors argue that the charges brought by police are not race-neutral, and addressing these disparities requires a focus on specific risk factors associated with negative outcomes, as well as a comprehensive and evidence-based approach to criminal justice policy and practice. In her book “Are Prisons Obsolete?”, Angela Y. Davis argues that the prison industrial complex has not addressed the root causes of crime and has instead perpetuated a cycle of violence and punishment. Prisons have become a central component of the United States’ system of social control and disproportionately target marginalized communities such as people of color, women, and the poor.²³ Pinard argues that collateral consequences can have lifelong implications for individuals with criminal records, including ineligibility for public and government-assisted housing, public benefits, and various forms of employment, as well as civic exclusions such as ineligibility for jury service and disenfranchisement.²⁴ This is not just relevant to the Black Diaspora in the United States but also in countries such as England, Canada, Brazil, and Jamaica.

Brazil is currently the third country in the world with the most prisoners after the United States and China.²⁵ Brazil has one of the largest Black populations in the world, but Black people are disproportionately represented in the criminal justice system. This is due in part to the country’s long history of slavery and racial discrimination, which has created deep-seated economic and political inequalities. According to the National Penitentiary Department in June 2016, “91.5% of prisoners were male, 64% were Black, 55% were between 18 and 29 years old and 51% had not graduated from primary level education. Among men, while 26% were arrested or convicted of robbery, 49% were charged or convicted of non-violent crimes – 12% for theft, 26% for drug

20. Davis, A. Y. (2003). *Are prisons obsolete?* Seven Stories Pr.

21. Crenshaw, K. (2022). *#SayHerName: Black Women’s Stories of State Violence and Public Silence* (African American Policy Forum, Ed.). Haymarket Books.

22. Owens, E., Kerrison, E., & Santos Da Silveira, B. (2017). *Examining Racial Disparities in Criminal Case Outcomes among Indigent Defendants in San Francisco*. Quattrone Center, University of Pennsylvania Law School.

23. Davis, A. Y. (2003). *Are prisons obsolete?* Seven Stories Pr.

24. Pinard, M. (2010). Collateral Consequences of Criminal Convictions: Confronting Issues of Race and Dignity. *New York University Law Review*, 85(2), 489-494.

25. Telles, V. da S., Godoi, R., Brito, J. G. M., & Mallart, F. (2020). Fighting Mass Incarceration, Fighting for Life: Elements for a History of the Present in Brazil. *Champ Pénal*, 21. <https://doi.org/10.4000/champpenal.12143>

trafficking and 11% for reception”.²⁶ Brazilian prisons have extremely poor conditions of confinement, including overcrowded cells, limited access to water and hygiene resources, inadequate medical care, and scarce opportunities for education and work. Prisoners are also frequently subjected to various forms of torture and ill-treatment.²⁷ The police in Brazil have been accused of using racial profiling as a means of identifying potential suspects, which has led to the unjust targeting and harassment of Black people. The criminal justice system is also biased against Black people, with prosecutors and judges more likely to treat Black defendants harshly than white defendants. Brazilian prisons have extremely poor conditions of confinement, including overcrowded cells, limited access to water and hygiene resources, inadequate medical care, and scarce opportunities for education and work. Prisoners are also frequently subjected to various forms of torture and ill-treatment.²⁸ All of these factors have contributed to a culture of fear and mistrust in many black communities.

Similarly, Jamaica’s legal system is a legacy of British colonization, and the country’s Black population continues to experience discrimination and unequal access to justice. Racial profiling by law enforcement, as well as a lack of resources and funding for legal aid programs, have led to a majority of Black prisoners coming from marginalized communities with limited access to education, healthcare, and economic opportunities. The conditions in Jamaican prisons are notoriously harsh, with overcrowding, violence, and poor living conditions being major problems.²⁹ Additionally, the criminal justice system is known for its slow and inefficient processing of cases, which has led to many Black people being held in pre-trial detention for extended periods of time. Rather than decreasing the number of people in prison and reducing crime rates, the lack of attention from authorities has resulted in an increase in prison overcrowding and repeat offenses.³⁰ To address these disparities in the criminal justice system, it is crucial for policy makers and practitioners to recognize and address the underlying systemic issues that perpetuate them.

26. *Id.*

27. *Id.*

28. *Id.*; see also Alves, J. A. (2013). From Necropolis to Blackpolis: Necropolitical Governance and Black Spatial Praxis in São Paulo, Brazil. *Antipode*. <https://doi.org/10.1111/anti.12055>; see also Santos, A. B. S. dos, Nascimento-Mandingo, F., & Chazkel, A. (2020). React or Be Killed. *Radical History Review*, 2020(137), 157–176. <https://doi.org/10.1215/01636545-8092834>

29. Harriott, A. D., & Jones, M. (2016). Crime and Violence in Jamaica. *IDB Series on Crime and Violence in the Caribbean*, June, 1–26.; see also Zimmerman, R., Lawes, C., & Svenson, N. (Eds.). (2012). *Caribbean human development report 2012: Human development and shift to better citizen security*. United Nations Development Programme.

30. Harriott, A. D., & Jones, M. (2016). Crime and Violence in Jamaica. *IDB Series on Crime and Violence in the Caribbean*, June, 1–26.;

B. Criminalizing Drugs

Drug policies in many countries in the Black Diaspora have a complex history intertwined with colonialism and continue to disproportionately affect marginalized communities. Many of these countries still have laws that criminalize drug use, which were established during the colonial period as a means of controlling the local population. In many cases, colonizers viewed the traditional medicinal and spiritual practices of indigenous peoples as primitive and barbaric, and sought to replace them with their own Western medical practices. This led to the demonization and criminalization of certain plant-based medicines, such as cannabis, which were traditionally used by many indigenous and African peoples for spiritual and medicinal purposes. For example, the Rastafari movement, which emerged in Jamaica in the 1930s, incorporated cannabis use as a sacrament in their religious practices. The criminalization of cannabis has led to persecution and discrimination against the Rastafarian community, which has contributed to the marginalization and stigmatization of this community.³¹ However, the criminalization of cannabis in Jamaica can be traced back to the influence of colonial forces, who sought to suppress indigenous cultural practices and impose their own values and laws on the region. This has led to centuries of high rates of incarceration for drug offenses, particularly among poor and marginalized communities.

These drug laws often disproportionately affect marginalized communities and can lead to the incarceration of large numbers of people. In the United States, the criminalization of drugs has had a particularly devastating impact on Black communities, particularly for crack cocaine, which was heavily associated with Black communities. For example, African Americans are incarcerated at more than five times the rate of white Americans, a legacy of the War on Drugs policies of the 1980s and 1990s.³² Currently, police charge Black Latinx people with drug crimes that are 1.8 times more severe than white non-Latinx people, and Black non-Latinx people with drug crimes that are 1.6 times more severe at arrest. These inequalities are maintained throughout the charging trajectory.³³ Furthermore, drug laws are often enforced in a racially biased manner, with Black people being more likely to be arrested, charged, and sentenced to harsher penalties than white people for drug offenses. Kerrison argues:

“History demonstrates that the extent to which the law seeks to medicalize or penalize substance abuse is not a colorblind phenomenon. To be clear,

31. Hanson, V. J. (2020). Cannabis Policy Reform: Jamaica’s Experience. In *Legalizing Cannabis* (1st ed., Vol. 1, pp. 375–389). Routledge.; see also Neis Araujo, F. (2023). Ganja and the Laws of Men: Cannabis Decriminalization and Social (In)Justice in Jamaica. *Contemporary Drug Problems*, 009145092311566. <https://doi.org/10.1177/00914509231156608>

32. Alexander, M. (2010). *The new Jim Crow: Mass incarceration in the age of colorblindness* (Revised edition). New Press.

33. Johnson, O., Omori, M., & Petersen, N. (2023). Racial-Ethnic Disparities in Police and Prosecutorial Drug Charging: Analyzing Organizational Overlap in Charging Patterns at Arrest, Filing, and Conviction. *Journal of Research in Crime and Delinquency*, 60(2), 255–299. <https://doi.org/10.1177/00224278221120810>

abuse of heroin, alcohol, marijuana, and a host of other substances has always been an American enterprise sustained by users across racial, ethnic, and socioeconomic groups. The likelihood of reconciling legally codified punishment in response to that substance abuse, however, has always been a deeply racialized trend”.³⁴

Drug use among white men and women is often viewed and treated as a medical issue, rather than a criminal or moral issue. This approach contrasts with how drug use among other racial and ethnic groups is often criminalized and punished through the criminal justice system. “[T]he drug-using habits of [w]hite men and women, both in juvenile, college student, and adult pools, are medicalized.”³⁵ This approach is seen as more compassionate and effective in addressing the root causes of drug addiction, including trauma, mental health issues, and social and economic inequality. However, the unequal treatment of drug addiction between white individuals and individuals of other races and ethnicities, such as Black individuals, is a complex issue with historical and systemic roots. The racial bias in drug policies and the criminal justice system that disproportionately affect marginalized communities must be addressed to ensure fair and just treatment for all.

C. Capital punishment

It is well-established that colonial authorities used murder and state violence to control Black people in the diaspora. Different forms of state-sanctioned killings, with varying labels like lynching, capital punishment, execution and justifiable homicide, were used to maintain social control during the era of slavery and continued after its abolition. During the era of slavery, Black people were often subject to brutality, savagery and violence, including public executions, at the appetite of white settlers. Capital punishment was one tool in this system of oppression, as it allowed for the swift and brutal punishment of those who were seen as a threat to colonial tyranny.³⁶ This shifted into policy as legal systems evolved and continued after slavery was abolished, with Black people being disproportionately sentenced to death for crimes that white people were more likely to receive lesser sentences for or even be acquitted. Many countries in the Black Diaspora still have laws that allow for the use of capital punishment, which were established during the colonial period as a means of maintaining social control. These laws have been criticized for being cruel and inhumane, and for disproportionately affecting marginalized communities. The use of capital punishment in the legal systems of the Black Diaspora can be seen as a continuation of the violence and control that characterized colonial rule. It

34. Kerrison, E. M. (2017). An historical review of racial bias in prison-based substance abuse treatment design. *Journal of Offender Rehabilitation*, 56(8), 567–592, 568. <https://doi.org/10.1080/10509674.2017.1363114>

35. *Id.* at 571

36. Rediker, E. (2013). Courts of Appeal and Colonialism in the British Caribbean: A Case for the Caribbean Court of Justice. *Michigan Journal of International Law*, 35(1), 221-222.

reflects a fundamental lack of trust in the Black population and a belief that violence and fear are necessary to maintain social order.

The retention of the death penalty can be seen as a continuation of colonial practices, as it reflects a legal system that was imposed on these countries rather than one that emerged from countries' own traditions and values. "The irony is striking: an imperial power, historically guilty of the fiercest punishment in maintaining a system of bondage, has now abandoned the death penalty, while its former colonies justify the punishment's retention with self-determination."³⁷ Bessler concurs in his foreword, where he traces the use of capital punishment in colonial America and examines how the practice evolved over time.³⁸ He notes that while the death penalty was widely used in colonial America and the early United States, its use began to decline in the late 19th and early 20th centuries. He notes that many former colonies of European powers still retain the death penalty, despite the fact that their former colonizers have abolished it. Bessler argues that this is a reflection of the legacy of colonialism and the ways in which it has influenced legal and judicial systems in these countries.

The use of lethal force by police is often seen as a continuation of the historical use of violence to maintain control over Black communities. This violence is rooted in the legacy of slavery and colonialism, which relied on the use of force to control enslaved and colonized peoples. In this way, police killings can be seen as a modern manifestation of this historical violence, as it is often used to control and oppress Black communities. Black people in the US have long been subjected to police violence for centuries, and the issue has gained renewed attention in recent years with the emergence of movements like Black Lives Matter.³⁹ Brazil's police force has its roots in the colonial era, when law enforcement was used primarily to control and suppress enslaved populations. This legacy has persisted to the present day, with police officers in Brazil often using excessive force and engaging in extrajudicial killings, particularly against marginalized communities. Two themes emergent from literature in this regard are: (1) the overuse of lethal force by police officers, with many cases of extrajudicial executions and excessive use of force against citizens; and (2) the targeting of marginalized communities, such as Afro-Brazilians and those living in favelas (urban slums).⁴⁰ Similarly, police killings have been a persistent and concerning issue in Jamaica for many years. Jamaica has an extraordinarily high rate of security forces' killings – 127 deaths at a rate

37. Rediker, E. (2013). Courts of Appeal and Colonialism in the British Caribbean: A Case for the Caribbean Court of Justice. *Michigan Journal of International Law*, 35(1), 215.

38. Bessler, J. (2014). *Foreword: The Death Penalty in Decline: From Colonial America to the Present*. *Criminal Law Bulletin*, 50(2).

39. McIlwain, C. D. (2019). *Black Software: The Internet & Racial Justice, from the AfroNet to Black Lives Matter*. Oxford University Press.

40. Ramos, P. C., & Völker, S. (Eds.). (2020). Police Violence Against Black People Is on the Rise in Brazil. *German Institute for Global and Area Studies | Leibniz-Institut Für Globale Und Regionale Studien*, 5.

of 4.38 per 100,000 in 2021.⁴¹ The use of violence to maintain control over Black people is a deeply rooted issue that has persisted throughout history and continues to manifest in various forms today. Many countries in the Black Diaspora continue to experience high levels of state violence, including police brutality, extrajudicial killings, and mass incarceration. Addressing these issues requires acknowledging the historical roots and working towards systemic changes in legal and law enforcement systems that disproportionately affect marginalized communities.

D. Inequitable land ownership

One of the most insidious, undeniable, and enduring legacies of colonialism is the justified ownership of land by Europeans and their allies. This has often been referred to as settler colonialism; where a group of people leave from one region to another and permanently occupy or establish ownership on land that is already occupied by indigenous people.⁴² Settlers differ from migrants in that they intend to displace and eliminate the existing population in order to establish a new community and assert ownership over the land, usually with the backing of their home country or government. The policies of land ownership and property rights that were established by European colonizers have had a significant impact on the economies and societies of many former colonies. These policies have often favored foreign investors and multinational corporations over local communities, leading to land grabs, displacement, and environmental degradation. Viewing settler and exploitative colonialism as ongoing, rather than historical events, provides a foundation for a more comprehensive examination of the formation of race and land policy in the Black Diaspora.⁴³

The legacy of colonialism's land ownership policies has had a significant impact on Black communities in the United States. During the period of slavery, Black people were forcibly brought to the United States and made to work on plantations, which were often established on land that was taken from Native American communities.⁴⁴ After the Civil War, the federal government promised

41. Editorial Police must respond to INDECOM. (2022). *Jamaica Gleaner*. <https://jamaica-gleaner.com/article/commentary/20221212/editorial-police-must-respond-indecom>

42. Glenn, E. N. (2015). Settler Colonialism as Structure: A Framework for Comparative Studies of U.S. Race and Gender Formation. *Sociology of Race and Ethnicity*, 1(1), 52–72. <https://doi.org/10.1177/2332649214560440>; see also Haley, J. M., & Haley, J. M. (2020). *Intersectional and Relational Frameworks: Confronting Anti-Blackness, Settler Colonialism, and Neoliberalism in U. S. Social Work* *Intersectional and Relational Frameworks: Confronting*. <https://doi.org/10.1080/10428232.2019.1703246>; see also Tuck, E., & Yang, K. W. (2012). Decolonization is not a metaphor. *Decolonization: Indigeneity, Education & Society*, 1(1), 1–40.

43. Glenn, E. N. (2015). Settler Colonialism as Structure: A Framework for Comparative Studies of U.S. Race and Gender Formation. *Sociology of Race and Ethnicity*, 1(1), 52–72. <https://doi.org/10.1177/2332649214560440>

44. Gilbert, J., Wood, S., & Sharp, G. (2002). *Who Owns the Land? Agricultural Land Ownership by Race/Ethnicity*. 17(4).

to redistribute land to freed slaves, but this promise was never fulfilled, and instead, former slave owners and other white settlers were given land disproportionately through the Homestead Act of 1862.⁴⁵ Furthermore, the legal system in the United States has been used to uphold and legitimize the exclusion of Black people from land ownership. Numerous segregatory zoning laws and other land-use regulations have been used to prevent Black communities from developing and owning their own land. In the early 1900s, Black people migrating to industrial cities were confined to certain neighborhoods by zoning laws, covenants, and violence. Racially restrictive covenants legally prohibited them from owning or renting homes in certain areas until the late 1940s.⁴⁶ Despite being unenforceable after a Supreme Court ruling, these covenants continued to exclude people of color, perpetuating discrimination. This led to a continuation of the pattern of Black people being excluded from land ownership and dispossessed of their ancestral lands. Additionally, eminent domain laws have been used to take land from Black communities for the benefit of private corporations, often without adequate compensation.

In the Caribbean region, the majority of people who are descended from Africans or indigenous peoples, have faced ongoing land dispossession. The growth of the tourism industry in the region (which predominantly appeals to a Euro-American market) has had negative consequences for local communities, particularly in terms of land ownership and property rights. Foreign investors and multinational corporations have been able to buy up large areas of land, often displacing local communities in the process. Large-scale land acquisitions by foreign investors have led to the displacement of small farmers and the concentration of land in the hands of a few wealthy individuals and corporations.⁴⁷ This has had a negative impact on the country's food security and contributed to environmental degradation. In addition to land grabs, the growth of the foreign investment has also led to a proliferation of low-wage jobs in the service sector, which are often filled by workers from other countries in the region who are willing to accept lower wages and fewer protections.⁴⁸ This has led to what scholars have called a "race to the bottom" in terms of labor conditions, wages, and environmental protections. Caribbean governments continue to grant land concessions to multinational corporations, resulting in the destruction of ancestral lands and natural resources. Although many of these policies were established during colonial times without democratic processes or the consent of local communities, the difficulty in reversing them or seeking legal redress for the harm they have caused does not excuse the lack of effort in

45. Rothstein, R. (2017). *The Color of Law: A Forgotten History of How Our Government Segregated America*. Liveright.

46. Turner, M. A., Popkin, S. J., & Rawlings, L. A. (2009). *Public Housing and the Legacy of Segregation*. Urban Institute Press.

47. Lemonius, M. (2017). 'Deviously Ingenious': British Colonialism in Jamaica. *Canadian Mennonite University*, 49(2), 79–103.

48. Yeates (2005) [MISSING CITATION]

ensuring land equity. Efforts must be made to rectify this history of injustice, including redistributing land to Black communities and reforming the legal system to ensure justice and fairness for all.

E. Banning same-sex relationships

Many countries in the Black Diaspora still have laws that criminalize consensual same-sex relationships, which were established during the colonial period. These laws often reflect the moral and religious values of the colonizers, rather than the values and traditions of local communities. These values often included the belief that same-sex relationships were immoral, sinful, and unnatural. In many cases, colonial forces enacted laws criminalizing same-sex relationships, imposing harsh penalties, including imprisonment and even death, on those found guilty of engaging in same-sex sexual activity. Jackson traces the history of sexual sovereignty in the Caribbean, from the pre-colonial era to the present day and argues that pre-colonial societies in the region had their own distinct notions of sexuality and gender, which were often fluid and non-binary.⁴⁹ However, the arrival of European colonizers brought with them strict gender roles and sexual norms that were imposed on the indigenous populations. These laws were often enforced by colonial authorities and their local collaborators, leading to the persecution, harassment, and marginalization of LGBTQ+ individuals in the colonies.

For example, in Jamaica, the legal system is still based on colonial-era laws, and there is ongoing discrimination against LGBTQ+ people (Knowles, 2021; Nicol et al., 2018).⁵⁰ The Offences Against the Person Act, which was enacted during the colonial period, criminalizes the ‘abominable crime of buggery’ and acts of ‘gross indecency’ between males with up to 10 years imprisonment with hard labor. This law is still in effect today and has been used to justify discrimination against LGBTQ+ individuals. The continued enforcement of laws like the Offences Against the Person Act in Jamaica has contributed to a hostile environment for LGBTQ+ people, who face discrimination, harassment, and violence on a regular basis. Additionally, the intersection of homophobia and racism can compound the challenges faced by LGBTQ+ Black individuals, who may experience multiple forms of discrimination and marginalization. The ongoing enforcement of laws that criminalize same-sex sexual activity and other forms of gender and sexual diversity thus contributes to a broader pattern of

49. Jackson, S. N. (2016). Sexual Sovereignty in the Caribbean and its Diasporas. *Theory and Event*, 19(4).

50. Knowles, Z. C. (2021). Criminalizing LGBTQ+ Jamaicans: Social, Legal, and Colonial Influences on Homophobic Policy [M.A., University of South Florida]. In *ProQuest Dissertations and Theses* (2605276337). ProQuest Dissertations & Theses A&I; ProQuest Dissertations & Theses Global. <https://www.proquest.com/dissertations-theses/criminalizing-lgbtq-jamaicans-social-legal/docview/2605276337/se-2?accountid=14496>; see also Nicol, N., Jjuuko, A., Lusimbo, R., Mulé, N., Ursel, S., Wahab, A., & Waugh, P. (Eds.). (2018). *Envisioning global LGBT human rights: (Neo)colonialism, neoliberalism, resistance and hope*. Human Rights Consortium, School of Advanced Study, University of London.

discrimination and inequality that affects Black people and other marginalized groups. Majied (2015) argues that despite the revolutionary government's efforts to eliminate racism and homophobia, these issues continue to persist in Cuban society.⁵¹ The author highlights the experiences of Black and LGBTQ+ Cubans who have faced discrimination and marginalization, both historically and in the present day. This suggests that the legacies of colonialism and other forms of systemic oppression continue to shape the experiences of marginalized groups in the Black Diaspora, including LGBTQ+ individuals and Black people more broadly. To promote greater equity and justice for all, it is essential to acknowledge and address these historical and ongoing forms of discrimination and marginalization.

F. Suppression of religion and forced assimilation

During the colonial period, many indigenous religions in the Black Diaspora were criminalized and suppressed by colonial authorities. This was often done in an effort to impose Christianity or other religions on local populations, and to eradicate traditional religious practices that were seen as a threat to European assimilation. Enslaved people who continued to practice their traditional religions risked punishment, including physical abuse and even death. The Yoruba religion of West Africa was brought to the Americas by enslaved Africans. In places like Cuba, Brazil, and Haiti, Yoruba religion evolved into distinct syncretic religions, such as Santería, Candomble, and Vodou.⁵² The Spanish colonial authorities in Cuba suppressed Santería, which they saw as a primitive and superstitious religion. However, despite this oppression, Santería persisted and has become a prominent religion in Cuba and other parts of the Caribbean. According to Schmidhauser an exceedingly important aspect of Spanish colonially-imposed law involved Roman Catholic religious control and forced conversions.⁵³ Thus, secular law in many instances was used to accomplish religious objectives such as the forced conversion of Moriscos and Jews in Spain or, subsequently, the expulsion of the latter. In the overseas colonies, conversion or punishment of non-Catholics was generally legally as well as religiously imposed.⁵⁴

In the United States, during the era of slavery, many enslaved Africans were forcibly converted to Christianity by their owners. However, despite the danger, many enslaved Africans in the United States continued to practice their

51. Majied, K. F. (2015). Racism and Homophobia in Cuba: A Historical and Contemporary Overview. *Journal of Human Behavior in the Social Environment*, 25(1), 26–34. <https://doi.org/10.1080/10911359.2014.953428>

52. Gonzalez Kirby, D. H. (1985). Santeria: African Influences On Religion in Cuba. *Association for the Study of African American Life and History*, 48(3), 39–44.

53. Schmidhauser, J. R. (1992). Legal Imperialism: Its Enduring Impact on Colonial and Post-Colonial Judicial Systems. *International Political Science Review*, 13(3), 321–334. <https://doi.org/10.1177/019251219201300307>

54. Fieldhouse, 1967; Burns, 1973, 1984 [CITATION MISSING]

traditional religions, often in secret. One example of this is the Gullah Geechee people, who are descended from enslaved Africans in the coastal regions of South Carolina and Georgia.⁵⁵ The Gullah Geechee have preserved many of their West African cultural practices, including their unique form of African American English and their traditional religious practices. In Jamaica, the colonial government outlawed the practice of obeah, a traditional religion that combines elements of African and Caribbean spirituality.⁵⁶ Obeah practitioners were often persecuted and imprisoned. In Trinidad and Tobago, the Orisha religion was criminalized by the British colonial government in the 19th century. Orisha practitioners were subject to persecution, and many were forced to go underground.⁵⁷ Vodou is a religion that originated in Haiti and has spread throughout the region. Vodou incorporates elements of West African, indigenous Caribbean, and Christian traditions, and was often suppressed by colonial authorities who saw it as a threat to their control. However, Vodou survived and has become an important part of Haitian and Caribbean culture, and is practiced by millions of people throughout the region.

Another example is Rastafari, a religious and cultural movement that originated in Jamaica in the early 20th century. Rastas reject many of the values and practices of mainstream Western culture, and incorporate elements of African spiritual traditions and the teachings of Marcus Garvey. Rastafari has faced persecution and suppression from the Jamaican government, which viewed the movement as a threat to social order.⁵⁸ An example of this is the infamous Coral Garden Massacre, where the police launched a brutal crackdown on the Rastafarian community, which led to the death of several people and the arrest of hundreds of others at the request of the then Prime Minister Bustamante.⁵⁹ However, despite this oppression, Rastafarianism has spread throughout the Caribbean and the world, and has become an important part of Jamaican and Caribbean culture. These are just a few examples of how colonial authorities sought to suppress indigenous religions in the Black Diaspora. However, despite these efforts, many of these religions survived and evolved over time, and continue to be practiced today. In some countries, practicing indigenous religions in the Black Diaspora may be illegal or frowned upon by mainstream society. This can lead to social exclusion, discrimination, and even violence against

55. Botwick, B. (2018). Gullah-Geechee settlement patterns from slavery to freedom: Investigation of a Georgia plantation slave quarter. *North American Archaeologist*, 39(3), 198–228. <https://doi.org/10.1177/0197693118793795>

56. Paton, D. (2015). *The Cultural Politics of Obeah: Religion, Colonialism and Modernity in the Caribbean World* (1st ed.). Cambridge University Press. <https://doi.org/10.1017/CBO9781139198417>

57. Stewart, D. M. (2022). *Obeah, Orisa, and religious identity in Trinidad: Africana nations and the power of Black sacred imagination. Volume II: Orisa*. Duke University Press.

58. Neis Araujo, F. (2023). Ganja and the Laws of Men: Cannabis Decriminalization and Social (In)Justice in Jamaica. *Contemporary Drug Problems*, 0091450923115668. <https://doi.org/10.1177/0091450923115668>

59. Cooper, C. (2013). Bring in all Rastas, dead or alive! *Jamaica Gleaner*. <https://jamaica-gleaner.com/gleaner/20130407/cleisure/cleisure3.html>

practitioners. Additionally, some practitioners may face backlash from their families or communities if they choose to embrace these religions, particularly if their families are deeply religious or hold negative views about indigenous religions.

III. EFFORTS TO DECOLONIZE LEGAL SYSTEMS AND POLICIES IN THE BLACK DIASPORA

The current era is witnessing a global spread of legal transplants in the name of democracy, human rights, and the rule of law, which, though different from the imperialist one, shares some political and practical similarities.⁶⁰ Although different from the colonial era, these legal systems still bear some similarities in terms of their political and practical implications. To address these ongoing legacies of colonialism in legal systems and policies, many advocates and scholars have called for a re-examination and reform of existing laws and institutions. If the colonialists, in their usual sensitivities characteristic of exploration and discovery, exported their laws to the colonies, the colonized on their attainment of independence should be able to jettison the colonial system in all its ramifications and adopt its own system, which is the function of the legislature.⁶¹ To determine the most effective legal institutions and strategies in countries with low income levels, there is a need for more indigenous, scholarly assessments of law and legal systems in Africa and other developing nations.⁶²

Efforts to decolonize legal systems and policies in the Black Diaspora are ongoing and have gained momentum in recent years. Decolonization in this context refers to the process of dismantling the legacies of colonialism and creating legal systems and policies that reflect the needs and aspirations of the people in the region.⁶³ These efforts may involve revising laws and policies to better reflect the needs and perspectives of Black communities, as well as addressing the historical injustices that have shaped legal systems and policies. For example, some countries have undertaken constitutional reforms to better protect the rights of marginalized groups and to promote greater democratic participation in the legal and policy-making process. The Black Lives Matter movement has drawn attention to the ways in which systemic racism and police brutality have disproportionately impacted Black communities in the United States. The movement has called for reforms to the criminal justice system, including the elimination of cash bail, the implementation of police

60. Merry, S. E. (2003). From Law and Colonialism to Law and Globalization. *Law & Social Inquiry*, 28(2).

61. Tobi, N. (1996). Sources of Nigerian law. *Lagos: MIJ Professional Publishers Ltd.*

62. Joireman, S. F. (2001). Inherited legal systems and effective rule of law: Africa and the colonial legacy. *The Journal of Modern African Studies*, 39(4), 571–596. <https://doi.org/10.1017/S0022278X01003755>

63. Tuck, E., & Yang, K. W. (2012). Decolonization is not a metaphor. *Decolonization: Indigeneity, Education & Society*, 1(1), 1–40.

accountability measures, and the abolition of prisons.⁶⁴ There has been growing support for reparations for slavery and its ongoing impact on Black communities in the United States.⁶⁵ In Jamaica, there have been efforts to decriminalize marijuana and expunge the records of individuals who were previously convicted of marijuana offenses. This has been seen as a step towards addressing the legacy of colonialism, which criminalized marijuana as part of a broader effort to suppress Rastafari, a religious movement that originated in Jamaica.⁶⁶ In 2018, the Windrush scandal brought attention to the ways in which the British government's immigration policies have disproportionately impacted Caribbean immigrants and their descendants.⁶⁷ The scandal prompted calls for reforms to the UK's immigration system to address the legacy of colonialism and racism. On November 30, 2021, Barbados officially became a republic and removed Queen Elizabeth II as its head of state, ending its status as a constitutional monarchy. This move symbolically severed ties with Britain and its colonial past.⁶⁸ In Brazil, there have been efforts to address the legacy of slavery and racism, including affirmative action policies aimed at increasing access to education and employment for Black Brazilians.⁶⁹ Ultimately, decolonization of legal systems and policies in the Black Diaspora requires ongoing efforts to challenge and dismantle the legacies of colonialism, and to create legal systems and policies that reflect the needs and aspirations of all members of society.

CONCLUSIONS AND RECOMMENDATIONS

The impact of colonialism on legal systems in the Black Diaspora has been significant and continues to affect the lives of millions of people today. The imposition of European-based laws and institutions by colonial forces often suppressed local legal traditions and perpetuated systems of racial hierarchy and oppression, leading to unequal access to resources, environmental degradation, and systemic biases against minority communities. There is often a lack of political will to address the root causes of crime, such as poverty, inequality, and

64. Crenshaw, K. (2022). *#SayHerName: Black Women's Stories of State Violence and Public Silence* (African American Policy Forum, Ed.). Haymarket Books.; see also McIlwain, C. D. (2019). *Black Software: The Internet & Racial Justice, from the AfroNet to Black Lives Matter*. Oxford University Press.

65. Coates, T.-N. (2014). The Case for Reparations. *The Atlantic*.

66. Hanson, V. J. (2020). Cannabis Policy Reform: Jamaica's Experience. In *Legalizing Cannabis* (1st ed., Vol. 1, pp. 375–389). Routledge.; see also Neis Araujo, F. (2023). Ganja and the Laws of Men: Cannabis Decriminalization and Social (In)Justice in Jamaica. *Contemporary Drug Problems*, 009145092311566. <https://doi.org/10.1177/00914509231156608>

67. Wardle, H., & Obermuller, L. (2019). 'Windrush generation' and 'hostile environment': Symbols and lived experiences in Caribbean migration to the UK. *Migration and Society*, 2, 81–89. <https://doi.org/10.3167/arms.2019.020108>

68. Goddard, R. (2022). *Why does Barbados symbolic transition to a republic matter*. The London School of Economics and Political Science. <https://blogs.lse.ac.uk/latamcaribbean/2022/01/13/why-barbados-symbolic-republic-matter/>

69. da Silva Martins, S., Medeiros, C. A., & Nascimento, E. L. (2004). Paving Paradise: The Road From "Racial Democracy" to Affirmative Action in Brazil. *Journal of Black Studies*, 34(6), 787–816. <https://doi.org/10.1177/0021934704264006>

social exclusion. Instead, policies focus on punishment and repression, leading to the further marginalization of Black communities. In some cases, the state has even been complicit in the perpetuation of violence against Black people, as in the case of police brutality and extrajudicial killings. Moreover, the ongoing legacies of colonialism have also resulted in the erasure and marginalization of traditional legal systems and customary law in many Black Diaspora communities. This has led to a lack of recognition and protection for the rights and interests of Indigenous peoples and other marginalized groups, as their legal systems are often ignored or subordinated to the colonial legal framework.

To address these issues, there is a need to critically examine the colonial legal systems and their legacy, as well as to advocate for decolonization and justice. This requires a comprehensive understanding of the complex relationship between colonialism and post-colonial development, as well as a recognition of the importance of traditional legal systems and customary law in many Black Diaspora communities. A multifaceted approach to addressing these laws includes promoting greater diversity and inclusion within the legal profession, advocating for less punitive laws, prioritizing collective safety and equity in law, and adopting restorative justice models. One critical aspect of decolonizing our legal systems is recognizing the ways in which colonial-era laws and policies continue to negatively affect marginalized communities in the Black Diaspora. This includes acknowledging the historical context in which these laws were created and understanding the ways in which they perpetuate systemic inequality and discrimination. Promoting greater diversity and inclusion within the legal profession is another crucial step towards decolonization. This involves increasing the representation of Black lawyers and judges in the courts, which can help ensure that legal systems and policies are more responsive to the needs and concerns of the Black community. Advocating for less punitive laws and prioritizing more rehabilitative approaches to justice is also essential to decolonizing our legal systems. This includes moving away from individualistic interventions and instead prioritizing collective safety and equity in law. Adopting restorative justice models can also facilitate the healing process, particularly by preserving the dignity of Black individuals in the legal system given the sordid history of colonialism. Ultimately, decolonizing our legal systems requires a multifaceted and intersectional approach that prioritizes the needs and concerns of marginalized communities in the Black Diaspora. By taking meaningful steps towards greater diversity and inclusion, less punitive laws, and restorative justice models, we can work towards a more just and equitable legal system that serves all members of society.