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Fighting Lynching.  
Lawsuits in the United States Courts' Racial Binary System,  
1942-1958

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## Introduction

The definition of "lynching" was a subject of debate in American political circles until a few months ago. In fact, the recent proposal for a federal anti-lynching law, called "Emmett Till Antilynching Act," referencing one of the cases that most shocked the public, has generated tough clashes between different political factions. The law's approval in the Senate on March 7, 2022, arose after various conflicting opinions about the language and terminology used to define this particular form of violence. As a result, lynching was not considered a federal crime until March 29, 2022, leaving its administration to state courts. There have been hundreds of federal law proposal attempts to criminalize lynching, but none of them were successful. Starting with Georgia in 1893, some states enacted anti-lynching state laws, defining this crime in their own way. However, the application of these laws was so disastrous that sentences for lynching were unusual.

Furthermore, this topic did not get much attention from the academic community until the second half of the twentieth century at the earliest. The difficulties in analyzing this question within the historical-academic profession was so pervasive that it discouraged many historians from studying one of the phenomena important to the understanding of American and African American history. Only towards the end of the twentieth century did lynching become an object of study, allowing social scientists to fully understand the violent dimension of white supremacy and its implications.<sup>1</sup>

By exploring the relationships between lynching, race, citizenship, gender, sexuality, and social class through cases reported by the press and civil rights advocacy organizations, scholars found that this form of extra-legal violence served to reconstitute the racial status quo prior to the abolition of slavery and the promulgation of the Amendments which completely overturned the social order based on strict racial hierarchies.<sup>2</sup> With the end of the Civil War, new constitutional rights were granted,

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<sup>1</sup> See Williamson, Joel. "Wounds Not Scars: Lynching, the National Conscience, and the American Historian." *The Journal of American History*, vol. 83, no. 4, 1997, pp. 1221–53; Pfeifer, Michael J. "At the Hands of Parties Unknown? The State of the Field of Lynching Scholarship." *The Journal of American History*, vol. 101, no. 3, 2014, pp. 832–46.

<sup>2</sup> See Combs, Barbara, and Obie Clayton. "An Introductory Essay to the Special Volume of *Phylon* (Issue 2): Remembering the 150th Anniversary of the Birth of W.E.B. Du Bois and the 50th Anniversary of the Death of Martin Luther King, Jr." *Phylon (1960-)*, vol. 56, no. 1, Clark Atlanta University Press, 2019, pp. 3–7; Morrison, Melanie S. "Reign of Terror In The Black Community." *Murder on Shades Mountain: The Legal Lynching of Willie Peterson and the Struggle for Justice in Jim Crow Birmingham*. Duke University Press, 2018, pp. 34–44; Scott, Daryl Michael. "The Social and Intellectual Origins of 13thism." *Fire!!!*, vol. 5, no. 2, Association for the Study of African American Life and History, 2020,

including those of citizenship, to people who until a few days earlier were considered inferior human beings to be dominated, whose place was on the margins of society. The loss of racial dominance and white supremacy especially horrified southern states where full recognition of the civil rights granted by the Federal Government did not take place until the Civil Rights Act of 1964.<sup>3</sup>

The Jim Crow Laws (1877-1964) were an attempt to socially alleviate the transition between the abolition of slavery and the respect of citizenship rights in a vain effort to further avoid clashes between social classes.<sup>4</sup> By segregating people of color, white supremacists still believed they had some controlling power over Black people and those considered inferior. This is why angry white crowds became perpetrators of gruesome violence in an attempt to regain full racial domination command.<sup>5</sup> Lynching was used as a means of racial oppression not only against African Americans, but also Mexicans, Hispanics, Chinese and other minorities, such as the Italians of New Orleans.<sup>6</sup>

The study of lynching is of primary importance to understand how extra-legal violence contributed to the formation of the state, American and African American identity, the development of the federal penal system, and the conception of moral and civil rights after the Civil War.<sup>7</sup> Hence, this dissertation focuses on how Americans who promoted lynching and those who fought against it used the legal system to justify or oppose the practice of racial capital punishment.

The structure of power in America allowed community-sanctioned violence to flourish. Lynching emerged from communities and neighborhoods, a fundamentally local act, usually carried without scrutiny by outsiders and in defiance of the rule of law.<sup>8</sup> The Constitution limited the Federal Government and protected the powers of

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pp. 2–39; Zecker, Robert M. *A Road to Peace and Freedom”: The International Workers Order and the Struggle for Economic Justice and Civil Rights, 1930-1954*. Temple University Press, 2018, pp. 97–135.

<sup>3</sup> See Ayers, Edward L. *Vengeance and Justice: Crime and Punishment in the 19th Century South*. Oxford University Press, 1984; Chafe, William H., Raymond Gavins, and Robert Korstad. *Remembering Jim Crow: African Americans Tell About Life in the Segregated South*. The New Press, 2001; McGovern, James R. *Anatomy of Lynching: The Killing of Claude Neal*. Louisiana State University Press, 1982.

<sup>4</sup> James, David R. “The Transformation of the Southern Racial State: Class and Race Determinants of Local-State Structures.” *American Sociological Review*, vol. 5, no. 2, 1988, pp. 191-208.

<sup>5</sup> Harris, J. William. “Etiquette, Lynching, and Racial Boundaries in Southern History: A Mississippi Example.” *The American Historical Review*, vol. 100, no. 2, 1992, pp. 387- 410.

<sup>6</sup> See Pfeifer, Michael J. (edited by). *Global Lynching and Collective Violence: Volume 1: Asia, Africa, and the Middle East*. University of Illinois Press, 2017; Pfeifer, Michael J. (edited by). *Global Lynching and Collective Violence: Volume 2: The Americas and Europe*. University of Illinois Press, 2017.

<sup>7</sup> Pfeifer, Michael J. “*At the Hands of Parties Unknown?*”

<sup>8</sup> Pfeifer, Michael J. *The Roots of Rough Justice: Origins of American Lynching*. University of Illinois Press, 2011.

state and city governments. As senators and members of Congress from the lynching-prone states tirelessly pointed out, in the American Federal System, the national government had no power to prosecute ordinary crimes, like murder or lynching. Thus, those accused of lynchings took refuge from justice within this federal system endorsed by the Constitution. On the other hand, the United States Constitution promised permanency and enduring values such as the right to trial by jury and due process. Accused persons are promised a fair trial, the ability to confront witnesses against them, and a calm weighing of evidence by a competent jury. Lynching violated those constitutional principles. As journalists, especially African American journalists, began pointing this out, evolving tension developed between national commitment to the rule of law and the nation's prejudices and commitment to local power. Hence, opponents of lynching started to seek specific protection from violence from the government and made appeals based on the violation of constitutional principles.

These aspects of lynching are linked to slavery and colonialism: just as enslavers could punish enslaved people without suffering consequences, the perpetrators of lynching operate a type of justice outside the state. In fact, white southerners saw their right to act on Black people's bodies as a prime privilege of slavery.<sup>9</sup> How could local and state authorities legitimate these acts of collective violence? How did the actors involved in the lynching perceive their actions? This thesis also aims to investigate how this violation of citizenship rights was reported both by Black intellectuals and Black movements that claimed the civil rights of African Americans during the twentieth century. This dissertation illustrates how Americans' acceptance of extra-legal violence intertwines with white supremacy, transforming a practice that already existed into violence strictly associated with racial domination.

### **Historiographical scope<sup>10</sup>**

The history of African Americans' lynching was in absolute silence for a long time, until the second half of the twentieth century at the earliest. In public culture and local memory as well, lynching was met with considerable reticence. A real historiographical turn occurred in the final decades of the twentieth century, when southern historians rediscovered lynching violence, excavating its nexus with race,

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<sup>9</sup> Patterson, Orlando. *Rituals of Blood: Consequences of Slavery in Two American Centuries*. Basic Civitas, 1998.

<sup>10</sup> Part already published in Santoro Corvino, Giovanni B. "The Meanings of Lynching, A Word that Crossed the World," *Elementary Education Online*, vol. 20, no.5, 2021.

gender, sexuality, and social class.<sup>11</sup> Examining hundreds of lynching cases, scholars have discovered a complex pattern of fixed and evolving behavior and attitudes in which mob violence served the critical function of racial oppression in the South across the postbellum period. It also displayed significant variation across time and space regarding the nature and degree of mob ritual, the alleged causes of mob violence, and the persons targeted by mobs.<sup>12</sup>

In the early years of the twenty-first century, broadened analyses of lynching were carried out to encompass regions beyond the South and eras before the late nineteenth century. Crucially, scholars in recent years have demonstrated that the victims of racially motivated lynchings were as diverse as the targets of American racial prejudice. While reliable, comprehensive statistical data is still lacking, scholars know that white Americans lynched at least several thousand African Americans in the late nineteenth and early twentieth centuries and quite possibly several thousand more in the era of emancipation and Reconstruction. White people also lynched hundreds of Native Americans and persons of Mexican descent in the nineteenth and early twentieth centuries.<sup>13</sup>

Lynching scholarship in the last decade has also displayed a meaningful cultural turn, with much recent attention given to the relationship between mob violence and different patterns of cruel behavior.<sup>14</sup> However, the most significant contribution of the recent scholarship on postbellum southern lynching has been to provide a much fuller sense of African American responses to lynching, which ranged from testimony to armed self-defense, institutional activism, and artistic representation.<sup>15</sup> Much

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<sup>11</sup> See Harris, Trudier. *Exorcising Blackness: Historical and Literary Lynching and Burning Rituals*. Indiana University Press, 1984; Williamson, Joel. *The Crucible of Race: Black-White Relations in the American South since Emancipation*. Oxford University Press, 1984; Zangrando, Robert L. *The NAACP Crusade against Lynching, 1909–1950*. Temple University Press, 1980.

<sup>12</sup> See Brundage, Fitzhugh W. *Civilizing Torture: An American Tradition*. The Belknap Press of Harvard University Press, 2018; Wright, George C. *Racial Violence in Kentucky, 1865-1940: Lynchings, Mob, Rule, and "Legal Lynchings"*. Louisiana State University Press, 1990; Tolnay, Stewart E. and Beck, E. M., *A Festival of Violence: An Analysis of Southern Lynchings, 1882–1930*. University of Illinois Press, 1995.

<sup>13</sup> See Carrigan, William D. and Webb, Clive. "Muerto por Unos Desconocidos (Killed by Persons Unknown)': Mob Violence against African Americans and Mexican Americans," in *Beyond Black and White: Race, Ethnicity, and Gender in the U.S. South and Southwest*, edited by Stephanie Cole and Allison Parker, College Station, 2004, 35–7; Gonzales-Day, Ken. *Lynching in the West: 1850–1935*. Duke University Press, 2006.

<sup>14</sup> Wood, Amy Louise. "'Killing the Elephant': Murderous Beasts and the Thrill of Retribution, 1885—1930." *The Journal of the Gilded Age and Progressive Era*, vol. 11, no. 3, 2012, pp. 405–44.

<sup>15</sup> See Clegg III, and Claude A. *Troubled Ground: A Tale of Murder, Lynching, and Reckoning in the New South*. University of Illinois Press, 2010; Feimster, Crystal, *Southern Horrors: Women and the Politics of Rape and Lynching*. Harvard University Press, 2009; Finnegan, Terrence. *A Deed So Accursed: Lynching in Mississippi and South Carolina, 1881–1940*. University of Virginia Press, 2013.

lynching scholarship has, in fact, tended to focus more on the structure and context of racial violence than on its impact on African American communities. More recent works have instead highlighted the complexity of African American responses to white violence, which concerned deference to defiance and included self-improvement, exodus, and armed self-defense.<sup>16</sup>

This dissertation intends to fit into this more recent literature to deepen our understanding of Black responses to lynching. Through the analysis of the Black activist's appeals to Federal Courts, African American print culture, and letters and testimony of "ordinary people" - members of the African American community who had experienced or been otherwise affected by white violence - the aim is to reveal a consistent African American legal counter-narrative that exposed the ways white people infringed Black people's rights. On the other hand, in order to understand the brutal violence African Americans faced, the research will also ask how white people could justify racial lynching. The study of the legal documents produced by state courts as well as newspaper articles on lynching, will reveal why white Americans believed that their right to self-governance vindicated such mobbing. Was this right founded on habits and customs that had permitted the crowd to control crime in the absence of effective criminal justice for centuries? Can we define this phenomenon as a colonial and imperial legacy?

These issues will allow the research to interact with another significant trend in the historiography of lynching. Until the last few years, United States lynching historians had spent little time looking at international perspectives on lynching and neglected to compare American lynching with the analogous practices of illegal collective murder across global cultures and eras. However, more recent works have started "globalizing lynching history" with comparative studies of modern lynching in Latin America, sub-Saharan Africa, and the Middle East.<sup>17</sup> This comparative perspective will allow the thesis to stress the occurrence of mob violence in certain cultural and historical contexts. One of the main assumptions that is addressed in this dissertation is that the lack of a strong centralized national state that claimed and enforced an exclusive monopoly over violence, typical of many post-imperial contexts, is one of the fundamental reasons explaining the long-lasting toleration of

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<sup>16</sup> Williams, Kidada E. *They Left Great Marks on Me: African American Testimonies of Racial Violence from Emancipation to World War I*. New York University Press, 2012.

<sup>17</sup> Berg, Manfred and Wendt, Simon. *Globalizing Lynching History - Vigilantism and Extralegal Punishment from an International Perspective*. Palgrave Macmillan, 2011.

local, collective, and extra-legal violence, grounded in local prerogatives of honor, class, race, ethnicity, gender, and crime control.

### **Race and citizenship**

The issue of appeals to justice will be explored from a citizenship rights perspective, i.e., how the arguments used in lawsuits against lynching leveraged denied citizenship rights (such as ensuring a fair trial). However, this doctoral thesis does not aim to define what citizenship was at the end of the nineteenth century and along the course of the twentieth. It aims to ascertain how citizenship rights were denied to African Americans not only by the use of racial violence, but also by some legal mechanisms that prevented them from enjoying rights and liberties guaranteed by the Constitution.

By exploring American historiography about the recognition of citizenship rights for people of color, it emerges that this has been an ever-changing topic. It began with the historic ruling of Dred Scott, an enslaved Black person who sought eight years before the abolition of slavery to assert his rights as a human being.<sup>18</sup> The case went all the way to the Supreme Court, and Judge Roger B. Taney drew his conclusions about the status of Black people, starting from questions that were answered in constitutional laws. In the first instance, Taney wondered: "Can a Negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guaranteed by that instrument to the citizen?" Specifically, he referred to the "privilege of suing in a court," an action possible only for those who were American citizens, but for the judge, Black people were not.<sup>19</sup>

This line of thinking heightened social tensions between the northern and southern states about the emancipation of enslaved people, contributing to the outbreak of the American Civil War. In fact, only a few years after the Civil Rights Act of 1866 and the ratifications of the XIV and XV Amendments, African Americans were granted civil rights that they did not previously enjoy as they were not considered American citizens. This new legal recognition completely overturned the social order and hierarchies of racial dominance, as even formerly enslaved people had the right to sue

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<sup>18</sup> See Ehrlich, Walter. "The Origins of the Dred Scott Case." *The Journal of Negro History*, vol. 59, no. 2, Association for the Study of African American Life and History, Inc., 1974, pp. 132–42; Ehrlich, Walter. "Was the Dred Scott Case Valid?" *The Journal of American History*, vol. 55, no. 2, 1968, pp. 256–65.

<sup>19</sup> *Scott vs. Stanford*, 60 U.S. 393, 1857.

a fellow citizen, contrary to what *Dred Scott v. Sanford* had ruled. Notwithstanding, episodes of racial discrimination continued. Indeed, the Ku Klux Klan was born in response to the abolition of slavery and the recognition of the citizenship rights of African Americans.<sup>20</sup>

In fact, even during the 1940s, when the FBI began to be involved in investigations into lynching cases at the request of President Roosevelt first<sup>21</sup> and then President Truman<sup>22</sup>, African Americans expressly asked for "first-class citizenship,"<sup>23</sup> given the continuing incidents of racial inequality that occurred despite the fact that, according to the Constitution, there should be no differences of rights based on skin color. Racial biases arising from the colonial era continued to be sustained throughout the twentieth century, especially those relating to the construction of the collective imagination about the behavior of Black men.<sup>24</sup> Accordingly, even just asking for a glass of whiskey in a saloon frequented by white men clearly demonstrated the affirmation of Black manhood and citizenship.<sup>25</sup> Nevertheless, if small victories were obtained in some areas of daily life, in the southern courts, the situation was more alarming, so much so that *Dred Scott's* lawsuit never seemed to have been heard. Access to justice for many African American citizens was nothing but a mirage. In addition to severe poverty, illiteracy, and segregation due to the Jim Crow laws, many cases of lynching were not discussed in the courts, leaving their management to local communities.<sup>26</sup> Hence, citizenship rights continued to be violated as they were hardly exercised due to the social condition in which African Americans lived.

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<sup>20</sup> See Baudouin, Richard (edited by). "The Invisible Empire." *Ku Klux Klan: A History of Racism and Violence*. Southern Poverty Law Center, 2011, pp. 17–24; Cohen, Michael. "The Ku Klux Government': Vigilantism, Lynching, and the Repression of the IWW." *Journal for the Study of Radicalism*, vol. 1, no. 1, Michigan State University Press, 2007, pp. 31–56; Degler, Carl N. "A Century of the Klans: A Review Article." *The Journal of Southern History*, vol. 31, no. 4, Southern Historical Association, 1965, pp. 435–43.

<sup>21</sup> See McMahon Kevin J. *Reconsidering Roosevelt on Race: How the Presidency Paved the Road to Brown*. University of Chicago Press, 2004; Ziglar, William L. "The Decline of Lynching in America." *International Social Science Review*, vol. 63, no. 1, 1988, pp. 14–25.

<sup>22</sup> See Billington, Monroe. "Civil Rights, President Truman and the South." *The Journal of Negro History*, vol. 58, no. 2, 1973, pp. 127–39; Juhnke, William E. "President Truman's Committee on Civil Rights: The Interaction of Politics, Protest, and Presidential Advisory Commission." *Presidential Studies Quarterly*, vol. 19, no. 3, 1989, pp. 593–610.

<sup>23</sup> Randolph, Philip. "Keynote Address to the Policy Conference of the March on Washington Movement" in *Black Protest Thought in the Twentieth Century*, edited by August Meier, Elliott Rudwick, and Francis L. Broderick, Bobbs-Merrill Publishing, 1971, p. 226.

<sup>24</sup> Equal Justice Initiative. *Lynching in America: Confronting the Legacy of Racial Terror*, Equal Justice Initiative Editions, 2017, pp. 65–75.

<sup>25</sup> Hudson, Lynn M. "Entertaining Citizenship: Masculinity and Minstrelsy in Post—Emancipation San Francisco." *The Journal of African American History*, vol. 93, no. 2, 2008, pp. 174–97.

<sup>26</sup> Miller, Randall M. "Lynching in America: Some Context And A Few Comments." *Pennsylvania History: A Journal of Mid-Atlantic Studies*, vol. 72, no. 3, 2005, pp. 275–91.

Through the analysis of lawsuits in lynching-related cases presented at the state and federal levels for some violations of the law, it is possible to observe how, despite the United States citizenship guarantee of legal status, the victims of lynching were not recognized by their fellow citizens.<sup>27</sup> Not only did white people take the place of the state, over-identifying with it and decreeing sentences that could not have occurred if due processes had taken place<sup>28</sup>, but also only on a few occasions were perpetrators of lynching sentenced for having committed a crime. Normally state justice did not indict white people who had participated in lynching episodes, even in the case of charges brought against them.<sup>29</sup>

These episodes of extra-legal violence contributed to the construction of the United States citizenship and identity through the social, political, cultural, and institutional clashes that such violence provoked over the years since they were not an attack on individuals, but "against the 'peoplehood' of African Americans."<sup>30</sup> In this perspective, the study of lawsuits has proved to be a privileged source for exploring the extent to which the "civilization of torture"<sup>31</sup> has contributed to American identity formation.

However, the current historiography on African American lynching in the United States primarily focuses on violent mob lynching outside the legal system. The dissertation's originality lies in critically examining the legal lynchings that state governments carried out, an aspect not explored enough by previous scholarship. By examining the violations of due process and constitutional Amendments, as well as the actions of state governors and judges in the highest courts, this dissertation sheds light on the complex and interconnected issues of state formation, criminal justice, social morals, and the idea of rights in the United States during the first half of the twentieth century. The analysis challenges the traditional differentiation between legal and mob lynching by shedding light on the ways in which due process and constitutional Amendments were frequently violated by many public subjects, including state governors and law enforcement officials. By questioning the distinction between legal and mob lynching, this research stresses the state's role in perpetuating and legitimizing

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<sup>27</sup> Equal Justice Initiative. *Lynching In America*.

<sup>28</sup> Pfeifer, Michael J. *The Roots of Rough Justice*, pp. 54–66.

<sup>29</sup> Bailey, Amy Kate, et al. "Targeting Lynch Victims: Social Marginality or Status Transgressions?" *American Sociological Review*, vol. 76, no. 3, 2011, pp. 412–36.

<sup>30</sup> Finnegan, Terence. "'Politics of Defiance': Uncovering the Causes and Consequences of Lynching and Communal Violence." *The Journal of American History*, vol. 101, no. 3, 2014, p. 850.

<sup>31</sup> Brundage, Fitzhugh W. *Civilizing Torture*.

racial violence. Moreover, through a nuanced analysis of legal and extra-legal cases of racial brutality, this dissertation contributes to a better understanding of the historical roots of racial injustice in the United States by underling how appeals to justice sometimes resulted in the imposition of a death sentence. They highlight the systemic biases inherent in the criminal justice system, which continue to affect marginalized communities even today. Overall, this research expands our understanding of the historical context of African American lynching in the United States, providing crucial insights into the struggle for racial justice and equality. This struggle encompasses a wide range of issues, including but not limited to, police brutality, mass incarceration, access to quality education and healthcare, employment opportunities, voting rights, and housing discrimination. It also involves addressing the historical legacy of slavery, Jim Crow laws, and other forms of institutionalized racism that have created and perpetuated racial disparities in American society.

Finally, by exploring the complex interplay between state formation, criminal justice, social norms, and ideas of rights, this dissertation offers new insights into the complex and interrelated historical factors that have contributed to the persistence of racism and discrimination in the United States, thereby enhancing our understanding of the enduring legacies of systemic inequalities in American society.

### **Methodology and sources**

Scholars have not sufficiently dealt with the study of the appeals to justice due to the difficulty in finding these documents as they are scattered throughout numerous states, and some copies are even found in European libraries and archives. Hence, even just reconstructing a legal battle has become a very time-consuming and expensive investigative job. Indeed, this dissertation's collection of primary sources resulted from seven months of archival research, with another five months of online research due to the global Covid-19 pandemic. Thanks to a fellowship from the Roosevelt Institute for American Studies (The Netherlands), it was possible to spend a month (November 2019) at this research institute to collect material on the appeals of Cleo Wright (1942) and Mack Charles Parker (1959), and investigations carried out by the FBI. Another six-month research stays in the United States (February - July 2020) was possible thanks to a grant from the Ufficio Pio - Compagnia di San Paolo and a partnership with Yale University. Unfortunately, the pandemic outbreak made it impossible to renew my stay because the archives of my interest were closed to the public, not allowing me to

consult the documents. However, thanks to the digitization of many primary sources during 2021, I was able to collect most of the documents of interest, managing to complete the dissertation thanks to over hundreds of primary sources. The study of these dossiers proved fundamental to exploring how the definitions of "lynching," "race," and "citizenship" changed depending on the state or context in which they were proposed. They often became the subject of debate between state and federal authorities in the persecution of cases of racial violence.

Analyzing how white and Black people – perpetrators of lynching and victims – perceived lynching and manipulated its meanings to justify or fight against it requires the study of legal and political sources. Freedmen's Bureau records, congressional hearings, appeals to justice, Supreme Court rulings, Black newspapers, the correspondence of federal agencies such as the Justice Department, and the records of civil rights organizations such as the National Association for the Advancement of Colored People were investigated in my doctoral dissertation to recover the voices of African Americans who witnessed white violence and strategized to counter it.

As for the white perception of lynching, the research is based on the state and local courts' legal acts and local newspapers. The latter often reported and justified lynching and mob violence, considering it a legitimate act sanctioned by a community. Those seeking legitimacy for such violence, such as the Ku Klux Klan, most often found Americans receptive to the fact that mob action was politically justified or necessary to provide order. This approach has also allowed the reconstruction of biographies of those who fought against racial lynching in the courts and federal agencies and raised questions about who protected the rights of American citizens.

The initial research strategy involved the collection of appeals to justice related to the violation of due process for racial discrimination issues. These documents have been studied during some research visits to the Library of Congress and the Roosevelt Institute for American Studies. The analysis of legal and administrative sources has thus always been associated with an inquiry on the individuals petitioning for civil rights violations. The controversy over the influences of slavery and racial dominance issues as origins of lynching has always been explored using legal historians' techniques: analysis of law and rulings, analogy, and comparison among court cases. This demarche permitted to clarify broader processes related to the intersection of race and capital punishment from a historical perspective. The connection between institutional practices of violence and rough justice for the understanding of racial

inequalities in lynching-related cases will be explored through the significant cases of "legal lynching" victims. They refer to the argument that the criminal justice system in the United States perpetuates a form of state-sanctioned violence against African Americans, akin to historical mob lynchings. Still, this term emphasizes the belief that systemic racism within the criminal justice system results in a disproportionate number of Black people being killed by police or sentenced to harsh penalties, even when they are innocent or have committed minor offenses. Hence, it highlights the need to draw attention to the ongoing struggle for racial justice and the urgent necessity for reform in the criminal justice system.

### **Thesis structure**

This dissertation's major body is comprised of three chapters and a conclusion.

*Chapter 1, Lynching: Origins and Development*, introduces the dissertation, providing a background context relative to the roots, causes, and consequences of this particular form of extra-legal violence. This chapter, as a preamble to the corpus of original research in primary source materials of Chapters 2 and 3, is based mainly on secondary sources.

Lynching did not have a single and socially accepted legal definition until 2021, the year in which the "Emmett Till Antilynching Act" was proposed to transform this act of violence into a federal crime after hundreds of failed attempts during the twentieth century.<sup>32</sup> The central efforts for a federal anti-lynching law are examined with the different definitions of the crime proposed over the decades following the cases that most shocked public opinion, such as Jesse Washington's murder presented in the section.<sup>33</sup>

In the absence of a legally agreed definition, many states understood lynching in their own way, sometimes considering it a kidnapping or murder, but often without punishing the perpetrators.<sup>34</sup> The absence of conviction was due to the handling of cases in state courts, where the segregationist sentiment of race differentiation did not cease with the new post-Civil War Amendments.<sup>35</sup> For this reason, this chapter does not focus

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<sup>32</sup> President Joe Biden signed the Emmett Till Antilynching Act on March 29, 2022.

<sup>33</sup> See Bernstein, Patricia. *The First Waco Horror: The Lynching of Jesse Washington and the Rise of the NAACP*, Texas A&M University Press, 2006; SoRelle, James M. "The 'Waco Horror': The Lynching of Jesse Washington." *The Southwestern Historical Quarterly*, vol. 86, no. 4, 1983, pp. 517–36.

<sup>34</sup> See Corvino, Giovanni B. "The Meanings of Lynching, A Word that Crossed the World," *Elementary Education Online*, vol. 20, no. 5, 2021; Waldrep, Christopher. "War of Words: The Controversy over the Definition of Lynching, 1899-1940." *The Journal of Southern History*, vol. 66, no. 1, 2000, pp. 75–100.

<sup>35</sup> Alfieri, Anthony V. "Prosecuting Race." *Duke Law Journal*, vol. 48, no. 6, 1999, pp. 1157–264.

only on lynching's colonial origins. It also investigates the relationship between slavery and lynching since the first cases of violence were recorded when slavery was still legal. Specifically, two episodes of mob lynching are described. The first relates to Vicksburg's tragedy (1835)<sup>36</sup>, against which even President Abraham Lincoln expressed a harsh statement.<sup>37</sup> The second case occurred in Madison County a few years earlier (1831), where a black-on-white group lynching by enslaved people searching for freedom was immediately fought with a white-on-black mass lynching.<sup>38</sup>

Chapter 1 also offers an overview of the characteristics and peculiarities of the crime's perpetrators.<sup>39</sup> Specifically, the few documented lynching stories of the nineteenth century are examined thanks to newspaper articles collected during the research period at Yale University. In the literature, Brundage, Pfeifer, Waldrep, and others have investigated this issue through *vigilantes* and organized terrorist groups such as the Ku Klux Klan.<sup>40</sup> However, no detailed attention has been given to the dehumanization processes that led the crowd to commit acts of cruel violence, as proposed in this chapter through the cases of lynchings of Thomas Shipp and Abram Smith (1930). In order to further explore how, through violence, the crowd wanted to convey specific values to the whole African American community, it is observed the mob modus operandi in the cases of Henry Smith (1893)<sup>41</sup> and the elephant Mary (1916).<sup>42</sup> They show similarities and differences in understanding the role of dehumanization in lynching, comparing cases of humans and animals.

The first major part concludes with the commitment and strategies of the NAACP in fighting for the advancement of African American civil rights throughout the twentieth century. This study is developed in depth in the next chapter as there were strong state and federal clashes over the continuation of racial bloodshed.

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<sup>36</sup> Smith, Thomas Ruys. "Independence Day, 1835: The John A. Murrell Conspiracy and the Lynching of the Vicksburg Gamblers in Literature." *The Mississippi Quarterly*, vol. 59, no. 1–2, 2005, pp. 129–60.

<sup>37</sup> Waldrep, Christopher. "The Constitution According to Abraham Lincoln." *Journal of the Illinois State Historical Society (1998-)*, vol. 93, no. 2, 2000, pp. 208–14.

<sup>38</sup> Eaton, Clement. "Mob Violence in the Old South." *The Mississippi Valley Historical Review*, vol. 29, no. 3, 1942, pp. 351–70.

<sup>39</sup> See Bailey, Amy Kate, et al. "Targeting Lynch Victims.": Equal Justice Initiative. *Lynching In America*; Perry, Samuel. "'Strange Fruit,' Ekphrasis, and the Lynching Scene." *Rhetoric Society Quarterly*, vol. 43, no. 5, 2013, pp. 449–74.

<sup>40</sup> For an overview see Brundage, Fitzhugh W. *Lynching in the New South: Georgia and Virginia, 1880-1930*, University of Illinois Press, 1993; Pfeifer, Michael J. (edited by). *Global Lynching and Collective Violence: Volume 2*; Waldrep, Christopher. *Lynching in America. A history in Documents*, NYU Press, 2006.

<sup>41</sup> Unknown. "Another Negro Burned", *The New York Times*, February 2, 1893, p. 1.

<sup>42</sup> Wood, Amy Louise. "'Killing the Elephant': Murderous Beasts and the Thrill of Retribution, 1885—1930." *The Journal of the Gilded Age and Progressive Era*, vol. 11, no. 3, 2012, pp. 405–44.

After introducing the general context within which extra-legal violence occurred and found the right environment to perpetuate itself, *Chapter 2, The Fighting Against Lynching: The State Courts And The Federal Government*, emphasizes the clashes within the United States' political and legal system related to the attempt to stop the continuing racial episodes that also damaged the American democratic image abroad.<sup>43</sup> Specifically, it reviews the legal regulations that individual states - especially in the South - adopted to counter the growing episodes of racial violence.<sup>44</sup> Nevertheless, not all states agreed to establish ad hoc laws mainly favoring Black people. Indeed, the United States' response was not unanimous, and by 1934, there were 36 states with an anti-lynching law. However, these laws turned out to be an absolute failure since lynchings were punished in less than 1% of the cases in which organizations such as the NAACP called for applying these state laws.<sup>45</sup> In order to understand the reasons for this malfunction, the sentence relating to the lynching of Samuel Hose (1899)<sup>46</sup>, which took place in Georgia, one of the states with the highest rate of mob violence, is investigated.<sup>47</sup> Furthermore, an overview of the socio-legal situation and law enforcement in Texas, Indiana, and Ohio is also offered, given the commonalities with the Georgian case.

Subsequently, ample space is given to the role that President F.D. Roosevelt and President Truman had in establishing the Civil Rights Section and the involvement of the FBI in prosecuting lynching perpetrators starting in the 1940s.<sup>48</sup> In particular, an analysis of the phenomenon of lynching related to Black war veterans, such as those of Isaac Woodard (1946) and Isaiah Nixon (1948), is proposed. *Indeed, World War II inevitably drew attention to the issue of the United States' racial violence, which was considered unacceptable by foreign countries.*

In order to observe the Federal Government's position encountering the continuous episodes of racial conflicts, a section of this chapter underlines the

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<sup>43</sup> See Hobbs, Tameka Bradley. *Democracy Abroad, Lynching at Home: Racial Violence in Florida*. University Press of Florida, 2015; Pinar, William F. "The NAACP And The Struggle For Antilynching Federal Legislation, 1917-1950." *Counterpoints*, vol. 163, 2001, pp. 683–752.

<sup>44</sup> Dyer, L. C., and George C. Dyer. "The Constitutionality of a Federal Anti-Lynching Bill." *Louis L. Rev.*, vol. 186, 1928.

<sup>45</sup> Zangrando, Robert. "The NAACP and a Federal Antilynching Bill, 1934-1940", *The Journal of Negro History*, vol. 50, no. 2, 1965.

<sup>46</sup> Grem, Darren E. "Sam Jones, Sam Hose, and the Theology of Racial Violence." *The Georgia Historical Quarterly*, vol. 90, no. 1, 2006, pp. 35–61.

<sup>47</sup> Brundage, F.W. *Lynching in the New South*, p. 262.

<sup>48</sup> O'Reilly, Kenneth. "The Roosevelt Administration and Black America: Federal Surveillance Policy and Civil Rights during the New Deal and World War II Years." *Phylon (1960-)*, vol. 48, no. 1, 1987, pp. 12–25.

difficulties that the FBI had in prosecuting the lynching arguments through the analysis of two significant cases: those of Cleo Wright (1942)<sup>49</sup> and Mack Charles Parker (1959).<sup>50</sup>

The analysis of these two cases introduces *Chapter 3, From the Right of Appeal to "Legalized Lynchings,"* which presents an overview of legal battles by the NAACP linked to lynching acts by a crowd of people. Unpublished cases were collected during a research period at Yale University. The analysis of these legal sources reveals that lawsuits were mainly based on constitutional Amendments violations. The examination of lawsuits in the cases of Ed Johnson (1906), William Ward (1942), Howard Wash (1942), Cellos Harrison (1943), Willie Francis (1947), *Groveland Four* (1949), Amos Reece (1957), and Jeremiah Reeves (1958), allows the reconsideration of the development of the United States' criminal-procedure judgments as a result of the influence exerted by the Supreme Court in the process of prosecuting and convicting individuals involved in lynching-related crimes mainly between 1940-1960. These twenty years represent indeed a considerable development for civil rights recognition, owing to new presidential political directives, the Federal Government's commitment, and the NAACP's contribution. Likewise, considering the legal impact of the prosecution of racial violence, this chapter aims to rethink the background of state formation, the criminal justice system, social morals, and the common idea of citizens' rights.

This final chapter also highlights the strict connection between lynching and the death penalty. Since lynching became an unpleasant problem in protecting the United States' standing abroad, the death penalty was used as a means to avoid further extra-legal violence episodes. The use of the capital punishment penalty in the United States has gone through several shifts during the country's history as a result of socio-political events. Because its use has become less common since its first practice, several governments have initially outlawed it, then later reinstated it, and finally condemned it. Its performance in recent times has not been up to the level it once reached. The electric chair, which resembled public lynchings in its sensational nature, has been replaced by lethal injection and others as a new method of execution. Undeniably, skin color continued to affect the verdicts over the years, given that African American

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<sup>49</sup> Capeci, Dominic J. "The Lynching of Cleo Wright: Federal Protection of Constitutional Rights during World War II." *The Journal of American History*, vol. 72, no. 4, 1986, pp. 859–87.

<sup>50</sup> Smead, Howard. *Blood Justice: The Lynching of Mack Charles Parker*, Oxford University Press, 1986.

history is a chronicle of continuous resistance and struggle against the violence that is still ongoing. However, before executions were carried out, it was possible to appeal in the case of inconsistencies with the laws in force. The final chapter will explore the legal arguments used in these lawsuits, underlining the similarities and differences with those related to lynching cases.

**List of published papers indexed on Scopus on the topic of the dissertation:**

- 1) Santoro Corvino G. "From White Supremacism To Black Liberation: Harry S. Truman, Lynching and Racial Justice." *Rupkatha Journal on Interdisciplinary Studies in Humanities*, vol. 14, no. 2, 2022.  
Doi: <https://doi.org/10.21659/rupkatha.v14n2.06x>
- 2) Santoro Corvino G. "State Authority and Lynching in Latin America." *Rupkatha Journal on Interdisciplinary Studies in Humanities*, vol 13, no. 3, 2021, pp. 1-17, doi: 10.21659/rupkatha.v13n3.14
- 3) Santoro Corvino G. "The Processes of Dehumanization in the Encounter with the *Other*: An Exploratory Study During the Period of the Lynching of African Americans in the United States, 1882 – 1968." *Rupkatha Journal on Interdisciplinary Studies in Humanities*, vol 13, no. 2, 2021, pp. 1-10 doi: 10.21659/rupkatha.V13N2.39