

RACISM IN AMERICA

A READER

**FORE-
WORD**
BY **ANNETTE
GORDON-REED**

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FOREWORD BY
ANNETTE GORDON-REED



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From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America

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Dark Ghettos: Injustice, Dissent, and Reform

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Bound in Wedlock: Slave and Free Black Marriage in the Nineteenth Century

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The Fateful Triangle: Race, Ethnicity, Nation

Stuart Hall was an influential Jamaican-born British sociologist and cultural theorist. He was Professor of Sociology at the Open University, the founding editor of *New Left Review*, and Director of the Centre for Contemporary Cultural Studies at the University of Birmingham.

The Color of Money: Black Banks and the Racial Wealth Gap

Mehrsa Baradaran is Professor of Law at UC Irvine Law and a celebrated authority on banking law. In addition to the prizewinning *The Color of Money*, she is author of *How the Other Half Banks: Exclusion, Exploitation, and the Threat to Democracy*. She has advised US senators and representatives on policy and spoken at national and international forums including the World Bank.

The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America

Beth Lew-Williams is a historian of race and migration in the United States. She is Associate Professor of History at Princeton University. *The Chinese Must Go* won five book awards, including the Ray Allen Billington Prize and the Ellis W. Hawley Prize from the Organization of American Historians and the Caroline Bancroft History Prize.

The Injustice Never Leaves You: Anti-Mexican Violence in Texas

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Being Property Once Myself: Blackness and the End of Man

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A NOTE ON LANGUAGE

The excerpts included in this reader use lowercase letters for the racial terms *black* and *white*, which was the prevailing style at the time these books were published. In the headnotes and elsewhere, we capitalize *Black* and *White*.

The n-word appears in its original form in five of the excerpts (Morrison, *Playing in the Dark*; Lentz-Smith, *Freedom Struggles*; Appiah, *Lines of Descent*; Sturkey, *Hattiesburg*; and Bennett, *Being Property Once Myself*); in four it appears in quotation marks, as a slur used against African Americans, and in one it appears in a list of racial epithets. Discretion is advised if reading any of these passages aloud.

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FOREWORD

Annette Gordon-Reed

THE UNITED STATES is, apparently, living through one of those punctuation points in history that, seemingly out of the blue, arrive to spur societal change. After years of complaints about the overpolicing of Black communities and police violence against African Americans, including a number of high-profile killings of unarmed men, women, and children, the country erupted into protests when a police officer killed George Floyd in Minneapolis, Minnesota, in May 2020. The event, captured on video, was seen by millions around the world. As if a dam had broken, thousands of people participated in demonstrations in each of the fifty states, coming out in force to voice solidarity with Floyd and the movement Black Lives Matter, formed in 2013 after the acquittal of the vigilante who killed Trayvon Martin. The outrage spread across borders and oceans. People in countries the world over came out in large numbers to voice their anger about what had happened, and to connect the event to racially based problems in their own countries.

Although George Floyd's death was the spark, there was also an instantaneous recognition that the circumstances giving rise to what happened to him that day were systemic, the product of many years of thoughts, choices, and actions. People also understood that history has mattered greatly to this process, particularly the tortured history of race and White supremacy (not just a matter of White and Black, but of White people and people of color, generally) that has been in place for centuries. Current policies, shaped by

that history, must be subjected to scrutiny and critiqued. Plans for the future, based upon new understandings about how to achieve a more racially just society, must also be formulated.

The excerpts in this anthology, a mix of history, cultural commentary, economics, political science, and biography, address these and other points salient to helping the country form that “more perfect Union” to which the Constitution of the United States refers, and to which we aspire. This is not only important for Americans, it is important for the world, as the global nature of the Floyd-inspired protests reveals. The authors persuasively show that the worldwide system of slavery, the ambition for empire that disrupted the lives of Indigenous people on several continents, and the powerful legacies from those events have fueled this moment and the current desire for a reckoning. It is more than fitting to have a collection that invites readers to dig deep into these matters as the world ponders next steps.

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Playing in the Dark: Whiteness and the Literary Imagination

1992

TONI MORRISON

Pulitzer Prize-winning novelist Toni Morrison brings the genius of a virtuosic writer to this personal inquiry into the significance of African Americans in the American literary imagination. She ponders the effect that living in a historically racialized society has had on American writing and argues that central characteristics of American literature, including individualism, masculinity, and a juxtaposition of innocence with images of death and hell, are responses to a dark, abiding “Africanist presence.” In this excerpt, Morrison examines the ways in which literary discourse and criticism have evaded and ignored this Africanist presence in American literature.



FOR SOME TIME NOW I have been thinking about the validity or vulnerability of a certain set of assumptions conventionally accepted among literary historians and critics and circulated as “knowledge.” This knowledge holds that traditional, canonical American literature is free of, uninformed, and unshaped by the four-hundred-year-old presence of, first, Africans and then African-Americans in the United States. It assumes that this presence—which shaped the body politic, the Constitution, and the entire history of the culture—has had no significant place or consequence in the origin and development of that culture’s literature. Moreover, such knowledge assumes that the characteristics of our national literature emanate from a particular “Americanness” that is separate from and unaccountable to this presence. There seems to be a more or less tacit agreement among literary scholars that,

because American literature has been clearly the preserve of white male views, genius, and power, those views, genius, and power are without relationship to and removed from the overwhelming presence of black people in the United States. This agreement is made about a population that preceded every American writer of renown and was, I have come to believe, one of the most furtively radical impinging forces on the country's literature. The contemplation of this black presence is central to any understanding of our national literature and should not be permitted to hover at the margins of the literary imagination.

These speculations have led me to wonder whether the major and championed characteristics of our national literature—individualism, masculinity, social engagement versus historical isolation; acute and ambiguous moral problematics; the thematics of innocence coupled with an obsession with figurations of death and hell—are not in fact responses to a dark, abiding, signing Africanist presence. It has occurred to me that the very manner by which American literature distinguishes itself as a coherent entity exists because of this unsettled and unsettling population. Just as the formation of the nation necessitated coded language and purposeful restriction to deal with the racial disingenuousness and moral frailty at its heart, so too did the literature, whose founding characteristics extend into the twentieth century, reproduce the necessity for codes and restriction. Through significant and underscored omissions, startling contradictions, heavily nuanced conflicts, through the way writers peopled their work with the signs and bodies of this presence—one can see that a real or fabricated Africanist presence was crucial to their sense of Americanness. And it shows.

My curiosity about the origins and literary uses of this carefully observed, and carefully invented, Africanist presence has become an informal study of what I call American Africanism. It is an investigation into the ways in which a nonwhite, Africanlike (or Africanist) presence or persona was constructed in the United States, and the imaginative uses this fabricated presence served. I am using the term “Africanism” not to suggest the larger body of knowledge on Africa that the philosopher Valentine Mudimbe means by the term “Africanism,” nor to suggest the varieties and complexities of African people and their descendants who have inhabited this country. Rather I use it as a term for the denotative and connotative blackness that African peoples have come to signify, as well as the entire range of views, assumptions, readings,

and misreadings that accompany Eurocentric learning about these people. As a trope, little restraint has been attached to its uses. As a disabling virus within literary discourse, Africanism has become, in the Eurocentric tradition that American education favors, both a way of talking about and a way of policing matters of class, sexual license, and repression, formations and exercises of power, and meditations on ethics and accountability. Through the simple expedient of demonizing and reifying the range of color on a palette, American Africanism makes it possible to say and not say, to inscribe and erase, to escape and engage, to act out and act on, to historicize and render timeless. It provides a way of contemplating chaos and civilization, desire and fear, and a mechanism for testing the problems and blessings of freedom.

The United States, of course, is not unique in the construction of Africanism. South America, England, France, Germany, Spain—the cultures of all these countries have participated in and contributed to some aspect of an “invented Africa.” None has been able to persuade itself for long that criteria and knowledge could emerge outside the categories of domination. Among Europeans and the Europeanized, this shared process of exclusion—of assigning designation and value—has led to the popular and academic notion that racism is a “natural,” if irritating, phenomenon. The literature of almost all these countries, however, is now subject to sustained critiques of its racialized discourse. The United States is a curious exception, even though it stands out as being the oldest democracy in which a black population accompanied (if one can use that word) and in many cases preceded the white settlers. Here in that nexus, with its particular formulations, and in the absence of real knowledge or open-minded inquiry about Africans and African-Americans, under the pressures of ideological and imperialistic rationales for subjugation, an American brand of Africanism emerged: strongly urged, thoroughly serviceable, companionably ego-reinforcing, and pervasive. For excellent reasons of state—because European sources of cultural hegemony were dispersed but not yet valorized in the new country—the process of organizing American coherence through a distancing Africanism became the operative mode of a new cultural hegemony.

These remarks should not be interpreted as simply an effort to move the gaze of African-American studies to a different site. I do not want to alter one hierarchy in order to institute another. It is true that I do not want to encourage those totalizing approaches to African-American scholarship which have no drive other than the exchange of dominations—dominant

Eurocentric scholarship *replaced* by dominant Afrocentric scholarship. More interesting is what makes intellectual domination possible; how knowledge is transformed from invasion and conquest to revelation and choice; what ignites and informs the literary imagination, and what forces help establish the parameters of criticism.

Above all I am interested in how agendas in criticism have disguised themselves and, in so doing, impoverished the literature it studies. Criticism as a form of knowledge is capable of robbing literature not only of its own implicit and explicit ideology but of its ideas as well; it can dismiss the difficult, arduous work writers do to make an art that becomes and remains part of and significant within a human landscape. It is important to see how inextricable Africanism is or ought to be from the deliberations of literary criticism and the wanton, elaborate strategies undertaken to erase its presence from view.

What Africanism became for, and how it functioned in, the literary imagination is of paramount interest because it may be possible to discover, through a close look at literary “blackness,” the nature—even the cause—of literary “whiteness.” What is it *for*? What parts do the invention and development of whiteness play in the construction of what is loosely described as “American”? If such an inquiry ever comes to maturity, it may provide access to a deeper reading of American literature—a reading not completely available now, not least, I suspect, because of the studied indifference of most literary criticism to these matters.

One likely reason for the paucity of critical material on this large and compelling subject is that, in matters of race, silence and evasion have historically ruled literary discourse. Evasion has fostered another, substitute language in which the issues are encoded, foreclosing open debate. The situation is aggravated by the tremor that breaks into discourse on race. It is further complicated by the fact that the habit of ignoring race is understood to be a graceful, even generous, liberal gesture. To notice is to recognize an already discredited difference. To enforce its invisibility through silence is to allow the black body a shadowless participation in the dominant cultural body. According to this logic, every well-bred instinct argues *against noticing* and forecloses adult discourse. It is just this concept of literary and scholarly moeurs (which functions smoothly in literary criticism, but neither makes nor receives credible claims in other disciplines) that has terminated the shelf life

of some once extremely well-regarded American authors and blocked access to remarkable insights in their works.

These moeurs are delicate things, however, which must be given some thought before they are abandoned. Not observing such niceties can lead to startling displays of scholarly lapses in objectivity. In 1936 an American scholar investigating the use of Negro so-called dialect in the works of Edgar Allan Poe (a short article clearly proud of its racial equanimity) opens this way: "Despite the fact that he grew up largely in the south and spent some of his most fruitful years in Richmond and Baltimore, Poe has little to say about the darky."¹

Although I know this sentence represents the polite parlance of the day, that "darky" was understood to be a term more acceptable than "nigger," the grimace I made upon reading it was followed by an alarmed distrust of the scholar's abilities. If it seems unfair to reach back to the thirties for samples of the kind of lapse that can occur when certain manners of polite repression are waived, let me assure you equally egregious representations of the phenomenon are still common.

Another reason for this quite ornamental vacuum in literary discourse on the presence and influence of Africanist peoples in American criticism is the pattern of thinking about racialism in terms of its consequences on the victim—of always defining it asymmetrically from the perspective of its impact on the object of racist policy and attitudes. A good deal of time and intelligence has been invested in the exposure of racism and the horrific results on its objects. There are constant, if erratic, liberalizing efforts to legislate these matters. There are also powerful and persuasive attempts to analyze the origin and fabrication of racism itself, contesting the assumption that it is an inevitable, permanent, and eternal part of all social landscapes. I do not wish to disparage these inquiries. It is precisely because of them that any progress at all has been accomplished in matters of racial discourse. But that well-established study should be joined with another, equally important one: the impact of racism on those who perpetuate it. It seems both poignant and striking how avoided and unanalyzed is the effect of racist inflection on the subject. What I propose here is to examine the impact of notions of racial hierarchy, racial exclusion, and racial vulnerability and availability on non-blacks who held, resisted, explored, or altered those notions. The scholarship that looks into the mind, imagination, and behavior of slaves is valuable. But

equally valuable is a serious intellectual effort to see what racial ideology does to the mind, imagination, and behavior of masters.

Historians have approached these areas, as have social scientists, anthropologists, psychiatrists, and some students of comparative literature. Literary scholars have begun to pose these questions of various national literatures. Urgently needed is the same kind of attention paid to the literature of the western country that has one of the most resilient Africanist populations in the world—a population that has always had a curiously intimate and unhdingly separate existence within the dominant one. When matters of race are located and called attention to in American literature, critical response has tended to be on the order of a humanistic nostrum—or a dismissal mandated by the label “political.” Excising the political from the life of the mind is a sacrifice that has proven costly. I think of this erasure as a kind of trembling hypochondria always curing itself with unnecessary surgery. A criticism that needs to insist that literature is not only “universal” but also “race-free” risks lobotomizing that literature, and diminishes both the art and the artist.

I am vulnerable to the inference here that my inquiry has vested interests; that because I am an African-American and a writer I stand to benefit in ways not limited to intellectual fulfillment from this line of questioning. I will have to risk the accusation because the point is too important: for both black and white American writers, in a wholly racialized society, there is no escape from racially inflected language, and the work writers do to unhobble the imagination from the demands of that language is complicated, interesting, and definitive.

Like thousands of avid but nonacademic readers, some powerful literary critics in the United States have never read, and are proud to say so, *any* African-American text. It seems to have done them no harm, presented them with no discernible limitations in the scope of their work or influence. I suspect, with much evidence to support the suspicion, that they will continue to flourish without any knowledge whatsoever of African-American literature. What is fascinating, however, is to observe how their lavish exploration of literature manages *not* to see meaning in the thunderous, theatrical presence of black surrogacy—an informing, stabilizing, and disturbing element—in the literature they do study. It is interesting, not surprising, that the arbiters of critical power in American literature seem to take pleasure in, indeed relish, their ignorance of African-American texts. What is surprising is that their

refusal to read black texts—a refusal that makes no disturbance in their intellectual life—repeats itself when they reread the traditional, established works of literature worthy of their attention.

It is possible, for example, to read Henry James scholarship exhaustively and never arrive at a nodding mention, much less a satisfactory treatment, of the black woman who lubricates the turn of the plot and becomes the agency of moral choice and meaning in *What Maisie Knew*. Never are we invited to a reading of “The Beast in the Jungle” in which that figuration is followed to what seems to me its logical conclusion. It is hard to think of any aspect of Gertrude Stein’s *Three Lives* that has not been covered, except the exploratory and explanatory uses to which she puts the black woman who holds center stage in that work. The urgency and anxiety in Willa Cather’s rendering of black characters are liable to be missed entirely; no mention is made of the problem that race causes in the technique and the credibility of her last novel, *Sapphira and the Slave Girl*. These critics see no excitement or meaning in the tropes of darkness, sexuality, and desire in Ernest Hemingway or in his cast of black men. They see no connection between God’s grace and Africanist “othering” in Flannery O’Connor. With few exceptions, Faulkner criticism collapses the major themes of that writer into discursive “mythologies” and treats the later works—whose focus is race and class—as minor, superficial, marked by decline.

An instructive parallel to this willed scholarly indifference is the centuries-long, hysterical blindness to feminist discourse and the way in which women and women’s issues were read (or unread). Blatant sexist readings are on the decline, and where they still exist they have little effect because of the successful appropriation by women of their own discourse.

National literatures, like writers, get along the best way they can, and with what they can. Yet they do seem to end up describing and inscribing what is really on the national mind. For the most part, the literature of the United States has taken as its concern the architecture of a *new white man*. If I am disenchanted by the indifference of literary criticism toward examining the range of that concern, I do have a lasting resort: the writers themselves.

Writers are among the most sensitive, the most intellectually anarchic, most representative, most probing of artists. The ability of writers to imagine what is not the self, to familiarize the strange and mystify the familiar, is the test of their power. The languages they use and the social and historical context in which these languages signify are indirect and direct revelations of

that power and its limitations. So it is to them, the creators of American literature, that I look for clarification about the invention and effect of Africanism in the United States.

My early assumptions as a reader were that black people signified little or nothing in the imagination of white American writers. Other than as the objects of an occasional bout of jungle fever, other than to provide local color or to lend some touch of verisimilitude or to supply a needed moral gesture, humor, or bit of pathos, blacks made no appearance at all. This was a reflection, I thought, of the marginal impact that blacks had on the lives of the characters in the work as well as the creative imagination of the author. To imagine or write otherwise, to situate black people throughout the pages and scenes of a book like some government quota, would be ludicrous and dishonest.

But then I stopped reading as a reader and began to read as a writer. Living in a racially articulated and predicated world, I could not be alone in reacting to this aspect of the American cultural and historical condition. I began to see how the literature I revered, the literature I loathed, behaved in its encounter with racial ideology. American literature could not help being shaped by that encounter. Yes, I wanted to identify those moments when American literature was complicit in the fabrication of racism, but equally important, I wanted to see when literature exploded and undermined it. Still, those were minor concerns. Much more important was to contemplate how Africanist personae, narrative, and idiom moved and enriched the text in self-conscious ways, to consider what the engagement meant for the work of the writer's imagination.

How does literary utterance arrange itself when it tries to imagine an Africanist other? What are the signs, the codes, the literary strategies designed to accommodate this encounter? What does the inclusion of Africans or African-Americans do to and for the work? As a reader my assumption had always been that nothing "happens": Africans and their descendants were not, in any sense that matters, *there*; and when they were there, they were decorative—displays of the agile writer's technical expertise. I assumed that since the author was not black, the appearance of Africanist characters or narrative or idiom in a work could never be *about* anything other than the "normal," unracialized, illusory white world that provided the fictional backdrop. Certainly no American text of the sort I am discussing was ever written for black people—no more than *Uncle Tom's Cabin* was written for Uncle

Tom to read or be persuaded by. As a writer reading, I came to realize the obvious: the subject of the dream is the dreamer. The fabrication of an Africanist persona is reflexive; an extraordinary meditation on the self; a powerful exploration of the fears and desires that reside in the writerly conscious. It is an astonishing revelation of longing, of terror, of perplexity, of shame, of magnanimity. It requires hard work *not* to see this.

It is as if I had been looking at a fishbowl—the glide and flick of the golden scales, the green tip, the bolt of white careening back from the gills; the castles at the bottom, surrounded by pebbles and tiny, intricate fronds of green; the barely disturbed water, the flecks of waste and food, the tranquil bubbles traveling to the surface—and suddenly I saw the bowl, the structure that transparently (and invisibly) permits the ordered life it contains to exist in the larger world. In other words, I began to rely on my knowledge of how books get written, how language arrives; my sense of how and why writers abandon or take on certain aspects of their project. I began to rely on my understanding of what the linguistic struggle requires of writers and what they make of the surprise that is the inevitable concomitant of the act of creation. What became transparent were the self-evident ways that Americans choose to talk about themselves through and within a sometimes allegorical, sometimes metaphorical, but always choked representation of an Africanist presence. ◆

Soul by Soul: Life Inside the Antebellum Slave Market

2000

WALTER JOHNSON

Taking us inside the New Orleans slave market, the largest in the nation, where 100,000 men, women, and children were packaged, priced, and sold, Walter Johnson transforms the statistics of this chilling trade into the human drama of traders, buyers, and slaves. Depicting the subtle interrelation of capitalism, paternalism, class consciousness, racism, and resistance in the slave market, he illuminates the centrality of the “peculiar institution,” which altered the lives of everyone involved in it. Here the author brings us inside the slave pens, where traders turned human beings into products for sale.



IN THE DAILY PRACTICE OF THE SLAVE PENS, slaves were treated as physical manifestations of the categories the traders used to select their slaves—No. 1, Second Rate, and so on. After gathering individuals into categories and attributing to those categories an independent existence in “the slave market” by which they could be compared to all other categories (and all other goods), the traders turned those categories around and used them to evaluate the individuals of whom they were supposedly composed.¹ Thus could slave trader J. M. Wilson walk into a Louisiana courtroom, declare himself “familiar with the prices of slaves in this market” (that is, with the price categories that traders used to do their business), and testify to the value of Clarissa and her family without ever having seen them. Similarly, slave trader J. W. Boazman could testify to the value of “Negroes bought about

September 1851" in supporting a slaveholder's claim that the death of a woman he owned at the hands of a careless contractor had cost him a thousand dollars. Thus could slave trader David Wise testify to the value of a human eye: "Being asked if the girl had a filter on her eye if it would impair her value, he says it would impair its value from \$25 to \$40."² In switching the pronoun from "her" to "it," Wise revealed in a word what his business was about: turning people into prices. He used the tables of aggregates which *reflected* the market valuation of people to *project* that valuation.

The price tables made traders like Boazman and Wise capable of extraordinary feats of comparison, but it was their daily business to guide the buyers beyond comparison to selection: to get them to single out the one slave especially suited to their purposes from the many nominally similar slaves available in the market. In the daily practice of the slave pens, then, real slaves had a double relation to the abstract market in the traders' imaginations. On the one hand, they were to be transformed into exemplars of the category to which they had been assigned; but once the categories of comparison had been established and embodied, the slaves were supposed to become once again visible as individuals—comparable to all of those who inhabited the same category, yet different enough to attract a buyer's eye and seal the sale. This daily dialectic of categorization and differentiation was the magic by which the traders turned people into things and then into money.

Traders began to package their slaves for market before they ever reached the slave pens. As they neared their destination, the traders removed the heavy chains and galling cuffs from their slaves' arms and legs and allowed the slaves to wash and rest and heal. The traders shaved men's beards and combed their hair, they plucked gray hairs or blackened them with dye—the "blacking" that appears in their account books was perhaps intended for this purpose. Slave trader John White was clearer about what he did with the tallow he bought: it was "for the girls' hair."³ The rituals of preparation continued once slaves had reached the market. In the slave pens the traders increased rations of bacon, milk, and butter, a fattening diet one trader referred to as "feeding up."⁴ To keep the slaves' muscles toned, the traders set them to dancing and exercising, and to make their skin shine with the appearance of health, the traders greased the slaves' faces with "sweet oil" or washed them in "greasy water."⁵

The traders also hired doctors to visit their pens regularly. "Scarcely a day passes . . . but what I go to his establishment, it being on the road to my

office," testified Dr. J. H. Lewis of J. M. Wilson's slave pen. Dr. John Carr spoke similarly of the slave yard owned by Hope H. Slatter in the 1840s: "is generally in the habit of calling there and sitting for an hour in the afternoon . . . he usually visited all the slaves." When Slatter's yard passed into the possession of Bernard and Walter Campbell, Carr continued as the yard's doctor: "was the attending physician at Campbell's establishment . . . is in the habit of visiting Campbell's establishment two or three times a day."⁶ These accounts may be exaggerated, for these doctors had as much experience in the courts as they did in the slave market, and it was part of their ongoing business relation with the traders to emphasize the good care received by slaves in the pens. But even if they overstated the frequency and quality of their slave-market ministrations, it is clear that sick slaves in the pens often received professional treatment. At the time of his death and estate settlement, slave dealer Elihu Cresswell was carrying debts for having slaves' teeth pulled and providing them with medicine. In his account book John White recorded the twenty-five dollars he paid a physician to look after his slaves in 1845, and regularly noted prescriptions and treatment for slaves in the pens—chloride of lime, capsules, cupping, medicine. The New Orleans slave yards kept by Cresswell and Benjamin Screws both had separate rooms set aside for the sick. Fear of contagion more than charity might have motivated the traders' concern, but the separation of the sick was often accompanied by medical care. Frank, for example, was "nursed" back to health from yellow fever in slave dealer Calvin Rutherford's "private house," and Solomon Northup was treated for small pox in the hospital, as, according to an 1841 city law, all slaves suffering from infectious disease were to be.⁷

In the slave pens, however, medical treatment was a trick of the trade, nothing more. These expenditures were speculations like any others the traders made, tactical commitments to slaves' bodies that were underwritten by the hope of their sale. When that hope ran out, so seemingly did the traders' concern. John White's reckoning of his chances of curing and selling Harriet, for instance, can be tracked through the pages of his account book—capsules for Harriet on February third, cupping Harriet on the fifth, burial of her child on the fourteenth, brandy for Harriet on the sixteenth, burial for Harriet on the nineteenth, the sale of Harriet's surviving children on the twenty-first. Harriet was treated when it seemed possible to save her, comforted (or quieted) with alcohol when it did not, and buried when she died. Her children, less valuable than she had been, were not treated at all and were

quickly sold when their care became the trader's responsibility and their presence in the yard a threat to his other property.⁸ There was always an alternative to caring for sick slaves: selling them quickly.

Their bodies prepared, the slaves in the pens were packaged for sale. The traders' account books document their extensive daily attention to presentation: entries for dresses, shoes, stockings, and head coverings for the women; suits with undershirts, drawers, socks, boots, and sometimes a hat for the men. In October of 1857 John White bought forty identical blue suits for the men in his yard.⁹ The clothes masked differences among the slaves; individual pasts and potential problems were covered over in uniform cloth. The sick and the well, those from far away and those from nearby, the eager, the unattached, and the angry—all looked alike in the trader's window-dressed version of slavery.

The clothes suggested not only comparability but also cleanliness and chastity. Eyre Crowe's famous drawing of slaves lined out for sale in New Orleans shows women with long-sleeved blouses and covered heads, men in black suits with top hats. Noting the kerchiefs tied around their heads "in a mode peculiar to the Negress," northern writer Joseph Ingraham pronounced the women he saw in the market "extremely neat and 'tidy.'" "Their appearance had little of the repulsiveness we are apt to associate with the slaves," wrote Robert Chambers, another northern visitor to the slave pens.¹⁰ None of the poverty and toil that characterized the daily life of American slaves, none of the bareness that contributed so powerfully to the historical sexualization of black bodies, was immediately apparent in the slave market. These people were dressed as ideal slaves, exaggerated in the typicality of their appearance, too uniform, too healthy, too clean. Through the daily practice of the pens, individual slaves were turned into physical symbols of their own salability—nothing else about them was immediately apparent.

Except for the occasional whim or fancy. On the same page of the ledger book in which he recorded the prices of the steel rings and chain which he used to shackle the limbs of his slaves on the way south, Floyd Whitehead noted his purchases of the three gold rings and half-dozen "plated" ones he placed on their fingers when he sent them to market. John White bought a cravat and a "Boy's Fancy Suit" in 1857; in earlier years he had bought "trimmings" for men's pants and a shawl for a woman he was taking to Mobile to be sold. A. J. Walker sent enslaved women to sale wearing gloves.¹¹ These conceits were meant to draw a buyer's eye as he scanned a line of slaves, to

suggest uncommon gentility, a paternalism of the “his-master’s-clothes” variety, or an exotic fantasy. These obviously contrived appearances—self-revealing in their pretense—both perplexed the buyers’ gaze and invited further investigation.

Their bodies treated and dressed, the slaves were turned out for sale divided by sex. “Men on one side, women on the other”: the phrase runs through descriptions of the slave market like a leitmotif. “Here may be seen husbands separated from wives by only the width of the room, and children from parents, one or both,” wrote John Brown, reenvisioning the family ties that were erased by the traders’ practice.¹² Even when the traders kept track of family ties, they often severed them in the slave market. Of the seven slaves bracketed with the label “Overton purchase” in John White’s “slave record” for 1846, two were sold together, one sent home as unsalable, and the rest sold individually in Louisiana, Tennessee, and Alabama. Families were likewise carefully bracketed on the bill of lading for a shipment of slaves received by Seraphim Cucullu in the winter of 1836. But they were indiscriminately separated as Cucullu sold them over the course of the spring. Cucullu’s account-book record of the buyers of his divided slaves is a testament to the commitment of his employees to his instructions “that price might be the guide and to sell for the best of his interests.”¹³ That meant selling slaves the way the buyers wanted them, according to sex-specific demand rather than according to family ties.

The lengths to which slave traders could go in dismantling and repackaging slave families in the image of the market were limited by Louisiana law. The original *Code Noir* forbade the separation by sale of children under the age of ten from their mothers, and in 1829 the law was explicitly extended to outlaw the importation of thusly separated slaves.¹⁴ While the 1829 law should not be ignored (it is a good example of slaveholders negotiating a hard bargain with their own consciences and of the tendency of paternalism to limit its already meager promises to protection of the very young), its effect should not be overemphasized. What the law did was to give legal credence to the categories according to which slave traders did their business. Who, after all, would favor a trade in motherless children? Not the slave traders. The vast majority of family-separating sales occurred in the upper South, out of the effective reach of the law. And the vast majority of these involved the removal of the parent; slave traders, especially those who traveled long distances, had little use for small children.¹⁵ By the 1850s, as single women became a fea-

tured category of trade, orphaned children became a recognizable portion of the population in upper South slave communities.¹⁶ Trader John White left four of Mary Cole's children (aged two to ten) behind when he took Cole and her three older children to New Orleans in 1846. Trader J. W. Boazman explained a similar choice this way: "servants are less valuable with children than without." But if the traders wanted to trade in children who had been separated from their mothers, there was little to keep them from adhering to the letter of the law by making orphans rather than finding them. It is hard to read slave trader David Wise's statement that "witness has often sold little children . . ." without wondering about his own role in the qualification he quickly added ". . . who had lost their mother."¹⁷ The 1829 law, then, provided the maximal rhetorical effect with the minimal practical disruption of the slave trade. It stripped "the slave family" of its existing members, their history, their ties and affinities and substituted a more salable definition—a mother and a young child.

As well as packaging the slaves into salable lots, the traders packed them into racial categories. By the time they turned their slaves out for sale, the traders had transformed the market categories they used to talk to one another into the racial categories they used to talk to the buyers. In their back-and-forth market reports the traders described slaves as Prime, No. 1, No. 2, and so on, but on ninety percent of the Acts of Sale recorded by New Orleans notaries they used words like Negro, Griffe, Mulatto, or Quadroon.¹⁸ These words were explicitly biological: they bespoke pasts that were not visible in the slave market by referring to parents and grandparents who had been left behind with old owners. But they did so by referring to something that the buyers would be able to see: skin color.

Brushed, dressed, and polished, divided by sex (or lamely protected by law), assigned a new history and a racial category, the people in the pens were lined out for sale by height: "The men were arranged on one side of the room, the women on the other, the tallest were placed at the head of the row, then the next tallest, and so on in order of their respective heights," remembered Solomon Northup.¹⁹ Around the walls of the slave pens, the slaves were arranged to reflect the traders' buyer-tracking tables. As the slaves were hectored into line at the beginning of every day, there were no husbands or wives apparent among them, no old lovers or new friends; there were only men and women, field hands and house servants, Negro, Griffe, and Mulatto, tall, medium, and short.

Having done all they could to make real people represent the constructed categories of the marketplace, the traders began to try to turn them into money. Value in the slave market emerged out of the play of similarity with difference, the choice of one slave from among many similar slaves made a sale. To sell a slave, the traders had to peel back their own representations of commodified similarity and slip beneath them a suggestion of personal distinction that would make one slave stand out to a buyer who was trying to distinguish himself from all of the other buyers in the market. The traders had to make a pitch. In the slave pens, the traders pitched their slaves by telling stories that seemed to individualize and even humanize the depersonalized slaves. They breathed the life of the market into the bodies, histories, and identities of the people they were trying to sell, by using a simulacrum of human singularity to do the work of product differentiation.

The traders' reputation for buying the sick and malign on the cheap only to sell them at premium prices made it important for the traders to explain why the slaves were in the market in the first place.²⁰ Such as: "Sold for no fault of their own." This unasked-for excuse had specific variants, all of which shifted attention from slaves to their former owners. From an advertisement: "The Owner of the following named valuable Slaves being on the eve of departure for Europe." From Edward Sparrow's account of why he sent a man later alleged to have been alcoholic to be sold in the slave market: "Mrs. Sparrow expressed a wish that he should be sold here where his wife was." From the pitch made by a trader for a slave who had been once returned: "the party to whom he was sold had no fault except that the man was too much of a French Cook." From the explanation made by a trader about a man later alleged to have been once returned to him as a thief, drunkard, and runaway: "Did not take him back because he was a bad Negro, but because Forbes [the first buyer] was unable to pay for him." From a trader's account of why Jane, who was allegedly consumptive, had been returned after her first sale: "she was not a hair dresser, the lady was not pleased with her, that is the only reason I heard . . . for not keeping the girl."²¹ These stories were neither wholly believable nor easily disproven; the former owners to whom they referred all questions were distant in time and space, unavailable to offer their own account. As a warranty the stories were useless; the traders were bound only by the stories they wrote down and signed. But as a warning to buyers, the pitches were perhaps more useful: the slaves' histories, not quite visible behind the shimmering tales told in the slave pens, belonged to the traders.

Some of the stories the traders told were quite simple, advertisements that were put forward as qualifications, accounts of past work through which buyers could view a certain future: first-rate cotton picker, experienced drayman, cooper, carpenter, cook, nurse, and so on. And some were more detailed: in the words of a slave trader's handbill, "Bill, Negro man, aged about 28 years, excellent servant and good pastry cook"; or, in the words of a witness to a trader's pitch, "[He] said that said slave was a first rate cook, a very good washer and could plait plain shirts very well & that Mr. Hewes would be satisfied in every respect with having purchased said Negress."²² However brief, these lists of skills referred to the experience and judgment of former owners, to a past distant from the slave pens. But they insinuated themselves into the present as trustworthy representations of past experience, drawing whatever authenticity they had (enough to convince Mr. Hewes) from the constant babble of talk about slaves that characterized the social life of southern slaveholders. The traders were taking hold of slaveholders' fantasies about the slave market, wrapping them around the slaves they had for sale, and selling them back to the buyers as indications of those buyers' own good fortune and discernment.

And the traders' pitches went well beyond work. They could spin a detailed fantasy out of a list of supposed skills: "Sarah, a mulatress, aged 45 years, a good cook and accustomed to housework in general, is an excellent and faithful nurse for sick persons, and in every respect a first rate character." Sarah, as sold, was gentility and paternalism embodied—good meals, a clean house, a companion who would wait faithfully by the bed of an ailing (vulnerable) owner. "Dennis, her son, a mulatto, aged 24 years, a first rate cook and steward for a vessel, having been in that capacity for many years on board one of the Mobile packets; is strictly honest, temperate, and is a first rate subject."²³ Dennis would bring with him a hint of riverboat grandeur: the plush seats and ornate surroundings; the graceful service and extensive menu; the pleasure of traveling first class.²⁴ And Dennis was trustworthy: he had worked on a boat but not run away; he might be hired out or given the run of the house. His purchase would make good sense; his service would be in good taste. And, though Dennis and his mother were put up for sale separately, they could be bought together by someone who cared enough to do so.

The slave traders could line their families out separately and then knit them together again in the sales pitch. They could package and sell the negation

of their own way of doing business by offering the buyers a chance to rejoin families that had been sundered in the market. Slave-market paternalism thus replayed the plots of proslavery propaganda and fiction: the good-hearted slave at the side of the dying master; the slave who could be trusted to master himself; the slaveholder's saving interventions in the life of the unfortunate slave. As representations of individual slaves, the traders' pitches drew their authenticity from slaveholders' shared fantasies of gentility, reciprocity, and salvation. The traders' stories helped the buyers to mirror their shared fantasies in the individual slaves who stood before them, to imagine that they were distinguishing themselves through the purchase of the slave they chose.

There was a specific commercial variant to the slave-sale story in which the traders set aside bargaining to give the buyer some inside advice. The Virginia slave trader who sold Eden said that he was "so pleased" with Eden that he put the slave to work in the slave pen. He continued his description of Eden's virtues (that is, salability) by saying that the slave "always rendered a correct account to his master . . . and he was never chastised, and it is a rare case when a slave is sent six months to sell without being chastised."²⁵ Those who did not trust the traders' stories were sometimes allowed to take a peek into their business practice. James Blakeny literally opened his account books—where else would a trader unmask himself but in the counting room?—in trying to sell Mary Ellen Brooks to Bruckner Payne. Blakeny "told Payne he would sell her for \$600 thereby losing her clothing and shipping costs" and exhibited a bill of lading to prove the price he had paid. Making a similar pitch, slave trader David Wise exhibited his own incentives when he told Clarissa's buyers "that he would dispose of the girl at a low price on account of her advanced state of pregnancy."²⁶ At the time Blakeny and Wise retold these slave-market stories, they were in Louisiana courtrooms being sued for knowing that the slaves they sold were mortally ill. In the courtroom, as in the slave market, the references to their own incentives were deployed by the traders to shield their motives from further scrutiny. "Negro Driver," "Southern Yankee," "Southern Shylock," they were called: what better proof of a trader's sincerity than an open accounting of what they had at stake?²⁷

As they played their way back and forth between the stories told about every slave and the pitches they made for any slave, the traders sometimes had to refit their shopworn pitches to specific circumstances. Apparent ills

required careful narration. A cough in the slave market was evidence of a present cold or past sickness—nothing serious, nothing incipient. Other ailments were similarly explained by being explained away: Sally’s loose teeth—“they could have been pulled out with a person’s finger”—were attributed to her excessive use of Calomel; the fit Henry had been seen having in the street was a result of his “pretending to be sick all the time”; Lewis’s ruined knee was described by the broker at a probate sale as a “temporary twist received a few days previous while assisting others in covering a house”; Phillis’s swollen leg was rheumatism, “nothing . . . it had never interfered with her work”; the swelling beneath Seraphine’s skirt, which turned out to be a very large tumor, was described by the man selling her as evidence of her pregnancy.²⁸ These were minor ailments—some regrettable like Henry’s fake fits, some laudable like Lewis’s willingness to endanger himself in helping others—but all temporary. All of these stories emphasized circumstance in explaining apparent irregularity, and all of them provided buyers with the opportunity to demonstrate their abilities in the choice of their slaves: a little treatment, a little discipline—in short, a little mastery—and these slaves would be as good as new.

The traders had to be equally ready to spin unruly evidence of slaves’ inward feelings back into the comforting conventions of proslavery rhetoric. When a woman who was missing two fingers mounted the stand in Richmond, the auctioneer quickly explained that the doctor had removed the first finger for a medical reason and she had herself cut off the second because it pained her. The disquieting specter of a woman who would choose to mutilate her hand rather than be sold was brushed over with the reassuring image of a slave so stupid and imitative that she would cut off one finger because the doctor had cut off another.²⁹ Anton Reiff, a visitor to New Orleans, remembered seeing a woman crying on the auction stand and recorded what he was able to learn about her in his diary: “Her master was in debt and was obliged to sell her to pay some mortgage. She had always lived with the family. She was about 35 years old. Her grief (to me) was heartrending. She wept most bitterly.”³⁰ The loyal slave sold for her owner’s debts: whether or not the story Reiff recorded was true, it was effective. The woman’s tears became part of the auctioneer’s pitch, and Anton Reiff, standing in the slave market, felt his heart rent by a convention of proslavery paternalism.

All of these stories may have been believed by the traders who told them; most of them may have been true, but their veracity is less important than

their form. The traders' stories, redolent with the comforting commonplaces of slaveholding culture, guided the buyers' eyes to what they were supposed to see. The slave traders' stories suggested that the buyer of a particular slave would be a man with a sharp eye for the main chance, or a taste for the exceptional, or a singular capacity to do right. As they packaged their slaves in stories about the distant past, the traders were telegraphing suggestive accounts of the slaveholding futures that were for sale in the pens. Along with the virtues of their slaves, the traders were scripting those of their buyers.

Some of the people the traders sold were not slaves at all. Eulalie had been living as free for decades when she, her six children, and ten grandchildren were taken by force from their home in Pointe Coupeé, Louisiana, sold at auction in New Orleans, and then placed in a slave pen for "safe keeping." Euphémie and her seven children were held in a New Orleans slave pen, advertised for sale in the *New Orleans Bee*, and sold at public auction. She had been living as a free person for over twenty years. Though they lost years of their life to the slave traders, these women and their families had nearby friends and relatives who could help them reconstruct their histories and successfully sue to have their freedom restored on the grounds that whatever claim there was to their ownership had long since lapsed through disuse.³¹ The hopes of other free people sold as slaves, however, were even more attenuated.

The shades of legality in which the traders dealt sometimes crossed into outright kidnapping. The list of those who managed to send word out of slavery must stand as a partial list of the kidnapped: John Merry, a free man from Illinois, was arrested as a slave in St. Louis and shipped to New Orleans to be sold; Solomon Northup, a free man from New York, was lured with lies to Washington, drugged, threatened with death, and put on a boat for New Orleans, where he was sold in the yard of slave dealer Theophilus Freeman; Albert Young was freed by his Alabama owner's will but nevertheless carried to New Orleans by the will's executor and sold to the New Orleans dealers McRae, Coffman & Co.; John Wesley Dunn, another free man, was charged with stealing an "old coat" in Baltimore, jailed, sold to slave dealer Hope H. Slatter, and carried to New Orleans, where he was sold again. Messages sent by Merry and Northup reached their friends, and they were freed from slavery through the intervention of the courts. Young's suit also reached the courts, but his freedom was voided on the grounds that his emancipation was not legal under Alabama law. The letter Dunn sent for help may never have reached his father, to whom it was addressed.³²

None of these stolen people could have been sold if their histories were known, so they were sold with new ones. These were only the most extreme cases of the creative power of the traders' market practice. Or, at least, they seem the most extreme, because lying about a slave's origins seems more abject than ignoring them, selling a person under an uncertain title seems more mendacious than selling with a clear title, and kidnapping a free person seems more shocking than selling a slave. But the extremity of these stories represents the regularity of what slave traders did every day for four hundred years, what they did hundreds of thousands of times during the antebellum period. Just as kidnapping made slaves of free people, the traders' packaging created slaves who did not previously exist out of the pieces of people who formerly did. By detaching slaves from their history and replacing human singularity with fashioned salability, the traders were doing more than selling slaves: they were making them. ◇

Violence over the Land: Indians and Empires in the Early American West

2006

N E D B L A C K H A W K

In a book that ranges across Utah, Nevada, New Mexico, Colorado, and eastern California (a region known as the Great Basin), Ned Blackhawk chronicles two centuries of Native and imperial history that profoundly shaped the American West. Focusing on Ute, Paiute, and Shoshone Indians, he explores the central role violence played in colonial expansion, a reminder of the high costs it occasioned for many Indigenous peoples. Here Blackhawk discusses the challenges confronting Ute leaders in the aftermath of the Mexican American War as they tried to negotiate relations with the newly victorious Americans while still maintaining control of their homelands.



AN IMPORTANT STRAND in the region's historical tapestry, the settlement of the San Luis Valley occurred during the turbulent years of American rule when foreign armies, officials, and migrants swarmed across the Arkansas and down the Rio Grande. After meeting with U.S. officials in September and October 1846, 100 Ute leaders concluded that the new regime in Santa Fe would meet their communities' needs. The assurances, however, also came with prohibitions. Plied with blankets, gifts, and bons mots, Ute leaders listened to the first of many calls to abate their violence. "Peace" was to be a precondition for diplomatic relations. Ute leaders had conducted negotiations in Santa Fe before, pledging peace to Spanish and Mexican governors. Such times, however, were now gone. While U.S. negotiations with Indians resembled prior gatherings, the distinctions involved more than linguistics,

because the pledge of peace that the Americans now required involved more than an end to violence. In September and October respectively, General Stephen Kearny and Colonel Alexander Doniphan conducted negotiations as agents of an expanding national state. Their “treaty” negotiations became the first step toward consolidating control over Ute lands, and their capacity to deploy violence to such ends contrasted with that of Santa Fe’s earlier rulers.¹

The first two years of Ute diplomacy with these new leaders held little portent of the revolutions to come. While Utes facilitated settlement in the San Luis, continued trading on the Arkansas, and even aided American explorers, including Frémont’s ill-fated Fourth Expedition in the San Juan Mountains, the U.S. Army maintained a continental operation. In addition to occupying Mexico’s capital and California, the army faced Indians throughout the West whose attacks plunged many newly conquered lands into chaos. Having pledged peace to Kearny and Doniphan, Ute leaders generally remained aloof from larger conflicts, choosing neutrality as a strategy for maintaining control over their mountain homelands. This policy potentially served Ute bands well; for the widening Indian wars drew many of the Utes’ principal rivals—Arapahos and Cheyennes on the Plains, Navajos in the Southwest—into bitter campaigns of survival that would last until 1864, when, nearly simultaneously, Navajos were removed by the “Long Walk” to Bosque Redondo and Cheyenne blood ran deep at Sand Creek. Except for the easternmost Muache Utes, who raided with Jicarilla Apaches, most Ute bands understood that neutrality ensured continued autonomy. Besides, Ute dominion over breakaway New Mexican villagers seemed destined to increase the number of settlements that they could tax in times of need. For most Utes, maintaining peace with Americans while maintaining control over their homelands extended survival strategies forged in the early 1840s.²

But the new American prohibitions were broader than the Utes had realized. Although U.S. officials countenanced intertribal raids, they were not prepared to tolerate Indian attacks against white migrants or resident New Mexicans. In early 1849, after a winter attack by Arapahos, Utes escalated their raids upon El Rio Colorado in order to replace lost resources and honor. The practices of taxing New Mexicans had sustained them well following Martínez’s attack and had led to the formation of breakaway communities in their midst. When needed, Utes made off with thousands of sheep and goats, dozens of cows, cattle, and horses, as well as a few burros, leaving village

pantries depleted. Unfortunately for the Utes, the new regime in Santa Fe had created avenues of redress for even the most distant New Mexicans. Upon hearing of Ute raids upon the territory, U.S. officials concluded that the Utes had violated their pledge of peace, and in March 1849 they mobilized a reprisal force. As Janet Lecompte details, "Lieutenant J. H. Whittlesey was sent out with fifty-seven soldiers to 'chastise' the Utes . . . The soldiers surprised a village, killed ten braves, captured two [women] and a chief's son, and destroyed fifty lodges with all the provisions." The soldiers, according to another scholar, "drove the remaining Indians like chickens in all directions through the snow" as Ute survivors jettisoned supplies and stock needed to survive the mountain winter. Later that month, when two of Frémont's guides returned to Colorado to retrieve cached supplies from their expedition in the San Juans, Utes exacted prompt revenge, killing Dr. Benjamin Kern and former trapper Bill Williams, whose familiarity with Ute ways had once enabled him to navigate the borderlands to the northwest.³

In what was to become a common recurrence, the first military campaign between Utes and the U.S. Army stemmed from deep-seated economic needs as well as misperceptions. Utes understood that their leaders had pledged peace with U.S. officials, who threatened retaliation for Ute violence. They misunderstood, however, the new definitions of violence in the region. Visitors to El Rio Colorado such as Ruxton, as well as the new villagers along the San Luis, all understood that Utes' threats or uses of violence stemmed from economic need. In the face of mounting economic pressure and intertribal warfare, Utes taxed New Mexicans, as well as Euro-American migrants, within their homelands by seizing crops, cattle, and goods. While Ruxton had noted thousands of antelope along the Front Range, he also detailed the region's dwindling bison population, as did chroniclers of Colorado's *Hispano* villages, whose herds ruptured bison ecologies. Colorado Utes were thus simultaneously fighting rivals for access to diminishing bison herds and raiding villagers in times of scarcity. Both strategies were economic in nature, though violent in form, and now U.S. officials insisted that Utes end such violence. Eliminate your raiding economies, curtail the forms of survival that you have developed, and come to depend upon us for your community needs. Had Ute leaders fully understood the nature of U.S. demands, their use of violence might have come much earlier or more selectively. Had U.S. leaders understood Ute economic challenges, Whittlesey's destruction of fifty Ute lodges in the winter of 1849 might have been averted.⁴

News of Whittlesey's attack spread throughout adjacent Ute communities. Fugitive survivors invariably detailed the rapidity with which the Americans advanced through the snow. The white newcomers' horses, efficient rifles, and uniformed cavalry units presented a sharp contrast with Mexican and Spanish forces. As harrowing tales fueled community debates about appropriate responses, Ute leaders quelled calls for reprisal. Now was not the time for violence, they insisted. The American numbers were already too great, and the next force might be even larger. The use of force must be a last resort, one that must be weighed against all other options. Besides, with Ute arms and ammunition so underprovisioned, there would be few chances of success against such might. A direct confrontation with this army, even in the face of such humiliation, was not warranted.⁵

Though undocumented, such logic undoubtedly circulated throughout Ute diplomatic channels in 1849; for in the months after the attack, Ute envoys, and not warriors, filtered into New Mexico, spreading reassuring words of their leaders' commitments to peace. By year's end, as they had for generations, Ute leaders assembled en masse and headed south to enter into what they believed would be a permanent agreement with Indian agents newly stationed in the region, the leader of whom, James S. Calhoun, possessed congressional authority to negotiate peace with the region's Indian powers. By responding to American military violence with diplomatic instead of military initiatives, Utes positioned themselves to create a more stable future, initiating a twenty-year ordeal to resolve their endemic subsistence and political problems.⁶

On New Year's Day 1850, after six months in office, New Mexico's Indian agent James Calhoun wrote to Commissioner of Indian Affairs Orlando Brown. Determined to secure peace treaties with Navajo, Ute, and Apache leaders, Calhoun noted that he had "not the slightest doubt" that many "have attempted a coalition for the purpose of overrunning and ravaging this territory." "If that purpose is abandoned, or has been defeated," he continued, "it is the result of the Utahs influence over the wild tribes." Despite constant efforts to convince them otherwise, Calhoun related, Apaches and Navajos "could not prevent the Utah Chiefs from meeting with me at Abiquiu."⁷

Reflecting his annoyance at earlier failures to cement negotiations with Utes, Calhoun's letter was written after an eventful seventy-two hours. Having sent messengers north in early December inviting Ute leaders to Abiquiu later in the month, the Indian agent arrived on December 28 and learned that Ute

leaders were indeed only a few miles outside this gateway into New Mexico. Such proximity, however, also bred anxiety; for the Ute delegation did not come into the village on that day or the next, choosing instead to socialize with Abiquiu's "traders," whose "influence" tested Calhoun's patience. On the evening of December 29, when a Ute leader "begged" Calhoun "to be patient," Calhoun responded with an ultimatum: "I would wait until the ensuing *midday, and not a moment longer*, for the Chiefs to come in," and "by 10 Oclk, on the next morning, they were present, and the enclosed treaty was fully and thoroughly explained to them."⁸

These brief glimpses of the creation of the first congressionally ratified treaty between Utes and the U.S. government underscore the challenges confronting American officials and Indian leaders after the U.S.-Mexican War. Fearing indigenous alliances and insurrections, anxious agents invited Indians to negotiate favorable conditions of peace rather than suffer through campaigns of war, while Indian leaders attempted to use agency resources for their needs. Despite Apache and Navajo appeals, Ute leaders understood the necessity and rewards of diplomacy. They could not, however, fully control their communities' actions; the familiar allures of trade, friendship, and holiday festivities almost compromised their primary intentions. Formalizing political and diplomatic agreements was an ordeal all its own. Doing so in concert with other community needs only deepened the challenge.

Ratified by Congress on September 9, 1850, the first Utah Treaty had twenty-nine "Principal and Subordinate" Ute chief signatories, and in the next weeks other Ute leaders came to New Mexico and signed on to the settlement. Unconditionally submitting to the "power and authority" of the U.S. government in Article 1, Utes agreed in the following articles to cease hostilities, to restore stolen property and captives, and to allow free white passage through their lands. In return, the U.S. government agreed to provide them with trading houses, military agencies, and annuities, as well as to establish clearly demarcated Ute territorial boundaries. Ute leaders agreed to this last provision reluctantly, for Article 7 called for more than the creation of Ute reservations; it also called for Utes' confinement within such boundaries and the cultivation of reservation lands. Utes were to become not only residents of a demarcated territory but also farmers upon it. They were, as the treaty dictated, "to cease the roving and rambling habits which have hitherto marked them as a people." When Ute leaders "expressed their *utter aversion to labor* and enquired what they would do, *to sustain life*, if so re-

stricted," Calhoun "replied to them . . . if they behaved well, [the government] would take care of them . . . and that if they thought they ought not to agree to the terms of the treaty, that I would, at the peril of my life, secure them transit to their own Country unmolested and unharmed." Faced with Calhoun's assurances, Ute leaders accepted the overall tenor of the negotiations, understanding that future compromises would be necessary to retain control over their homelands.⁹

In retrospect, Ute acceptance of U.S. dominion in the 1850 Treaty appears as the first step in a long march toward dispossession, a fateful indigenous miscalculation of epic proportions. Such hindsight, however, is both misguided and unhelpful. Facing their own harrowing challenges, Ute signatories understood that fulfilling their treaty commitments was a key to survival, a willingness and commitment that Calhoun and others repeatedly noted. "The Utahs seem to be quiet, and no one has recently complained of their conduct," Calhoun wrote in October 1850. Utes accepted, by and large, the treaty's provisions and remained for four years, as Acting Superintendent of Indian Affairs John Greiner wrote in April 1852, "the easiest managed of any Indians in the Territory and with good treatment can always be relied upon." Even the most militant Muache leaders, including the notorious Chico Velasquez, who boasted of attacks against whites and Mexicans, aided New Mexican officials; Velasquez and seven other leaders promised in 1850 "never again to take up arms against the people of the United States, either Americans or Mexicans." Repeated and effusive remarks about Ute conduct, then, characterized American correspondence in the early 1850s and contrasted with officials' assessments of the territory's other Indian powers.¹⁰

Utes' compliance, however, went only so far. It taxed both their resolve and resources. Notwithstanding Calhoun's and Greiner's hopeful reports, the challenge of maintaining peace in the face of escalating economic pressures cast Ute leaders into a series of deepening dilemmas. While committed to peace and hopeful that promised annuities would be forthcoming, Utes watched as marauding Plains Indians continued their incursions into Ute homelands. They also saw uninvited settlers move farther up the Rio Grande onto disputed "land grants" established in the last years of Mexican rule. Most of all, they waited for the treaty's promised agencies, supplies, and provisions to arrive in their hungry communities, and Ute patience grew weaker with each season. At the end of 1850 Calhoun reported: "The Utahs seem to be perfectly quiet, and say they are waiting to ascertain what their Great

Father . . . will do for them." Seven months later, in July 1851, he continued: "The Utahs, I have reason to believe are submissive, patiently waiting to see what our Government will do with them, and for them." Three months later Greiner pleaded to Calhoun: "The Eutaws are peaceable and kindly disposed towards our citizens, and have behaved well." Noting two earlier attacks by Kiowa and Arapahos and the Utes' subsequent preparations for reprisal, Greiner concluded: "I know of no remedy to check these outrages."¹¹

Calhoun repeatedly requested additional military units to enforce U.S. Indian policy. One letter to the White House in 1850 pleading for assistance was cosigned by more than fifty New Mexicans. "We shall never have protection and quiet in this territory," it claimed, until equestrian Indians "are confined and forced to remain in certain fixed limits." Unfortunately for Calhoun and expectant Ute leaders, the messy aftermath of conquest overstretched the capacity of the federal government's Indian Office. Article 7's provision for a demarcated Ute homeland, for example, would take a generation to implement. An agent in an underfunded, overextended agency, Calhoun witnessed ebbs and flows in his attempts to channel the region's historical antagonists into the mainstream of U.S. governance. For Utes, rising expectations and government failures to fulfill fundamental American promises culminated in their abrogation of the landmark treaty.¹²

When exactly Utes abandoned diplomacy in favor of violence is unclear. Why they did so is not. Although Calhoun and Greiner noted occasional depredations by Ute raiders, most Colorado Utes remained committed to peace. American attention to Ute affairs, however, was too inconsistent, poorly planned, and uneven to assure that these commitments endured. Ute leaders were angered not only by the many years it took officials to establish promised forts, agencies, and annuity distributions but also by the perceived favoritism shown to their many rivals. In contrast to Calhoun, with his aversion to "bribery" and his perception that intentions, and not "presents," best oiled the wheels of Indian diplomacy, Indian agents on the Plains readily trafficked in powder, ammunition, and guns with the Utes' primary rivals, arming Kiowa, Arapaho, and Cheyenne warriors with the technologies of violence essential to warfare. In the Treaties of Fort Laramie (1851) and Fort Atkinson (1853), Plains Indian signatories received more "gifts," supplies, and annuities than had Utes, for whom powder and ammunition were harder to obtain. Furthermore, while traders on the Plains continued to trade with their many rivals, in New Mexico Calhoun moved to curtail unlicensed trading to

the north, limiting the familiar “illicit” trade between northern villages and Ute communities. In short, American rule favored certain Indians over others, and American authority emanated north from Santa Fe in uneven waves.¹³

Signs of Ute disaffection were evident throughout 1854, particularly after the fateful death of Chico Velasquez, whose services on behalf of Governor David Meriwether had earned him accolades and gifts. Helping to retrieve stolen horses and cattle, Velasquez and his fellow tribesman Tamouche had also participated in a manhunt for a suspected murderer. Being paid “each a gray cloth coat . . . decorated handsomely with red and yellow braid,” these Ute leaders returned home fashionably attired in tailored officer’s clothing. They had also just contracted smallpox, and many “came to the conclusion that the Superintendent was the cause of the disease being among them . . . every one that received a coat died.” The following spring, scattered and diseased Ute remains greeted travelers along the San Luis River.¹⁴

Combined with other grievances, such disaffection reached fever pitch on Christmas Eve 1854. Muache leader Tierra Blanco and 100 warriors rode roughshod over the Arkansas, killing twenty at El Pueblo and taking three captives before launching winter campaigns against Colorado’s most vital artery. Enlisting the support of Arapaho and Cheyenne allies, William Bent endured months of Ute raids, while less protected settlements disbanded and fled. Conducting reprisals out of Fort Massachusetts—the only fort in Colorado, which Utes had complained was too far south on the San Luis to protect them from Plains raiders—U.S. Army colonel Thomas Fauntleroy pursued Muache, Capote, and Jicarilla bands throughout 1855, destroying lodges, capturing more than fifty women and children, and burning tons of Ute saddles, robes, and matériel. Fauntleroy’s men also disfigured Ute victims, while several Ute mothers reportedly made a greater sacrifice, painfully enduring the self-imposed deaths of their own children rather than see them lost to invaders. Such campaigns, Meriwether summarized, “caused these Indians great loss and suffering,” and in August new treaties were signed at Abiquiu, treaties designed to ensure that the violent disagreements of the last half-decade would find other forms of resolution.¹⁵

Conducted under the shadow of American guns, the renewed negotiations did not proceed in the optimistic spirit that characterized Calhoun’s efforts in 1849. Moreover, Senate failure to ratify the new agreements prolonged U.S. fulfillment of the 1850 treaty for another decade. Waiting for American officials to meet their commitments had fueled past violence; now

more waiting seemingly augured more returns to the battlefield. Colorado Utes, however, chose a different path. Never again would they initiate concerted military campaigns against the American state; instead, their commitments to peace inaugurated a new era in Ute diplomacy. Ironically, U.S. military officials would soon create fertile avenues of service for Ute warriors, and Utes guided and rode alongside those who had just attacked them on the San Luis. After 1855, Ute diplomacy helped abate economic and ecological stresses. A new generation of Ute leaders came to know and even trust the authorities with whom they negotiated, and they believed them when in 1868 they finally said that the Utes' mountain homelands would remain theirs until the end of time.¹⁶ ◆

Southern Horrors: Women and the Politics of Rape and Lynching

2009

C R Y S T A L N . F E I M S T E R

In Southern Horrors, Crystal N. Feimster provides a startling view into the Jim Crow South, where the precarious and subordinate position of women linked Black and White antirape activists together in fragile political alliances. It is a story that reveals how the complex drama of political power, race, and sex played out in the lives of Southern women. In this excerpt, Feimster discusses how African Americans, including the parents of antilynching activist Ida B. Wells, navigated the fraught landscape of emancipation after the Civil War.



AS A YOUNG BLACK GIRL growing up during the pitched battles of Reconstruction, Ida B. Wells learned firsthand that the brutality and violence that characterized black / white relations in the plantation South had not vanished with Lincoln's Emancipation Proclamation. Newly freed black women were unwilling to return to the antebellum sexual and racial status quo that allowed white men to rape and brutalize them with impunity. Indeed, for Ida B. Wells and the millions of black women in the South, another war had just begun. Their battle for legal protection not only made visible the previously muted racial and sexual violence against black women, but also radically influenced the politics of Reconstruction and the rise of Jim Crow.

James and Elizabeth Wells joined the newly founded Asbury Methodist Church (a branch of the Methodist Episcopal Church); James then became a

Mason and eventually joined the Loyal League, a Republican organization created to protect black voting rights. Eager to put the painful and violent memories of slavery behind them, freed men and women all over the South built churches, formed lodges, created newspapers, established political organizations, took control of their labor, and ran for political office when possible. They no longer had to meet under the cover of darkness to worship, to organize politically, or to educate themselves and their children. Former slaves organized “Negro Conventions” and passed resolutions demanding the full rights of citizenship, including the franchise, access to land, fair wages, and protection against white violence. In June 1865, black Mississippians held a mass meeting in Vicksburg at which they condemned the exclusion of “loyal citizens” from the upcoming elections and called on Congress to refuse the state readmission until black men were given the right to vote.¹ In Jackson, black washerwomen organized a labor strike and called on the mayor to support their demands for “a uniform rate” of pay for their work.² Indeed, from Mississippi to Virginia black men and women articulated their desire for economic and political power and insisted on the right to control their labor, defend their families, and live without white interference.³

Emancipation, however, had not changed the way many southern whites viewed black men and women—as property. Former slaves felt the limits of their freedom most when they acted politically or sought to manage their own labor. Southern whites resorted to intimidation, ostracism, theft, whippings, rape, and even murder to regain control over black people.⁴ In December 1865, Colonel Samuel Thomas, Assistant Commissioner of the Freedmen’s Bureau, reported to Congress: “Wherever I go—the street, the shop, the house, or the steamboat—I hear the people talk in such a way as to indicate that they are yet unable to conceive of the Negro as possessing any rights at all. . . . To kill a Negro they do not deem murder; to debauch a Negro woman they do not think fornication; to take the property away from a Negro they do not consider robbery.” Thus, Colonel Thomas rightfully observed of southern whites, “They may admit that the individual relations of masters and slaves have been destroyed by the war and the President’s emancipation proclamation, [but] they still have an ingrained feeling that the blacks at large belong to the whites at large, and whenever opportunity serves they treat the colored people just as their profit, caprice or passion may dictate.”⁵ Intent on treating newly freed men and women as they had under slavery and unwilling to relinquish notions of white supremacy that held blacks as undeserving of civil and political

rights, southern planters, whether compelled by “caprice” or “passion,” unleashed an unprecedented wave of violence against their former slaves who were no longer valued as property worthy of protection.

In the years immediately following emancipation, white violence tended to be localized and personal, usually having to do with disputes over labor or rules of proper racial etiquette. In vivid testimony before the U.S. Senate, former slave Henry Adams of Louisiana recalled how in 1865 southern whites used threats and violence to limit black freedom, to ensure black deference, and to establish a cheap labor force. Adams explained how his former master intimidated ex-slaves into signing labor contracts by promising to “protect” them from “the bad white men” who would kill them just “for fun.” Of his master’s sixty former slaves, Adams was one of only two men who refused to sign a contract. Even when blacks refused to commit their labor to a single planter, they found it difficult to move from one plantation to another. According to Adams, whites used a combination of violence and the pre-war pass system to prevent former slaves from moving freely.⁶ As a test of his freedom and against the wishes of his former master, Adams refused to carry a pass during a weeklong trip to Shreveport. Four white men stopped him six miles south of Keachie and asked him whom he “belonged to.” When Adams declared he “belonged” to no one, three of the men beat him with a stick and threatened to kill him before letting him go at the request of the fourth man. “I seen over twelve colored men and women, beat, shot and hung between there and Shreveport,” he testified. Convinced that freedom meant that “every man” would have “rights” and the power to protect himself, Adams, like many ex-slaves, challenged whites’ assumed power over him and his family. When his fifteen-year-old sister suffered brutal beatings from both “the madame” and “the boss,” he, along with “a large number of young colored people,” decided to leave the plantation in protest. En route to Shreveport the group fell victim to a mob of forty white men who shot at them, took Adams’s horse, robbed them of their “clothes, and bed-clothing and money,” and forced their return. According to Adams, the “crowd of white men broke up five churches” as well. Thousands, he concluded, had been killed for trying “to be free.”⁷

RIOTS, RAPE, AND RADICAL RECONSTRUCTION

Former slaves had many reasons for wanting to escape plantations for towns and cities. Cities like Shreveport, or even smaller towns like Holly Springs,

not only provided anonymity and freedom from white surveillance but also made possible better education, financial independence, and new political opportunities. Finding wage labor was not always easy, but for those with skills, like James Wells, there was usually plenty of work. Tradesmen fared much better than their rural counterparts who were often forced to live hand to mouth in search of a steady income. As a skilled carpenter Wells was able to earn enough money to provide for his family. More importantly, his economic success meant that Elizabeth and the children did not have to labor as domestics in the homes of white folks. Because Elizabeth worked at home and the children's only "job," as Ida explained, "was to go to school and learn all we could," they escaped the violence inherent in black / white labor relations.

Town and city life, however, was not without hardship or free of white violence. In the postwar period, urban riots were the most visible sign of the efforts by white southerners to stamp down black political mobilization and prevent economic independence. Ida was four years old when reports came from Memphis, only thirty miles away, that whites angered by the presence of black militiamen had attacked the city's black community, murdering, beating, and raping its inhabitants and burning homes and businesses in a three-day riot. Even though the riot did not directly affect Ida's immediate family, they must have felt the sense of menace and terror that swept through their community and the surrounding area as news spread that white rioters had killed forty-six blacks, raped at least five black women, and injured hundreds more.

The riot drew national attention and a congressional committee traveled to Memphis to investigate.⁸ For the first time, black women asserted their legal claim to personal and sexual autonomy before a national audience.⁹ The committee found: "It is a singular fact, that while this mob was breathing vengeance against the negroes and shooting them down like dogs, yet when they found unprotected colored women they at once 'conquered their prejudices,' and proceeded to violate them under circumstances of the most licentious brutality."¹⁰ Black women and men bravely testified before the committee. Sixteen-year-old Lucy Smith testified that seven white men, two of them police officers, broke into her home during the riot and brutally raped her. "One of them," she explained, "choked me by the neck. . . . After the first man had connexion with me, another got hold of me and tried to violate me, but I was so bad he did not. He gave me a lick with his fist and said I was so damned

near dead he would not have anything to do with me . . . I bled from what the first man had done to me. I was injured right smart.”¹¹ Denied legal protection against rape under slavery, Smith and the four other rape victims challenged long-held beliefs that black women welcomed white men’s sexual advances. In response to their testimonies, the committee’s final report concluded, “The crowning acts of atrocity and diabolism committed during these terrible nights were the ravishing of five different colored women by these fiends in human shape.”¹²

For black women, such a declaration confirmed their new rights as citizens and marked a radical change in national politics. These rights, which were based on ideas that had begun with abolitionist literature on the violation of slave women, gained currency during the Civil War when black women testified to sexual assaults at court-martial trials. In the postwar context, such testimony gave voice to black women’s suffering and their demands for legal protection. The congressional committee’s declaration defined black women as political persons worthy of federal protection against racial and sexual violence. Even though Ida Wells was too young at the time to appreciate the significance of the women’s testimony, their actions paved the way for her and a new generation of black women determined to defend themselves against such violence in the future.

The Memphis riot, along with similar incidents in New Orleans, Chattanooga, Louisville, and Vicksburg, confirmed northern beliefs that the federal government had to do more to protect southern blacks and guarantee their rights as citizens.¹³ Outraged by President Johnson’s failure to act and inspired by black resistance and determination, the radical wing of the Republican Congress seized control of Reconstruction. In 1866, they refused to seat former Confederates elected to Congress. Making use of their congressional majority, Republicans passed two bills over Johnson’s veto. The first bill strengthened and extended the life of the Freedmen’s Bureau (established in March 1865), which initially helped ex-slaves and white refugees by providing food, clothing, supplies, and medical services. The Bureau eventually performed marriage ceremonies, established schools, supervised contracts between ex-slaves and their employers, managed confiscated or abandoned lands, and arbitrated legal disputes between black employees and their white employers.¹⁴ The second bill passed by Congress, the Civil Rights Act of 1866, declared that all persons born in the United States were citizens, “without regard to race, color, or previous condition.”¹⁵ Again in opposition to Johnson’s wishes, Congress wrote

the Fourteenth Amendment into the Constitution, making it illegal for any state to enforce or make any laws abridging the “privileges and immunities” of citizens; to deny “equal protection of the law”; and / or to deprive citizens of life, liberty, or property without “due process of the law.”¹⁶

While Tennessee willingly ratified the Fourteenth Amendment, the other ten ex-Confederate states refused to adopt the amendment, forcing Congress to pass the Reconstruction Act of 1867, which divided those ten states into five districts commanded by generals empowered to protect with military force the life and property of blacks.¹⁷ In a follow-up measure, Congress empowered military officials to register voters and oversee new elections. Ex-Confederate states would now have to draft new constitutions, enfranchise black voters, and ratify the Fourteenth Amendment before being readmitted into the Union.

In the fall of 1867, James Wells, along with over sixty thousand black men and fewer than fifty thousand white men, registered to vote in Mississippi. Soon afterwards, voters elected one hundred delegates (sixty-seven Republicans, seventeen of them African Americans) to serve at the constitutional convention. In January 1868, the delegates drafted a new state constitution, which accepted the requirement of the Fourteenth Amendment, disfranchised ex-Confederates, granted universal adult male suffrage, and allowed interracial marriages. In protest, a group of leading white men met in Jackson and wrote a white supremacist manifesto in which they resolved to defend the state against “negro domination.” They accused the Republican Party of plotting “to place the white men of the Southern States under the governmental control of their late slaves” and called “upon the people of Mississippi to vindicate alike the superiority of their race over the negro and their political power, and to maintain constitutional liberty.”¹⁸ Waving the banner of white supremacy, they rallied the Democratic Party and organized to defeat the constitutional referendum by any means necessary.

Democrats threatened blacks with loss of employment, evictions from farms, and death if they voted Republican. When James Wells’s employer, Bolling, threatened to fire him if he did not vote the Democratic ticket, he “bought a new set of tools, and went across the street and rented another house.”¹⁹ Most black men, however, could not afford to disobey their white employers. Indeed, the threats of violence and loss of livelihood were all too real. The Democratic campaign of terror succeeded. The new state constitu-

tion was defeated in June 1868 by almost eight thousand votes, and Democrats won the governorship and four of the five congressional posts. Failure to pass the constitution, however, made the elections invalid.

At the same time that Mississippi Democrats learned to make violent use of the political rhetoric of white supremacy, Republicans realized that they would have to organize, educate, and protect a new electorate if they hoped to reconstruct the state. The Loyal League was critical to this effort. Organized in the North during the war, the League had worked to rally support for the Union. Now it branched into the South to ensure black rights. By the fall of 1867, Leagues existed in almost every southern state. The League often operated in secrecy and held night meetings to attract black members, who feared for their safety. Not until after the 1868 elections did the League begin to gain ground in the Delta State. James Wells became a member of the Holly Springs branch. The League's efforts paid off when citizens voted in November 1869 to accept the revised constitution (now shorn of the disfranchising clauses) and elected James Alcorn, a substantial delta planter and former slaveholder, as the new Republican Governor. Alcorn's administration took office early in 1870, and the new legislature, which included forty black men, ratified the Fourteenth and Fifteenth amendments and appointed the first black man, Hiram Rhodes Revels, to the U.S. Senate to fulfill the unexpired term of Jefferson Davis.²⁰

On February 23, 1870, Congress readmitted Mississippi into the Union; over the next four years the state legislature approved public education and invested in public buildings and institutions for the poor, the mentally ill, and the physically handicapped. They eliminated racial discrimination from the state laws and in 1873 passed a civil rights bill guaranteeing blacks equal access to all places of public entertainment. While blacks outnumbered whites and voted in large numbers during Mississippi's Reconstruction years, they represented only a small percentage of elected officials. In the first Reconstruction legislature (1869) there were thirty black members, some of whom had been slaves, and by 1871 that number had risen to thirty-eight. In 1872, John R. Lynch served as the first black speaker of the state House of Representatives and in 1874 blacks held several significant positions: A. K. Davis was elected Lieutenant Governor; James Hill of Holly Springs was appointed Secretary of State; and T. W. Cardozo was elected State Superintendent of Education. In 1875, Blanche K. Bruce, a former slave, was the second black man

elected to the Senate.²¹ Although black Mississippians never held offices in proportion to their numbers, they did find inspiration in the few black leaders elected to public office. Indeed, the accomplishments of black men like Lynch, Davis, and Bruce left a lasting impression on Ida B. Wells and young black people coming of age in Mississippi during “Radical” Reconstruction. If a black man from Mississippi could replace Jefferson Davis in the U.S. Senate, anything seemed possible.

“REDEMPTION” POLITICS AND THE RISE OF THE RAPE MYTH

Of course, black political participation did not go unchallenged. The Mississippi Democratic Party, with the assistance of paramilitary groups such as the Ku Klux Klan (KKK), the White Rose Society, the Native Sons of the South, and the Seventy-Six Society were determined to regain power over former slaves and to seize control of local and state governments. Thus, they waged war against black people and their Republican allies.²² Even in the relatively peaceful town of Holly Springs, Ida and her family could not ignore the upsurge of violence that left so many freed people brutalized or dead. When reading newspaper articles to her father and his “admiring group” of friends and listening to her parents discuss postwar politics, Ida struggled to grasp the meaning of words like Ku Klux Klan. Her mother’s worried pacing at night whenever James attended a political meeting and reports of the Klan’s failed attempt to assassinate Nelson Gill, a founder and leader of the local Loyal League, made Ida keenly aware that the KKK “meant something fearful.”²³ Indeed, by 1871, Elizabeth had reason to worry and Ida much to fear.

At first, white violence against ex-slaves had been unorganized and directed at individual blacks, but by the 1870s black communities all over the South had become targets of a systematic campaign of political terror. The KKK, an unofficial arm of the Democratic Party founded in Pulaski, Tennessee, in 1865 / 66, became the most visible symbol of white supremacy and southern white men’s illicit effort to “redeem” the South. In the early 1870s, during the height of Mississippi Klan violence, nightriders, as they were called by southern blacks, dressed in robes that included pointed hoods and masks that covered their faces, rode through black communities at night terrifying, threatening, flogging, raping, and murdering blacks and their white allies. In the eastern counties, the Klan was notorious for killing or driving out teachers and burning black schools and churches. Terrorist groups all over the state targeted black men who voted Republican, participated in the Union

League, or held political offices. Nightriders murdered politically active black men and raped their wives and daughters.²⁴ In 1870, organized whites killed two black men who were members of the Lauderdale County board of supervisors. In Monroe County, white supremacists disemboweled and cut the throat of Jack Dupree, president of a club of black Republicans, and Klansmen severely whipped A. P. Huggins, the black school superintendent.²⁵ G. Wiley Wells, district attorney for the northern district of the state and a resident of Holly Springs, argued before a congressional committee that Klan violence served to keep blacks away from the polls so that Democrats would carry the elections. He testified that in the summer of 1871, despite the passage of the state's anti-KKK law the year before, "Negroes were coming into Holly Springs imploring [him] to protect them."²⁶ It seemed no one was safe.

Black women and men who demanded fair pay, broke labor contracts, rented or owned land, or displayed economic success in any way risked having their homes invaded by gun-toting nightriders. In Winston County, when Nancy Edmonds left her employer's plantation in pursuit of a better job, the Klan whipped her "unmercifully" and forced her to return.²⁷ One white Mississippian explained that the Klan sought "to keep them [blacks] from renting land, so that the majority of the white citizens may control labor."²⁸ In Tippah County, organized whites drove blacks off good land, and in Alcorn County, they tried to drive away black laborers on the Gulf and Ohio Railroad. Former slaves who had achieved a modicum of economic success by challenging the exploitative systems of wage labor contracts and sharecropping were seen as threatening white political hegemony and white supremacist ideas. They became the targets of white vigilante terror.

White southerners, like most Americans, understood citizenship in terms of manhood and patriarchal rights and prerogatives. However, resistance to black citizenship, with its implied rights of political, economic, and social equality, took on a sexual connotation because of the association of equality with sexual license.²⁹ For example, when a congressional committee asked Joseph Beckwith of Columbus, Mississippi, why the Klan had whipped him and his wife, he explained, "They said that they understood I had talked some talk concerning some white woman that was not nice . . . they wanted to run me off, the man I lived with did, on account of my crop, and that was why they got the Ku-Klux to get after me, and that night tried to make me own it, and I told them I didn't say it."³⁰ Although Beckwith's economic success was probably at the root of the Klan's resentment, by linking it to the supposed

insult to white womanhood Klansmen justified their violent behavior as chivalrous and honorable, while portraying Beckwith as unmanly and unworthy. Beckwith's beating reveals how the alleged protection of white womanhood from insult or injury was tied to the question of black citizenship and thus became part of the political discourse of Reconstruction.³¹

The Beckwith case signaled the postwar emergence of a strict color line that shored up white men's sexual and political power. Whereas black men and women who dared to push up against these new racial boundaries (or were merely perceived by whites as doing so) risked deadly consequences, white men were at liberty to cross racial lines, especially if doing so reinforced white dominance and Democratic power. For example, when Edward Carter of Mississippi testified that the Klan "ravished" his daughter and ran him off his land because they "wanted what [he] had," he revealed not only how nightriders denied him the traditional rights of manhood that would allow him to protect his daughter against rape, but also made clear their complete disregard for the rights of black women.³² The men who beat Beckwith and his wife and those who raped Carter's daughter wanted to prevent blacks from having what whites had: the rights as citizens to control their labor, to successfully own land, to exercise political power, to protect their families, and to live as respectable men and women. By accusing black men of dishonoring white womanhood and at the same time raping black women, southern white men articulated, on the one hand, deep anxieties about what they understood as the consequences of forced "social equality" and, on the other hand, a strong desire to maintain sexual dominance over black women.

Democrats first expressed their concerns about the question of social equality during the 1864 presidential election when they accused Lincoln and the Republican Party of promoting interracial sex, or in their words, "miscegenation"—a new coinage.³³ In the postwar context, southern Democrats reasoned that if black men were given the full rights of citizenship they would inevitably pursue intimate relationships with white women, which for many white southerners meant the eventual degeneration of the white race. J. R. Smith, a white postmaster and clerk of the chancery court in Meridian, argued that the Democratic Party had successfully convinced whites, especially poor whites, that the Republican Party intended "to put the negro in control, to make a sort of negro supremacy, to give him the control of the affairs of the Government, to put him in office, and gradually to force him into social relations with the white people . . . to intermingle by marriage with

the whites.”³⁴ Joshua S. Morris, a white lawyer in Jackson, agreed: “Multitudes of middle and lower classes of whites . . . are induced to believe that republicanism means social equality; that, if a man is a republican, he must necessarily be in favor of white people and negroes marrying and associating on terms of perfect equality in the social circle.”³⁵ Convinced that interracial sex would undermine racial hierarchy, nightriders policed and punished men and women, most of them black, accused of engaging in interracial sex. Three black women, Betsy Lucas, Eliza Hinton, and Lydia Anderson of Noxubee County, suffered brutal whippings by nightriders who accused them of “co-habitating” with white men. In Columbus, the Klan whipped George Irion, a black man, for allegedly “keeping a white woman.”³⁶

In the context of black freedom, sex across the color line signified a radical political act, especially on the part of black men and white women. Weaving together fears about black political power and anxieties about miscegenation into a single design, southern whites converted black men’s desires for economic and political equality into a desire for “social equality,” which they then translated into a threat against white womanhood. This scenario of race, sex, and politics created a powerful alibi for denying black people the basic rights of citizenship and for bringing whites together across class lines.³⁷ Bringing white men and women together across class divisions was no easy task, but the Democratic Party’s success at confounding black male citizenship and interracial sex proved extremely powerful in achieving it. When nightriders accused Beckwith of speaking inappropriately about “some white woman” while they sought to gain control of his crops, they signaled a slight shift in their ideas about which white women deserved protection. It now seemed that all southern white women, regardless of class status, were worthy of protection if their alleged assailants were black. Southern whites in many ways had always been cautious regarding interactions between black men and white women, but in the postwar context these concerns began to take on new meanings and acquire a sense of urgency as whites imagined “social equality” as tantamount to forced sexual relations between black men and white women.³⁸

With the confederacy’s defeat, the simplest exchanges between black men and white women assumed a more menacing tone for many white southerners. Southern white men anxiously sought the reinstitution of a strict gender and racial hierarchy dependent on black deference and white female subordination. Postwar, however, they extended protection to all white women, not

just southern “ladies.” In the antebellum South and during the Civil War, protection devolved upon the honor of elite white women. When the night-riders portrayed Beckwith’s economic success as an insult to white womanhood generally, they intentionally encompassed all white women so that whites would stand together across class lines. The sexualized language of “social equality” resonated with most southern white men and women, regardless of class, because it squared with their ideas about white supremacy and traditional gender roles. What honorable white man would not heed the call to protect white womanhood and what self-respecting white woman would not deem herself worthy of protection? ◇

Freedom Struggles: African Americans and World War I

2009

ADRIANE LENTZ-SMITH

The American Expeditionary Forces in World War I included 200,000 Black soldiers whose experiences in Europe led them to imagine a world beyond Jim Crow. In tracing the efforts of these soldiers to gain full citizenship rights as recompense for military service, Adriane Lentz-Smith illuminates how World War I mobilized a generation. Battered by the harsh realities of segregation, African Americans fought their own “war for democracy,” reworking notions of nation and belonging. Here the author recounts the tragic fate of an African American US Army sergeant in Jim Crow Alabama.



THE RIDE FROM HOBSON CITY, Alabama, to neighboring Anniston would carry Edgar Caldwell to the gallows. On a Sunday afternoon about a month after the Armistice and ten days before Christmas in December 1918, Caldwell boarded a streetcar on the Alabama Power Company's Constantine line. A sergeant at Camp McClellan, he carried a pass that allowed him to leave his post located eight miles outside of Anniston to spend an afternoon in Hobson City, the all-black town on the city's southern outskirts. He wore the khaki and wool uniform of a noncommissioned Army officer—"nice clothes," a witness would later call them—chevron stripes indicating his rank, and a military-issue hat. Unseen, tucked in his clothes, he carried a pistol.¹

Even as racial activists and white supremacists speculated on what to expect from soldiers returning from service in Europe, a black soldier in Alabama

lashed out against Jim Crow at home. An everyday argument between the soldier and a white transportation worker in Alabama would lead to a murder trial that became a *cause célèbre*. It began when Sergeant Caldwell, a former member of the 24th Infantry then serving in an Alabama labor battalion, boarded the streetcar and immediately butted heads with the conductor, Cecil Linten. Their Jim Crow argument grew into a fight, and the fight ended with Linten dead and white motorman Kelsie Morrison wounded. Within a month, civilian authorities had tried Caldwell in Alabama state court and convicted him of murder. They sentenced him to death by hanging.

In the months that followed, Sergeant Caldwell's murder case wended a path through the state and federal court systems, resulting in the April 1920 Supreme Court ruling *Caldwell v. Parker* on military power and federal jurisdiction. As it traveled from Calhoun County to the nation's capital, the case allowed African Americans to pull back from their international imaginaries and give shape to the national realities in which their internationalisms were rooted. Through *Caldwell* African Americans engaged questions of federal citizenship, state's rights, criminal procedure, and the limits of white supremacy in wartime; they pushed the Wilson administration to define Caldwell's citizenship in such a way that the state of Alabama could not confine him.

Caldwell's case captured the spirit of both returning soldiers and the African American troops who had served in stateside camps. Just days after Caldwell's arrest, a fellow sergeant in the 157th Depot Brigade wrote on open letter to his "Comrades" mustering out of the Army at Camp Gordon near Atlanta, Georgia. Lauding the troops' development into "the equal or superior of any troops that ever wore the khaki uniform," he anticipated that after having realized their manhood through military service, they would never again consent to "sit aside while the neighboring white man gets possession of all the spoils." The sergeant, Wellington Dixon, predicted a competition between black men and white men "for the wealth, the education, and the political rights of the country."²

Wealth, education, and political rights provided the foundations for an active citizenship, one that could allow for African American participation in public politics, but with the *Caldwell* case, they fought for something more elementary. If even passive citizens enjoyed "the right of protection of their person, of their property, of their liberty, etc." set forth in nineteenth-century liberal doctrine, then blacks had not yet cleared the first hurdle.³ By defending Caldwell, African Americans defended their own freedom not to be lynched

in the town square or railroaded in the courtroom; they fought for what Ely Green would have called “the right of law.” Using arguments over military jurisdiction that suggested that Sergeant Caldwell’s rights should have been his to keep no matter where he traveled, Caldwell’s defenders looked to the Army to protect black citizenship.

Like the activists in Paris who claimed black soldiers’ efforts for all the race, African Americans involved in the *Caldwell* case linked their fate to his. Edgar Caldwell’s solitary act of self-defense served only as prologue. What followed was a grander story of community vision and mobilization, as black people in cities across the country used the circumstances created by the war to push the federal government to protect one of their, and its, own.

THE FIRST RACIAL TROUBLE OF ANY KIND

Stepping out on that Sunday afternoon, December 15, 1918, Caldwell must have found his day off a welcome respite. Troops in Caldwell’s labor battalion worked just as hard as those in Virginia or St. Nazaire, and things did not slack off with the Armistice. Since their transfer from Camp Gordon to Camp McClellan earlier in the fall, the Army had worked him and the other 5,000 African American troops assigned to the 157th Depot Brigade to the bone. Now that the war had ended, they were no longer given military training. Instead, they worked from dusk to dawn doing heavy labor: hauling lumber, building roads, and cleaning up debris. Exhausted at day’s end, they piled into tents plagued by shoddy construction, crowded conditions, and poor sanitation.⁴

The soldiers at Camp McClellan may have comforted themselves with the knowledge that things could have been worse. In colder camps, for example, men reportedly “died like sheep” when poor quarters and inadequate clothing exposed them to the excesses of winter.⁵ When weather did not kill black soldiers in other camps, excessively cruel treatment often did. Complaints of African American soldiers in Anniston could barely rival those of troops in Camp Humphreys, Virginia, where sergeants were armed and told “to shoot the ‘damn niggers’ if they [could not] rule them any other way,” or of the service battalion working at a warehouse in Schenectady, New York, whose dictatorial major dragged sick men out of the hospital to unload supply cars.⁶

Still, conditions at Camp McClellan took their toll on morale. In the stockade in the winter of 1918, a black civilian lay dying of pneumonia, held without charge or trial for allegedly “making disloyal remarks” in violation

of the wartime Sedition Act. Local authorities had turned him over to the military with no regard for *habeas corpus*. And just days before Caldwell took his fateful ride on the streetcar, an African American draftee compared his own condition to incarceration. He wrote to W. E. B. Du Bois that African American soldiers were “being held” at Camp McClellan “to do all the fatigue work, while thousands of white soldiers” were sent home. He asked that the National Association for the Advancement of Colored People (NAACP) help them procure honorable discharges. “We don’t want to disgrace or mar our fine record,” the weary soldier stated simply, “but we must have relief.”⁷ As a sergeant, Caldwell stood somewhere between the enlisted men who labored in the worst conditions and the handful of black commissioned officers whose lighter load and superior quarters were offset by the contempt of troops who scorned them as accommodationist. An experienced soldier, he might have reconciled himself to the discomforts of military life, but as events would show, he had not yet come to accept the daily injustices of Jim Crow.⁸

Neither experience nor rank could cushion Caldwell from the tedium that overlay life in Camp McClellan. Soldiers stationed stateside had no Paris to which they could escape, or imagine escaping; they had little to help them push back on the closing walls of white supremacy. Apart from a handful of baseball teams, camp life provided black soldiers in Anniston with few recreational outlets. They had little access to the corn liquor produced by moonshiners in the nearby hills and, given their distance from the city, even less opportunity to meet black civilians. When they could get to town, they found that the area’s African American churches had organized few programs for their benefit. Soldiers might approach young women in Anniston’s African Americans neighborhoods, but with eighty girls arrested for “immoral conduct” between July and November 1918, prostitution and public courting came under harsh regulation. The influenza pandemic that spread in late 1918 isolated the troops even more, as a campwide quarantine kept most soldiers on base and most visitors off.⁹ Occasionally soldiers still made it downtown to attend the social club half-heartedly established for them by the War Camp Community Service. Run by a Baptist minister, the club had writing tables and stationery but no piano or record player. All the same, by December, soldiers would have craved even the small diversion this provided.¹⁰

For all its hardships, Sergeant Caldwell’s Army service had brought its rewards. Unlike some of the lower-ranked enlisted men who went for months

before receiving a clothing issue of fatigues, Caldwell could sport his non-commissioned officer's uniform when he went to town. Though there were no fights over white girlfriends to spark racial showdowns, the same tensions that animated black soldiers' interactions with white soldiers in Europe guided encounters here, and in Anniston, the civilian population enforced Jim Crow as forcefully as the Army did, if not more so. Yet as Caldwell boarded the streetcar, he dressed as if no one had a claim to him except for Uncle Sam himself. The hat, the uniform, the pistol functioned as armor for a black officer aboard a segregated streetcar. As a principal "theater" for the performance and enforcement of racial mores, public transportation repeatedly served to remind African Americans of their assigned place in the Southern caste system. Yet at the same time, streetcars also provided African Americans with an opportunity to challenge publicly, through gestures small and large, white supremacist notions of that place.¹¹

Born in 1889, into the Greenwood, South Carolina, landscape where Populism failed and Ben Tillman triumphed, Caldwell knew the circumscription and denigration that set the boundaries of black life in the Progressive Era South.¹² However, having served as a soldier both in the present war and five years earlier as a member of the proud 24th Infantry stationed in the Philippines, he also knew places and possibilities more expansive than those presented by Jim Crow. Cloaked in the uniform of the United States Army, Caldwell gestured toward an identity as a citizen, and toward the honor and respect denied him merely as an African American man.¹³

For just this reason, the sight of dark brown Caldwell in his Army khakis must have appeared to a white country boy from Alabama like a red flag to a bull. Older white Annistonians had the memory of the black troops stationed near Anniston during the Spanish-Cuban and Philippines Wars to help them adjust to uniformed African American men in their city. Streetcar conductor Cecil Linten, young and newly arrived in town from rural Lineville, did not. Whether Caldwell truly waltzed aboard and "insisted" on sitting at the head of the car "in the section set aside for the use of white passengers," as the white newspapers claimed, or had simply refused to let Cecil Linten cheat him of his fare, as some black commentators later insisted, his dress and manner flouted the tenets of white supremacy that gave order to Linten's world.¹⁴ To Caldwell's silent, glaring provocation, the young conductor responded by striking the soldier twice in the face.¹⁵

As passengers watched, Caldwell fought back. “I heard the window crash,” a white witness recalled later, “and I jumped up on the seat to see what it was.”¹⁶ He stood up in time to watch Linten, aided by his motorman Kelsie Morrison, force Caldwell to the back of the car and shove him out the rear and on to the street. Having harshly reminded Caldwell of his place, the crew proceeded to punish him for forgetting it. As the motorman Morrison moved to strike—one newspaper claimed “with a heavy piece of iron”—Caldwell allegedly drew his pistol from his pocket and fired twice with lethal precision.¹⁷ The first bullet entered Linten’s chin and “crashed through the top of his head.” The second passed close to Kelsie Morrison’s heart leaving him alive but “desperately wounded.”¹⁸ With passengers charging from the streetcar to apprehend him, Caldwell fled the scene heading south, toward the hills outside the city.

. . .

Yet Sergeant Caldwell’s status as a soldier still in uniform, rather than a discharged veteran, affected what might happen to him. Camp McClellan’s Colonel Lewis surrendered Caldwell and then protected him because the colonel and his fellow officers had to strike a difficult balance in dealing with the shooting, their own soldiers, and the civilian community. Their camp had already weathered a few scandals. During Camp McClellan’s construction in 1917, workers purportedly organized by the Industrial Workers of the World had put a local face on wartime labor unrest.¹⁹ In the late days of 1918, some troops, too, had given in to their restlessness by purchasing fake discharges from a corrupt junior officer. Others, like white Georgian Thomas Goble, simply went AWOL, slipping into the Georgia mountains and disguising himself as a woman to elude civilian posses.²⁰ African American soldiers also yearned for release. Even without the violence on the streetcar, Camp McClellan experienced taut social relations.

Given the tension outside of camp, the Army had to tread lightly. On the one hand, Army officials recognized the suspicion with which some Southerners viewed the intrusion and upheaval of a national army and military camps throughout the South.²¹ With peace as yet unofficial, the Army could little afford to alienate local people over a black soldier who had shot two white men—especially when white soldiers who shared Annistonians’ outrage roamed the streets alongside civilians. At the same time, however, Army officials could not cede all of their authority to a mob, civilian or military. To allow Alabamans to lynch a soldier on active duty would mock the principle

of discipline so critical to military order and lessen the authority of the Army itself.²² By bringing in Caldwell, but guarding him until he could go to civilian trial, Colonel Lewis appeased the mob while asserting the Army's power. Throughout the war, military and federal officials would repeatedly seek to manage the competing demands of local interest, federal power, and international clout. In Anniston, they did so by helping to rush Caldwell's case to trial.

Over the next few days, the streetcar shooting remained "the main topic of conversation in the city" as authorities moved to deal with Caldwell before the mob could.²³ Frankly and formally, Caldwell described his position in a letter to his commanding officer. "It gives me great pleasure to write you," he announced the morning after his arrest, "that I am in trouble." Stripped of his uniform and outfitted in overalls, he wrote back to camp from a cell in the county jail.²⁴ The night before, he had admitted to his military interrogators that he had fought with Linten and Morrison on the Oxford line car, but he steadfastly claimed that someone else fired the shots that left the conductor dead and the motorman wounded.²⁵ Caldwell knew that his denial came to no avail. Served with an arrest warrant on the morning after his capture, he wrote his officer that he was "to be tried for murder."²⁶

Through the combined efforts of the military, city, and county police, the case proceeded, in the words of an impressed reporter, "with a speed seldom witnessed" in criminal investigations.²⁷ The day after the shooting, as members of the local streetcar workers' union accompanied Linten's body back home for burial and doctors announced that Morrison would probably survive despite his wounds, Calhoun County circuit court judge Hugh Merrill called a special meeting of the grand jury for Thursday, December 19.²⁸ He assigned as defense counsel a local lawyer, Charles D. Kline, and set Wednesday as the day of the soldier's preliminary hearing. The whites took this "assurance of a speedy trial" as a sign that there would "be no dillydallying" in punishing Linten's killer.²⁹

Although the rapid response of local authorities lessened the potential for mob violence, public fascination was at a peak by the time Caldwell arrived for his bail hearing on Wednesday morning. The initial hearing pulled a "big crowd" of curious onlookers who "thronged the courtroom" to watch as fifteen witnesses, mostly soldiers, recounted Sunday's events.³⁰ The crowd became so engrossed in the drama of the trial that when the first streetcar passengers identified Caldwell as the man who shot Cecil Linten, some people

applauded. At the end of the day, after Judge Merrill declared that he could “do nothing less than hold the defendant for the grand jury without bond,” the crowd trailed Caldwell and his protective guard of sheriff’s agents, city police, and military men back to the jail.³¹ If anything happened to Caldwell before he made it to trial, they wanted to be there to see it.

While the mob watched over Caldwell in the street, Alabama government and industry came together in the courthouse to build their case for the grand jury. The Alabama Power Company, employer of Caldwell’s two victims, retained its Anniston counsel, Knox, Acker, Dixon, and Sterne, to aid the prosecution.³² An eminent lawyer and Yale Law School alumnus, Niel Sterne served as the big gun in a three-man prosecutorial team rounded out by the county attorney and a state solicitor sent up from Talladega to assist in the proceedings. Vowing to the public that “no effort would be spared” to ensure “that full justice was done in the case,” Sterne and his associates entered the fray over the meaning of justice for Edgar Caldwell.³³

In many ways Sterne, praised by his peers as a man of “much courage, good sense, and humor,” represented the most benign face of Anniston’s white supremacist elite.³⁴ A local boy, his roots in Anniston dated back almost to its opening as a public town in the early 1880s.³⁵ In 1887, four years after Anniston ceased being a closed, factory settlement, Sterne’s father Anselm moved his wife and children—including three-year-old Niel—to the fledgling town in the Alabama hills. To the elder Sterne, himself a Jewish immigrant from the German state of Westphalia, the move from Albany, Georgia, to northern Alabama would have seemed short but significant. As a veteran of the ravaged Confederate Army, he could have found in industrial Anniston, founded in 1872, the promise of a revitalized South.

Indeed, the Sternes would prosper as the city grew. Anselm became a wealthy grocer, a city alderman, a Mason, and a life-long member of the United Confederate Veterans. As he wove the family into the fabric of the city through business and community networks, his wife Henrietta extended their ties through public service and participation. A dedicated clubwoman and founder of the Anniston’s Ladies Hebrew Benevolent Society, Henrietta acted as a leader in the town’s small Jewish community while becoming the honorary life-president of the local chapter of the United Daughters of the Confederacy (UDC).³⁶ His parents and their civic activities provided Niel Sterne with a model of Southern place and race making, as they regrouped from the Civil War’s material devastation, sanctified the Lost Cause, and firmly ensconced

themselves in the Anniston community as Jews certainly, but first and foremost as white Southerners.³⁷

If the elder Sternes harkened back to the Old South, Niel Sterne unquestionably evoked the New. Unlike his father who had fought in Stonewall Jackson's army, Niel served under a more successful defender of white supremacy. Prior to law school, he worked as a secretary and stenographer to Colonel John B. Knox, railroad lawyer and president of the 1901 Alabama Constitutional Convention, who laid out the "question of Negro Domination" as the issue driving state constitutional reform.³⁸ "What is it we want to do?" Knox rhetorically asked the gathered delegates, answering "Why it is within the limits imposed by the Federal Constitution, to establish white supremacy in this state."³⁹ Although Knox justified past acts of fraud and terror against African American voters as acts "of necessity for self-preservation" against "the menace of Negro domination," he recognized that the times called for new stratagems.⁴⁰ With an eye toward their "duty to posterity," Knox rallied the delegates to establish white supremacy by law.⁴¹ From John Knox, Sterne would receive his early lessons on law and politics in Alabama.

In addition to receiving Knox's guidance, Sterne, like many other young, well-to-do Southern white men, benefited immensely from the world that Knox helped to create. By quelling the ferment that came from black and dissenting white voters, disfranchisers like Knox created an illusion of order that made Southern politics more palatable to Northern observers. White elites could rely less on force or fraud because they had embodied "in fundamental law such provisions" as would "protect the sanctity of the ballot."⁴² Disfranchisement allowed Southern Democrats to masquerade as democrats. Moreover, the romantic haze in which groups like the UDC suffused memories of the antebellum South and the War also helped the region seem more noble than lawless. Thus, Sterne could dare venture North to attend such a bastion of Yankee education as the Yale Law School because his parents and his mentor had effected the cultural and political coup that fostered regional reconciliation and assimilation: Sterne, in short, was a child of Reunion, and he could wear the mantle of white supremacy without ever uttering its name.⁴³

Upon returning home to Alabama, Sterne continued to reap the benefits of his association with Knox and his established membership in the white ruling class. In 1911, three years after graduating summa cum laude from law school, he became a junior partner in Knox's firm and a prominent citizen.⁴⁴ He joined the Rotary Club, served on the board of Anniston's Carnegie Library,

and began a lauded “ever endless effort to better the community.”⁴⁵ By the time Edgar Caldwell tangled with the crew on his client’s streetcar, Niel Sterne was well on his way to becoming the irreplaceable “contributing influence in the business of [the] city” that his friend Governor Thomas Kilby would one day eulogize him as having been.⁴⁶

Niel Sterne was not the only well-connected legal official Caldwell would face in the court. Like Niel Sterne, Judge Hugh Merrill was the son of a Georgian Confederate soldier; and like the Sternes, the Merrills had moved from Georgia to northern Alabama during the political upheaval of the 1880s. They settled in neighboring Cleburne County, where Merrill’s older brother Walter became head of the county’s Democratic party and a state senator. After graduating from the University of Alabama law school in 1898, Hugh Merrill followed his brother into politics. He represented Cleburne County in the state house of representatives from 1900 to 1901, the year of the constitutional convention.⁴⁷ After his term in the Birmingham legislature, he moved to Anniston and took a job at John Knox’s corporate law firm.

Merrill’s fortunes flourished in Anniston. He stayed at the Knox firm until the year after Sterne left for law school. In 1906, he began a two-year stint as Anniston’s city attorney, working under the authority of then-mayor Thomas Kilby. Five years later he began his first of three terms as a state circuit court judge. After the Caldwell case, Merrill would return to politics. He went on to become speaker of the Alabama House and, during the early Depression years, the state’s lieutenant governor.⁴⁸ Both Merrill and Sterne belonged to a local elite, linked by ties of kin and community, in which law, business, and politics closely intermingled. An outsider, a “stranger in the city,” Edgar Caldwell had run afoul of some of the most powerful men in northern Alabama.⁴⁹

The Negro Ministers Union and other members of the black community watched with consternation as the “full justice” they had requested following the streetcar shooting got trampled in the authorities’ lockstep march toward reprisal. On Thursday, the day after his preliminary hearing, Caldwell returned to the courthouse for a special convening of the circuit court grand jury called solely to hear his case. He only stayed for a few hours. After a ninety-minute period of deliberation that even the *Anniston Star* found “remarkably short,” the grand jury returned an indictment charging the soldier with first-degree murder.⁵⁰ According to Reverend Roland Williams, one of

the signers of the Ministers Union petition, the court later “boasted” of the grand jury’s perfunctory consideration.⁵¹

The court’s behavior made it apparent that African American leaders could no longer balance assertion and accommodation if they wished to save Caldwell’s life. “Sure” that the soldier could “not get a fair trial” in Anniston with “the passion . . . so high,” a group of local African Americans resolved to better his chances by using their own networks to counter the informal and institutional ties that united white authorities against him.⁵² If black soldiers had languished in Anniston because of the “lack of unselfish leaders” among Calhoun County’s fifteen black churches, the emergency occasioned by the streetcar shooting now moved area ministers to action.⁵³ Banding together with small businessmen, they formed a legal committee to advocate for Caldwell. The Anniston committee hired additional defense counsel, Basil Allen and Charles Kline, and launched a fundraising drive to pay the legal fees incurred. Recognizing that it had a significance that reached far beyond the Alabama hills, the committee also began pleading Caldwell’s case to the NAACP in New York and to Special Assistant to the Secretary of War Emmett Scott in Washington, D.C. From his house on Brown Avenue in downtown Anniston, the forty-one-year-old Reverend Williams became the committee’s spokesperson.⁵⁴

The alternate public sphere that African Americans developed under Jim Crow provided the networks that linked the area’s black middle class to each other and to the rest of the African American community. Although they could match white Anniston’s upper classes neither in pedigree nor wealth, they could nevertheless surpass them in ingenuity and resolve. Even those folks without independent employment—people who could not afford to speak out publicly on behalf of Caldwell—could walk over to Tenth Street and chat about his circumstances with their neighbors in Thomas Jackson’s dry goods store. Domestics who worked for white people in Anniston or laborers who did custodial work for the white-owned iron works company could keep their mouths shut, but still place a little money for Caldwell in the offering plate at the Mt. Zion Baptist Church. In the places where black public life happened, the shops and church halls and barbershops, people mulled over the Caldwell case. As Reverend Williams told the NAACP, they “organized.”⁵⁵ The class divisions that normally stratified even small African American communities could compress or extend depending on circumstances.

Although they might normally go their separate ways within the community, for Caldwell, the county's African Americans united.

Long decades of resistance had taught African Americans to improvise a variety of tools to use in the fight against white supremacy, but the war supplied them with new ones. In addition to the discursive advantage presented by Wilsonian rhetoric and its disconnection from social realities, wartime mobilization helped to extend African American community networks out of their local setting and into the nation at large. Established civil rights groups such as the NAACP gained new branches and members during the war—growing in numbers from 9,282 people in 80 branches in 1917 to 91,000 people in 310 branches by the end of 1919—while public campaigns for war funds and food production created new organizational infrastructures.⁵⁶ To garner African American support for the Liberty Loan drives, for example, the government-organized Committee of One Hundred brought together men from black churches, educational institutions, fraternal organizations, and commerce agencies. Moreover, these new networks also encouraged interracial cooperation in men and women's civic groups. Niel Sterne, for example, sat on the board of Anniston's Liberty Loan committee. Roland Williams served in its ranks.⁵⁷

On Christmas Eve in Anniston, Roland Williams moved to harness, on behalf of Edgar Caldwell, these resources of war-related community organizations. In wavering handwriting, on stationery he took from the United War Work Campaign, Reverend Williams informed the NAACP national office that down in Anniston they faced “a serious case” that was “being rushed through the courts for fear of mob violence.” The defendant, Williams made sure to mention, was an active-duty soldier, “not discharged,” with “a fine record” and a long history of military service. Using wartime service as shorthand, he positioned himself as a community leader and transformed Caldwell from a common criminal to a worthy cause.⁵⁸

Williams spoke in shorthand because, as he curtly informed the NAACP in his letter, “What we do must be done quickly.”⁵⁹ As the court “rushed through the preliminary proceedings,” Caldwell’s local defenders had little time to waste wooing outside help.⁶⁰ The urgency only increased with the coming of the new year. Following the arraignment, where Caldwell entered a plea of not guilty, Judge Merrill scheduled the trial for January 17, 1919.

The defense team twice moved for a continuance, arguing that the court had placed “the case too early for the defendant to properly prepare for trial.”

Specifically, they needed time to seek out “a soldier, who was with the defendant at the time of shooting whom the defendant had not yet been able to locate” but who they suspected might have returned to camp. They also sought a second eyewitness, a soldier named Nathaniel Phillips who had been demobilized in the three weeks since the shooting. Caldwell and his defense team continued to maintain that someone else had shot the transportation workers. The court denied both motions to delay the trial but granted the defense permission to summarize the testimony of the discharged soldier.⁶¹

In January 1919, while dozens of African Americans endeavored to get to France to perform and reinforce black citizenship during the peace conference, African American Annistonians looked to the courthouse as the next theater of the struggle. “I feel,” Rev. Williams wrote after Caldwell’s arraignment, “like this is [a] test case of what is coming to us after war.”⁶² The black and white citizens of Calhoun County who thronged the courthouse a week later felt much the same way. African Americans “coming from all parts of the county” pressed into the courtroom “until it was practically impossible to get in or out.” When Judge Merrill ordered the court cleared of anyone without a seat, insistent spectators stooped at cracks in the door to continue listening to the muffled proceedings. Under Merrill’s orders, the police cleared them away as well.⁶³

The trial remained a public event despite the restricted access to the courthouse. African Americans barred from the building gathered on the road in front, creating an impromptu open-air forum for discussing the trial. Most could have agreed with Reverend Williams’ statement that “the race here sees Prejudice in the court here.”⁶⁴ Looking around the courtroom, they would never even have expected to see a jury of *their* peers. Despite the best intentions of the 14th Amendment, the broad discretionary powers given to judges, prosecutors, and local administrators would keep Southern trial juries and the right of law in the hands of white men until well into the 1950s.⁶⁵ They might well have noted, also, that there were no “good white folks” on the jury, as “the men free from race prejudice were easily struck by the state” early in the process.⁶⁶ Some optimists in the crowd might have speculated about whether the legal committee’s attorney Basil Allen, former judge and reputedly “one of the best lawyers in the state,” could improve Caldwell’s odds.⁶⁷ Given the animosity that the county’s white communities radiated toward the soldier, few people likely held out much hope. ◇

The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America

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Following the 1890 census, the first to gather statistical data on African Americans born after slavery, a damaging cautionary tale arose about the threat Black people posed. Excessive arrest rates and overrepresentation in northern prisons were seen by many White people as proof of Black people's inferiority. Chronicling emerging notions of Black people as a dangerous race of criminals, Khalil Gibran Muhammad reveals the pernicious influence of the idea of Black criminality. Here he analyzes how officials in the late nineteenth century used statistics to conclude that while the failures of White people resulted from social problems needing amelioration, those of Black people had to do with inherent racial characteristics and were therefore pathological.



WITH THE 1896 publication of Frederick L. Hoffman's *Race Traits and Tendencies of the American Negro*, a tour de force in the annals of postemancipation writing on the Negro Problem, statistical data on black criminality secured a permanent place in modern race-relations discourse in the United States for the first time. . . . His first published article, "Vital Statistics of the Negro," appeared in the April 1892 edition of *The Arena*, a Boston-based progressive journal. Hoffman's article was the fourth entry on the Negro Problem published by the journal subsequent to [Harvard scientist Nathaniel] Shaler's three 1890 articles.¹

In "Vital Statistics," Hoffman expanded on [Francis Amanal] Walker's thesis that previous investigators had overestimated the "future colored pop-

ulation.” Rather than analyze unreliable birthrate data as others had—the records were spotty and poorly kept—Hoffman turned to mortuary reports for eight southern cities.² He found that on average blacks died at nearly twice the rate as whites. Although environmental conditions were a factor for all groups living in poverty, the “*two main causes*” of high mortality among blacks were consumption and venereal diseases, which he linked to their “inferior constitution” and “gross immorality [Hoffman’s italics].” The data, including statistics from the U.S. Army during the Civil War, clearly showed that more blacks than whites died of tuberculosis. In all these cases blacks and whites faced the same external conditions, according to the U.S. surgeon-general from whom Hoffman quoted directly in an 1889 report, demonstrating that the difference was the result of “a race proclivity to disease and death.”³

In the expert opinion of the nation’s foremost medical authority and Hoffman, health care discrimination plus the physical, emotional, and psychological toll of racial oppression apparently had nothing to do with black health and mortality disparities.⁴ Although Hoffman liked to declare otherwise, it seems the data did not speak for themselves since there was more than one way to interpret them. As for venereal disease mortality, Hoffman had no actual data. Instead, he asserted that “any physician who practiced among the colored people” would attest that as many as 75 percent of them were “cursed” with a sexually transmitted disease. He followed up the anecdotal evidence with more death tables, showing that, across the board, black babies and black women died at higher rates than their white peers. From his perspective, every statistic or expert testimony was scientific proof of inferiority and degeneration. “Thus we reach the conclusion that the colored race is showing every sign of an undermined constitution, a diseased manhood and womanhood; in short, all the indications of a race on the road to extinction.”⁵ In his first article, Hoffman was on his way to shaping racial statistics into a powerful, full-blown narrative of black self-destruction, racial decay, and the futility of reform. He asked rhetorically, why waste the nation’s resources on a “vanishing race”?

With the forces of logic, reason, and statistics on his side, Hoffman appeared to foreclose the possibility of seeing blacks’ situation any other way. Yet within the following year, in 1893, he presented a completely opposite interpretation of a high mortality problem among whites. In their case he blamed society and called for economic intervention. Suicide, the most literal

act of self-destruction any individual can commit, was on the rise in the United States, and Hoffman collected mortality statistics to prove it. “Suicide and Modern Civilization,” also published in *The Arena*, was, according to Hoffman, “the first time . . . the [suicide] statistics for American states and cities” had ever been presented.⁶ Across the country, especially in the urban North where state and county agencies kept the best records, suicides had risen dramatically since the 1860s.⁷ Massachusetts, the epitome of America’s Puritan past and industrial future, recorded over 900 suicides in the last half of the 1880s, compared to 394 “self-killings” in the first half of the 1860s, a 130 percent increase. Connecticut’s rising suicide rate, Hoffman found, was even more startling, growing 216 percent over a similar period. Always striking in its grandeur, New York City held the dubious honor of being the suicide capital of America in the late 1880s, recording 1,188 suicides that represented a 52 percent increase over the 1870s. Philadelphia and Baltimore had far fewer suicides but saw the rate of “voluntary destruction” increase by roughly 70 percent over the same period. If every suicide and attempted suicide were actually recorded, Hoffman wrote in a dire tone, “the army of those who seek in suicide a relief from earthly troubles would assume alarming proportions.” The “plain but impressive language of statistics” had given “a picture of the darkest side of modern life.” The stresses and strains of modern civilization were to blame, Hoffman wrote, and had contributed to increasing rates of insanity and brain diseases. According to an expert Hoffman cited, these individuals were victims not of “their own vices,” but “of the state of society into which the individual is thrown.” Hoffman agreed, insisting that the “total amount of misery and vice prevailing in a given community” was a manifestation of something fundamentally wrong in society. “The study of statistics of suicide, madness, and crime is one of the utmost importance to any society when such abnormal conditions are on the increase,” he wrote in a plea for reform. “When such an increase has been proved to exist, it is the duty of society to leave nothing undone until the evil has been checked or been brought under control.” The “*health* of the people” must come before the “*wealth* of the people.” Hoffman concluded that “We must be far from truly civilized as long as we permit to exist, or accept as inevitable, conditions which year after year drive an increasing army of unfortunates to madness, crime, or suicide. . . . It is the diseased notion of modern life—almost equal to being a religious conviction—that material advancement and pros-

perity are the end, the aim, and general purpose of human life. . . . It is the struggle of the masses against the classes.”⁸

Hoffman interpreted whites’ self-destructive behavior as a consequence of a diseased society, not of a “diseased manhood and womanhood.” White criminality was a response to economic inequality rather than a response to a “race proclivity.” On the white side of the color line, it would take nothing short of “emergency measures” to save modern civilization from itself.⁹

Hoffman’s emergent advocacy was bidirectional. On the one hand, he interpreted the data on black mortality as a race problem, a call to do nothing. On the other hand, he interpreted the data on white mortality as a social problem, a call to do everything possible—to “leave nothing undone.” Taking one extreme position, then the other, Hoffman was becoming an outspoken partisan in debates about America’s future well before he began writing *Race Traits*. Historian Lundy Braun writes that “he shared with other Progressive-era reformers . . . a faith in the expertise of middle-class professionals” to influence “the culture of knowledge production in the United States,” and to “shape policies of the state and civil society in the late nineteenth and early twentieth centuries.”¹⁰ His tremendous influence in these areas was defined in part by his choice, and the decisions of many others, to see blacks’ problems as uniquely their own, just as he chose to see whites’ “struggle for mastery” as society’s problem. In a society where the ideology of white supremacy was ascendant, Hoffman saw no inconsistency in his thinking. In his earliest writings he was not a social Darwinist in the sense that he thought helping the weak was antithetical to social progress and nature’s plan; the problem was helping a race of people outside the pale of civilization who had, according to his interpretation of the latest data, proven themselves to be permanently inferior to all whites, including European immigrants like himself. “The city negro brought into direct competition with the white race has usually but one avenue out of his dilemma—the road to prison or to an early grave,” he wrote in an article following the suicide report.¹¹ In this racial Darwinist formulation, permanent racial inequality and premature death among blacks was a scientifically sound solution to the Negro Problem, and a progressive means to economic equality among whites through a more effective use of social resources.

In relation to the recurrent economic depressions of the late nineteenth century and related immigration and labor problems among whites, Hoffman’s

career was propelled by his attempt to outflank late-nineteenth-century racial liberals with novel racial statistics. Nondiscrimination laws in the 1880s forced insurance companies to offer blacks the same benefits for the same premiums that were guaranteed to whites. Prudential balked at the new laws and hired Hoffman in 1894 because of his expertise in the field of black mortality. The company wanted him to prove on actuarial grounds that discriminating against blacks was justifiable. "Prudential and Hoffman aimed to turn the racial fantasy of the extinction hypothesis into hard scientific numbers that could be deployed" for the purposes of profit and prejudice.¹² It was in this context that Hoffman made his most original contribution to the analysis of new racial demographic data by zeroing in on black criminality. Two years later he would elevate it to the national stage of race-relations discourse in an effort to silence northern racial liberals who had not yet been swayed into accepting black inferiority through biological evidence, such as small brains and diseased bodies.

Hoffman's decision to focus explicitly on black criminality was likely influenced by his encounter with a debate between two prison doctors on why black convicts died in prison at much higher rates than white convicts.¹³ In the February 3, 1894, edition of *The Medical News*, R. M. Cunningham, a former Alabama prison physician, reported that "the negro mortality was three times greater than white," based on examination of "some 2,500 convicts" over several years ending in 1890.¹⁴ Although, according to Cunningham, the site of investigation was a first, since no comparative racial study and explanation of mortality differences among prisoners had hitherto been attempted, the results confirmed previous research. The "well-known facts" of blacks' physical deficiency and asymmetrical development—their small thoracic regions versus their large stomachs and penises—predisposed them to diseases such as tuberculosis. "All one has to do is to see 300 or 400 negroes naked in a large bath-house, and then step through a door and see 75 or 100 white men in the same condition, to convince him of the correctness of this view." The statistical fact of black men dying in prison was written into the observed evidence of inferiority found in the body. Like life in the army, prison life was supposedly free of racism, eliminating it as a factor in the mortality differences. "This is certainly true at the place whence the foregoing statistics were obtained." That 85 percent of the prisoners were black, when before emancipation 99 percent of Alabama's prisoners were white, and that more than five times "as many negroes

as whites [were] committed for crime" had nothing to do with discrimination. According to Cunningham, Alabama's laws were "impartially administered so far as race is concerned."¹⁵ These disparities were also observable in northern prisons, where racial equality was a given, he explained as yet another proof that blacks were at the root of their own demise.

In rebuttal, M. V. Ball, a prison doctor at Eastern State Penitentiary, which housed Philadelphia's convicted felons, wrote that Cunningham's data were accurate but his interpretation was all wrong. Black prisoners were indeed far more likely than whites to die of tuberculosis in a Pennsylvania prison, as in other northern prisons, but the causes were related to childhood poverty, unsanitary living conditions, and poor hygiene. "In the early years are sown the seeds of tuberculosis," Ball wrote, "which require but the confinement of prison to mature and develop." He added that mortality statistics did not generally "take into account social distinctions," therefore masking the effects of poverty on populations that disproportionately suffered from it. Ball cited as an example data from the New York Board of Health "for various tenement districts" that revealed that childhood mortality rates among struggling Italian immigrants were similar to those of struggling blacks, and were much higher than for the city in general. "Make the conditions favorable for the negro from childhood up, and then first can we say that" blacks are more disease-prone. "The criminal nature of the negro must be viewed in the same light," Ball continued. Before ascribing the overrepresentation of blacks in Pennsylvania's prisons or in Georgia's or in Mississippi's to their inferiority, racial prejudice must be taken into account. "In the South, where lynch-law is most commonly dealt out to the negro, we might attempt to ascribe this greater criminality to lack of fair treatment, and prejudice on the part of the white man; but in the North we are supposed to be exempt from this accusation." Although Ball hesitated to say that northern racism was potentially as important to assessing black criminality as southern racism, he was certain that the current state of statistical analysis left much to be desired. "In criminal statistics, as in medical statistics, we do not compare classes." Until we do, he concluded, "I would refer the differences" to environmental conditions rather than to "physical distinctions." "Until the sociological factor is studied and taken into account, the so-called hereditary and racial characteristics as witnessed in the adult are liable to lead to wrong conclusions."¹⁶

If there was one moment when Hoffman, the young, ambitious, German-born statistical maven, had to step back and either reconsider his interpretation

of racial statistics or charge ahead, fortifying his ideas with more forceful language and emphasis, this was the moment. This debate did not begin as his fight, but it most certainly ended that way when he published a rejoinder to Ball's article in the September 22, 1894, issue of *The Medical News*. Hoffman attacked Ball's every point with no fewer than twelve proofs of counter-data and counter-testimony. Most of the data and expert opinions he cited were recycled from his 1892 article, but this time his language was far more pointed and expressive, revealing a strong desire to eliminate any possible reason for interpreting the data in social terms or in a manner similar to his own position on white suicide and criminality. His strongest and most consistent argument against Ball was to unequivocally assert the total absence of racism and discrimination as determinative of the health and welfare of blacks in American society. Because "the negro is placed under exactly the same conditions, social and economic, as the white race," there was no way to explain the mortality and criminality differences other than their "race proclivity to disease and death." "Any city in the South will show that year after year, for the past twenty years," blacks died at rates 25 percent to 100 percent higher than whites. Records from the army presented similar data as "proof so convincing that it will be hardly necessary to add anything further in support of the theory of distinct race characteristics." Moreover, the surgeon-general, "a recognized authority," Hoffman continued, had come to the same conclusion "in such an emphatic manner."¹⁷ Even the British troops in the West Indies outlived blacks in an environment where blacks had an advantage, "as life in the West Indian Islands is to the negro a paradise on earth, being an out-door rural life, with little manual labor," he wrote, echoing Shaler's words about Haiti and Jamaica.¹⁸ Back in the United States, actuarial data "by all the life-insurance companies" confirmed that blacks on average died ten to twelve years younger (in their early twenties) than whites. With their economic incentive to seek healthy clients regardless of race and to perform routine "medical examination[s]," Prudential Insurance company's 50 percent higher payout to the beneficiaries of black policyholders was yet "another proof of the permanency" of racial difference. Hoffman continued, writing in an arrogant tone to show that Ball had missed or had refused to acknowledge what was plain for all to see: "Need more proof be brought forward to maintain the assertion that the negro and the white man differ fundamentally. . . . I could quote authority after authority to prove that such is really a fact."¹⁹

That Hoffman felt compelled to go to such lengths to refute Ball, given that it was not his research that had been directly challenged, demonstrates how passionately he believed that demographic evidence was the smoking gun for which so many racial scientists and race-relations writers, such as Shaler, had been looking.²⁰ But this was not just about one individual's pursuit of scientific certainty in solving the Negro Problem. Hoffman's was not the only voice of white absolution for the sins of America's founding fathers and mothers, nor was his the only voice speaking of black degeneracy, black savagery, and black extinction in the 1890s. He kept extremely good company in this regard, from scientists to academics to journalists to religious leaders to American statesmen.²¹ Rather, this was about how one individual could make a difference in redefining a "scientific" problem and in pushing the boundaries of conventional knowledge and understanding into new research areas. At this time social scientists were attempting to raise their academic profile by becoming professionalized, by founding academic journals, and by adopting empirical methods to give their findings the veneer of scientific certainty like those of their senior colleagues in the natural sciences.²² With a real knack for spotting emerging statistical trends in the United States and with a little help from his European counterparts, Hoffman identified key areas of demographic research, sometimes based on entirely new data that others had not yet noted or had only casually considered.

With black crime, like white suicide, Hoffman took Cunningham's and Ball's lead into the realm of black prison and arrest statistics and put himself on the cusp of yet another original contribution. Left with one final proof in order to dismiss all of Ball's interpretations, Hoffman cited a French physician's 1889 study that tied the physical differences between West Indians and "the white man" to "distinct social aptitudes," noting that "a similar study of the negro criminal in this country *would* lead to similar conclusions."²³ This was Hoffman's first published comment on "the negro criminal," demonstrating his dedication to searching for the data and to filling what was an obvious void in debates about the scientific origins of black disease, death, and self-destruction. A far more robust and pioneering crime analysis was to follow in the book. In the meantime, Hoffman haphazardly noted, without citing dates or using tables, wide racial disparities in Chicago arrest rates and Pennsylvania prison rates.²⁴ Unlike work on black mortality, the large-scale study of black criminality from the statistical standpoint was mostly uncharted territory.²⁵

Anecdotal, anthropological, and journalistic assessments of black criminality had informed nineteenth-century popular opinion and social practices.²⁶ Colonial laws targeted unsupervised gatherings of enslaved men and women and conspiring free blacks to ensure against black uprisings. Antebellum blacks were often subject to discriminatory policing even as they suffered violence periodically at the hands of native-born white and immigrant mobs in northern cities.²⁷ Since nine out of ten blacks were enslaved until the late nineteenth century, the scientific measure of black criminality first awaited freedom, then reliable data. As late as 1893, as indicated by the absence of any mention of blacks in one of the first textbooks on what would later be considered American criminology, *An Introduction to the Study of the Dependent, Defective and Delinquent Classes* by University of Chicago social scientist Charles R. Henderson, quantitative research on black criminality had not yet begun.²⁸ Given how much Hoffman seemed to delight in pioneering the compilation and presentation of vital statistics on a national scale, he probably consulted Henderson's book before proceeding with his own study. The likelihood is further demonstrated by noting just how tightly drawn was the intellectual circle that encompassed Hoffman, Henderson, and others. In the second edition of *The Dependent, Defective and Delinquent Classes*, Henderson wrote on "the Negro factor" for the first time and cited Hoffman's *Race Traits*, which had been published in 1896, three years after the first edition.²⁹

Another important report on the national crime situation that lacked statistical data on black criminality appeared the same year as Henderson's first edition, and Hoffman likely read it. The report was written by his colleague at the U.S. Bureau of Labor, Carroll D. Wright, from whom Hoffman had obtained data before writing his first race article.³⁰ Wright linked crime to unemployment and the exploitation of unskilled and uneducated workers. His only reference to African Americans was a slim mention in a discussion of general trends in industrial nations in the nineteenth century where, he argued, crime rose as a natural consequence of the transition from feudalism to wage labor and from slavery to freedom.³¹ It seems likely that Hoffman noted the absence of vital statistics on black crime in Wright's article, then studied Wright's argument that preventing white crime required better protection of the white working-class against the ravages of economic depressions in the industrial marketplace. "The shutting down of the mines of Pennsylvania, or the reduction of work therein," Wright wrote, "throws large bodies of men out of employment. . . . Crime is the result, and the criminal statistics swell

into columns that make us believe that our social fabric is on the verge of ruin.” Wright’s evocative language reflects the growing compassion of many American social scientists who, in the wake of a national recession in the 1890s, began to argue against social Darwinism. They were also arguing against the emerging biological determinism of European criminal anthropology, which was gaining popularity due to the efforts of its foremost promoter, Cesare Lombroso, an Italian prison inspector.³² On the origins and solution to white criminality, Wright may have influenced Hoffman directly, given the tone and tenor of his suicide article.

Wright and Hoffman shared the same school of thought.³³ Society and the government had a responsibility, both argued, to protect the health and welfare of the white citizenry; otherwise crime, disease, and death were inevitable results. As Wright put it, “The health of the workers of a community is essential to their material prosperity, and the health of a community has much to do with the volume of crime.” Within the general population, among Anglo-Americans and new European immigrants, the problems of disease, death, and self-destruction were rooted in industrialization and modern civilization. Harry Vrooman expressed similar views and was also a contributor to *The Arena*. A socialist writer and organizer of the Progressive Labor party, Vrooman argued that “the whole problem of crime, as to-day expressed in society, is summed up in the problem of poverty; we have churches enough, schools enough, moral sentiment enough, to regenerate the world in a decade, were it not for the awful pressure brought to bear on nine tenths of the human race, which all but forces them to be vicious.” Moreover society owed the “the great army of unfortunates” not just economic security, but “goodwill” that encouraged “respect [for the ethical code]” and an obligation “to sustain . . . the social order.” In other words, sympathy and compassion for working-class white Americans were as important as living wages and humane working conditions. Vrooman took his analysis one step further by attributing part of the blame for “Bowery crimes,” a reference to a New York City immigrant slum, and “wage slave[ry]” to “Northern greed” during the Reconstruction period. Under “negro domination,” he wrote, a “black horde of practical savages” controlled by “Yankee plutocrats” plundered the South.³⁴ Notwithstanding the challenge to universal white economic mobility posed by free black labor, Hoffman, Wright, and other progressives believed that at the nexus of crime and whiteness there was only a class problem. There was no race problem.

Ball agreed entirely with the conclusion that race was not the determinant factor in white mortality and white criminality, but he believed the same held true for blacks. In response to Hoffman's latest entry in what had turned into a nearly yearlong debate in the pages of *The Medical News*, Ball insisted for the second time, though much more forcefully, that mortality and crime statistics in and of themselves could not be trusted. "Figures in themselves mean nothing; they must be carefully analyzed and studied in connection with social conditions." Without taking into account a host of known "socio-logic factors," statistics were an insufficient basis upon which to "draw conclusions" and could easily become misrepresentations of reality. Repeating a cliché, Ball wrote, "There are three kinds of lies, someone has said, 'white lies, black lies, and statistics.'"³⁵

From Ball's perspective, the statistical lies told by Hoffman, Cunningham, and others had little to do with the actual mortality and prison data, which he admitted were not in "dispute." There was no doubt that more blacks than whites died of tuberculosis and went to prison, but explaining why was the essential problem. Ball rejected the racial meaning Hoffman obsessively gave to the statistics. He balked at Hoffman's omission of other kinds of demographic data that showed rates of mortality among the Irish and Italians living in impoverished neighborhoods of the urban North as similar to rates among blacks. According to Ball, even the 1890 census data, when read with a different interpretive lens, showed that "foreign-born whites and the children born of foreigners have the same death-rate as the colored, because they often dwell in the same surroundings and are under the same economic conditions."³⁶ Even when mortality differences seemed to point to racial differences, Ball found not biology, but more subtle environmental influences related to housing and hygiene. The extreme housing differences between whites of the "wealthy classes" and blacks "who live in the alleys back of their mansions" accounted for huge disparities in mortality.³⁷

In regard to crime statistics, environmental factors, such as the misconduct and biases of criminal justice officials, were similarly as determinative, Ball continued. "All law-breakers are not sent to prison, and the more influential the criminal, the less likelihood of conviction. The police-court investigation in New York City shows us that morals cannot be determined by the number of arrests, and that the most disorderly element in New York City was most exempt from police interference."³⁸ Ball was citing the findings of the Lexow Commission of 1894, the first blue-ribbon investigation of police

corruption and violence in American history, which made headlines at the same time his article appeared. According to historian Marilynn Johnson, the New York State Legislature launched an investigation of the New York Police Department after a series of high-profile corruption scandals. The investigation “produced more than ten thousand pages of testimony that detailed multiple cases of police graft, vice protection, racketeering, and election fraud.” The investigation was nicknamed the “Clubbers Brigade” to highlight the connection between corruption and brutality by police officers, a hundred of whom appeared before the commission to explain their equal number of assault convictions. Like Ball, a lawyer for the commission noted the discriminatory effects of police misconduct. “Those in the humbler walks of life were subjected to appalling outrages. . . . They were abused, clubbed and imprisoned, and even convicted of crime on false testimony by police and their accomplices. . . . The poor, ignorant foreigner residing on the great East Side of the city has been especially subjected to a brutal and infamous rule by the police.”³⁹ For Ball, then, the circumstances affecting disease and criminality among the “poor, ignorant foreigner” were likely to be as “active in the negro.” Moreover, the tendency to compare blacks to the “whole white race with its four or five social divisions” exaggerated the racial distinctiveness of blacks, rendering invisible the commonality of “poverty and ignorance” among various subgroups. Such a method is “not scientific,” he unequivocally asserted to Hoffman. “Thus, before we can call characteristics racial and dependent upon distinct organic differences, we must eliminate the sociologic factor.”⁴⁰

But Hoffman hardly looked back as he wrote *Race Traits and Tendencies of the American Negro*. In this full-length treatise on the racial deterioration of black people in America published two years later, he never explicitly acknowledged Ball’s warnings. While he made a few veiled references to the environmental argument of “some authors,” he insisted that the evidence of race deterioration was “indisputable” and that “no difference of interpretation . . . seems possible.” With the notable addition of more mortality data, which he claimed had never been published or had “never been duly considered by those who believe so firmly in the all powerful effect of the ‘milieux,’” much of the book was an expanded version of his previous articles.⁴¹

What was new in the book, however, was of no minor consequence. His major innovation was in presenting for the first time a statistical “study of the negro criminal.” Whereas in slavery it was a “well-known fact that

neither crime [nor] pauperism" existed, he began, in freedom the latest data positively proved otherwise. The 1890 census, according to Hoffman, showed 24,277 "negro criminals" out of the nation's 82,329 total prisoners, about 30 percent, and nearly three times the number of black men and women in the general population (12 percent). Although black men constituted more than 90 percent of all "colored prisoners" (just over 22,000), both sexes were most likely to be incarcerated for violence, "the most serious of all crimes." Out of nearly 7,000 men imprisoned for homicide, just over a third, 2,512, were black men. Black women made up nearly six in ten female prisoners convicted of murder, representing 227 women prisoners out of 393.⁴² For rape, "the most atrocious of all crimes," black men composed 41 percent of convicts. For property offenses, arson ranked at the top among black men and women as a proportion of the total, at 46 percent and 61 percent respectively. Hoffman thus praised the "wisdom" of insurers in "restricting the amount of fire insurance obtainable by colored persons."⁴³ If the information in the book spoke for itself, as Hoffman frequently claimed, it seemed at times to have been too soft-spoken. The message apparently was worth repeating: black criminality justified black proscription.

Regarding lynching, for example, Hoffman interpreted press accounts of rape as justifying mob violence even as he admitted that there was no statistical evidence to link the two. "The evidence on this point is not such as would recommend itself to an investigation of this kind, in which official data are the main reliance," he wrote.⁴⁴ Instead he supplemented "newspaper evidence" with "the opinion of those most competent to judge," including the Virginian historian Philip Alexander Bruce, whose influential 1889 book *The Plantation Negro as a Freeman* was one of the most heavily cited postbellum race studies. Bruce, quoted by Hoffman, described the rape of white women by black men as "indescribably beastly and loathsome," without peer in the "whole extent of the natural history of the most beastial [sic] and ferocious animals."⁴⁵ Although Bruce claimed to be impartial, dispassionate, and free of a personal connection to slavery, his book in general and his chapter on black criminality in particular represented the standard repackaging of pro-slavery beliefs for a postbellum audience.⁴⁶

By relying on such experts, Hoffman combined crime statistics with a well-crafted white supremacist narrative to shape the reading of black criminality while trying to minimize the appearance of doing so. Thus the innovative and enduring significance of Hoffman's crime analysis was not only in

presenting the data for the first time, but also in setting the terms and shaping the frame of analysis. Table after table of arrest and prison statistics from cities across the nation, such as Chicago, Philadelphia, Louisville, and Charleston (SC), and from states including New Jersey and Pennsylvania, Hoffman proclaimed, all “confirm the census data, and show without exception that the criminality of the negro exceeds that of any other race of any numerical importance in this country.” When “the negro learns to respect life, property, and chastity, until he learns to believe in the value of a personal morality operating in his daily life, the criminal tendencies . . . will increase.”⁴⁷

Although anecdotally black criminality had already become a popular measure of black progress and potential among postbellum writers, in Hoffman’s seminal statistical formulation it secured a more fundamental and permanent role in future race-relations discourse. It was now nearly impossible to read black crime statistics as symptomatic of the failed promises of racial equality in the wake of the Civil War and Reconstruction or, as Ball had suggested, to see crime beyond race as a sociological consequence of economic and social inequality in the industrial age. The construction of an avenue along which such thinking might have traveled was postponed indefinitely. Even suicide among blacks, according to Hoffman and in contrast to suicide among whites, was strictly viewed as pathological: “in most cases, to escape the consequences of his crimes.”⁴⁸ Ultimately, by framing black criminality as a key measure of black inferiority in the same way that his peers and predecessors had done through anatomical measurements and mortality data, Hoffman wrote crime into race and centered it at the heart of the Negro Problem. ◇

Seeing Patients: Unconscious Bias in Health Care

2011

AUGUSTUS A. WHITE III, MD

Growing up in Jim Crow–era Tennessee, where he trained and taught in overwhelmingly White medical institutions, Augustus White witnessed firsthand how prejudice works in the world of medicine. In Seeing Patients, a blend of memoir and manifesto, White draws on his experience as a resident at Stanford Medical School, a combat surgeon in Vietnam, and head orthopedic surgeon at one of Harvard’s top teaching hospitals to make sense of and offer suggestions as to how to combat the unconscious bias that permeates medical care. In this excerpt he explores the bias in pain treatment given to African Americans.



Unequal Treatment [a 2003 report by the Institute of Medicine] revealed an underside of American health care that most doctors had no idea existed. Here we are, the book announced, at the start of the twenty-first century, four decades after the civil rights laws were passed, and the medical world is riddled with prejudice and discrimination. The question was: How could this possibly be?

In clear, dispassionate prose, *Unequal Treatment* spelled out the extent of the problem. African Americans and Hispanic Americans received poorer care than whites right across the board. Since the charge from Congress to the Institute of Medicine was to look at racial and ethnic disparities, the researchers and writers also examined the more limited number of studies regarding Asian Americans, Native Americans, and Pacific Islanders. Of the

various racial and ethnic minorities, though, African Americans were, for various reasons, by far the most thoroughly scrutinized.

Given the long history in America of racial prejudice, it wasn't a surprise that blacks were especially subject to inferior treatment. Compared with whites, they had lower rates of cardiac surgeries, fewer hip and knee replacements, fewer kidney and liver transplants. Diabetic blacks were more often amputated than diabetic whites. Non-diabetic blacks were amputated more often too. Blacks were more likely to receive open surgeries rather than the less dangerous laparoscopic procedures. Surgeons didn't operate on them as often for equally operable lung cancers. They received less pain medication for the same injuries and diseases. They were more likely to be castrated as a treatment for prostate cancer. Black infant mortality was almost two and a half times that of white babies. The overall black mortality rate was 60 percent higher than the white rate. African American males in Harlem, one study concluded, had less of a chance of reaching age sixty-five than males in Bangladesh.¹

I knew about most of these and similar findings from my research for the Shands lecture to the Academy a year and a half before *Unequal Treatment* came out. But to many doctors, hearing such things came as a rude awakening. I think it's a truism that most physicians try to give all their patients the best care they can. So the suggestion that the profession as a whole might be prejudiced against African Americans or Hispanics strikes most doctors who aren't focused on social issues as frustrating and inexplicable. For people with full and hectic schedules, laboring under insurer-driven financial pressures and inundated with important new biomedical findings they need to keep up on, discrimination isn't high on the list of concerns. It's kind of a nonproblem, something that doesn't involve them. Discrimination may exist, but someone else must be doing it. Or else there are large social forces at work that they, as doctors, have no control over; poverty and education, for example. Of course, impoverished and poorly educated people will probably receive less-optimal care. That's, unfortunately, the nature of the system—hardly a reflection on doctors themselves.

But *Unequal Treatment* drew on a decade and more of studies. And these studies had become increasingly sophisticated. In particular, many of them controlled for variables, including the effects of socioeconomic factors, education, disease severity, and access to treatment. It might be a commonplace that poor people often didn't have private doctors, that lack of insurance

meant it wasn't easy for them to see specialists, that they might not be able to afford medications. But why was it, then, that black cardiac patients in the same hospitals and with the same insurance as white cardiac patients received less catheterization, less angioplasty, less bypass surgery? They were even less likely to receive common heart disease medications such as beta blockers, anticoagulating drugs, or aspirin.² Why was it that, in one of the country's top teaching and research hospitals, black emergency room patients were more likely to be referred to doctors who were still in training as residents while whites were more likely to be referred to experienced staff specialists?³ And, in my own field, just why in the world was it that African Americans brought into ERs with long bone fractures were less likely to receive opioids and other analgesics?⁴

Pain is universally interesting precisely because it's universal. Everybody has pain sometimes and some people have pain frequently or even chronically. We've all had conversations where we've talked about what kinds of pains we have and how badly we've suffered from them. There's even a kind of general curiosity as to what the worst pains are. Kidney stone sufferers often swear that the pain of passing such things is above and beyond. Acute sciatica has its strong advocates for most painful, as do migraine headaches. But childbirth can hardly be relegated to second place behind anything, though root canal infections also make most pains pale by comparison. I'm not sure exactly where long bone fractures fit into the hierarchy, but they are, without a doubt, exceptionally painful.

Let's imagine that a person—black or white, it doesn't matter; the physiology is exactly the same—is wheeled into a busy emergency room with a broken tibia, maybe from a bad fall. The tibia, or shinbone, connects the knee with the ankle bones. It's the larger and stronger of the two bones of the lower leg. It takes considerable force to break a tibia. But when it is broken, here's what happens.

The tibia, like all bones, is encased in a thin sheath of tissue called the periosteum. The periosteum itself has two layers. The outer one is richly endowed with blood vessels and what are called nociceptive nerves, that is, nerves that transmit pain. The blow that broke our patient's tibia undoubtedly caused tissue damage in the region, and the broken bone ripped open its periosteum sheath. Maybe it did this in one place, if the patient has a simple fracture. But it could have happened in several places. Tibia fractures also frequently involve damage or fracture to the fibula—the thinner and weaker

of the two lower leg bones. The broken bone ends can be sharp, and the wound may have left splinters or spikes of bone. If a surgeon isn't careful, a sharp bone end can penetrate right through her surgical gloves.⁵

But even if the bone ends are not sharp, they'll move around and jiggle any fragments or spikes. The torn periosteum, with its many pain-sensing nerves, will be flooding the brain with pain signals, and any additional movement will aggravate the nociceptors further, creating more pain. In addition, the periosteum's broken blood vessels will be bleeding into the area, and the pooling blood may pressure and irritate the surrounding muscles and other tissues, magnifying the pain even more.

All that may happen even if EMTs have splinted our patient, immobilizing the bone to a certain extent. If they haven't done that for some reason, every movement, the joggling of the gurney or transferring our patient to an X-ray table, for example, will cause excruciating pain.

All that pain has a reason, of course. It's the body's way of telling the brain in no uncertain terms not to move the injured limb. The brain has to keep things as still as possible down there. Only that way will healing begin and new bone matter be laid down to start fusing the break. That message has to be very loud and very clear, which explains why the pain volume is so high.

Now, here's what happens once our patient is in the ER. Let's assume it's a big, busy city hospital—which is where the main analgesia studies were done. With all the activity, it may take a while for a nurse to do an assessment and triage the new arrival. A fracture patient who isn't in shock, whose blood pressure is not down, and who is not bleeding profusely won't be at the top of the triage, but he will be urgent. Everyone knows the level of pain here. But still, it will take some time for one of the ER docs to get around to him. If the break is so bad he needs surgery, he'll be medicated and up he'll go to the operating room. Otherwise, his leg will be immobilized in a large brace or cast and he'll be fitted for crutches. And regularly, if that patient is black, he'll be given less pain medication than his white fellow human being. Not infrequently, he'll get no pain medication at all.

That, by the way, is true for Hispanic as well as African American patients. In fact, the groundbreaking analgesic study of this sort was done on Hispanic fracture patients.⁶ I'm discussing African American disparities first because, even though I readily understood that other groups were also subjected to disparate health care in equally serious and meaningful ways, as a

black physician my own experiences and thinking were initially focused on race issues. Also, because the racial divide is so exemplary of implicit prejudice, understanding how that works may be a key to unlocking the way prejudice works vis-à-vis other minorities. In any event, the bone fracture researchers were so impressed by their findings that they repeated their Hispanic study in a different city with black patients. After that, other researchers were sufficiently taken by those results that they began looking into postoperative analgesic prescriptions and found large disparities there as well.⁷

While most attuned doctors were disturbed by all of the *Unequal Treatment* disparity revelations—on cardiac care, transplants, surgical procedures, and others—to me, as an orthopedic surgeon, it was the long bone breaks that really stood out. A bone break is about as simple and straightforward as an injury can get. It has no relation to culture or language or unhealthy lifestyle, or whether African Americans might be adverse to some kinds of treatments. It simply must be fixed, and the considerable pain of it has to be addressed. Broken bones and analgesia are an ideal case to test whether the health-care delivery system is functioning in an egalitarian way, as we expect it to. And the health-care delivery system failed that test miserably. As Professor Jack Geiger wrote in *Unequal Treatment* after surveying the spectrum of health-care disparities, bone-break cases are “particularly troubling.”⁸

If you try to get at why this particular disparity happens, several explanations suggest themselves. One is the historical assumption that blacks do not experience pain the same way whites do. They have, as one nineteenth-century medical account put it, “an insensibility of the nerves.” Endowed with a more primitive, robust resistance to pain, African Americans don’t actually need as much pain medication as whites. Of course, this is utter nonsense, and nobody today would ever get up in a lecture and state such a thing. But it stands out in the historical literature. That belief became part of the culture of medicine at some level, and it’s still out there in the background ambience. Then there’s the conscious or unconscious assumption that African Americans coming into the ER may be drug addicts, or at least may be seeking drugs. That is to say, you’d better be especially careful with narcotics when you’re dealing with black patients.

There’s another background assumption at work too. An African American psychiatrist, talking about his white colleagues at a major West Coast teaching hospital, said, “I knew a lot of white psychiatrists who thought it

was a truism that all black people were angry with whites, that all of their black patients were angry and mistrusting.⁹ Irving Allen, another African American psychiatrist in the Boston area, talks to black patients about how to survive in a medical setting. “Be cool,” he tells them. “Be extremely careful not to appear hostile.” But the fact is that patients in severe pain are often scared and angry. And doctors aren’t different from other people, despite all their training. Confronted with what they perceive as anger or dislike, especially black anger, they will tend to back off, or at least not engage as they would otherwise. The doctor’s response might be, “I don’t really want to deal with this. Let me get this cast on and get on with somebody else.” And that too might impinge on prescribing the appropriate pain medications.

All this is aside from just plain old subconscious or maybe even conscious prejudice. But even without these stereotypes and assumptions—blacks don’t feel as much pain, they might be addicts or drug dealers, they might be hostile—doctors will sometimes simply let things slip, especially in the rush of a busy ER. That happens vis-à-vis white patients too. Pain management often just isn’t handled as well as it should be. But for African Americans it happens a great deal more often.

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How is it that fair-minded, compassionate doctors end up giving less pain medication to blacks than to whites for equally painful conditions? More bluntly, why do they allow African Americans to suffer more?

The answer is that categorization and stereotyping are such elemental mechanisms of cognition that we can’t get away from them, with racial identification being one of the primary classifications. And since in white minds blacks are more associated with negative attributes, that perception gets incorporated into “normal” patterns of understanding.

Because these things happen subconsciously—they are automatic mental processes—it’s no wonder that bias may be implicit and unrecognized, yet shows up starkly in medical practice. In the course of interviewing health-care professionals for a study of disparate care, Harvard medical anthropologist Mary-Jo Good talked with an African American attending psychiatrist who told her that “in his consultations on psychotropic medications he often finds that primary care physicians prescribe less current drugs for their black patients. When he asks them why, they are baffled and unaware.”¹⁰ But you don’t have to be a medical anthropologist or statistical researcher to notice the phenomenon. Here’s a student Incident Report from the *Focus* newsletter:

"During team rounds the resident referred to a black patient by her first name, removed her bedclothes, and examined her abdomen and breasts without drawing the curtain in a two-bed room. The next patient, [a white woman] who was called Mrs. Jones, underwent the same examination while she was carefully draped, and the curtains round her bed were drawn."¹¹ Why are those white doctors treating their black patients differently? They do not know. They do it without thinking.

Stereotyping is like a mental conduit that channels people away from considering those in out-groups as individuals. Other large forces that have the same effect come into play too. In this regard, medical anthropologist Good has focused attention on the culture of medicine itself. She has been especially interested in the way the medical world trains doctors to recognize disease.

Good, who has been studying this subject for several decades, uses the term "medical gaze" to convey the essence of her assessment. By "medical gaze," she and other social scientists mean the culture of medicine that conditions physicians to focus on the patient's physiological symptoms and biomedical indications and discourages them from taking into account the social context. As students, she says, doctors learn to value "what medicine cares about" and to discount the human side. Time pressures, the stresses of the work environment, and the need to see many patients all reinforce the expedience of this so-called prescriptive approach to treatment.¹² Another leading teacher and researcher puts it this way: "Doctors are taught that their own personal background, and the characteristics of the patient . . . should be excluded from consideration in the formulation of clinical decisions."¹³

Students learn this approach from their professors and supervisors, whom they emulate, and from the structure of the medical school curriculum. Many students are attracted to caring for the poor or working to alleviate minority health problems. But these kinds of humanitarian projects tend to become less important as they move on to clinical work in their third and fourth years and into their internships, where they are faced with making hard therapeutic decisions with potentially grave consequences.¹⁴

Operating from within this biomedical perspective, doctors find certain kinds of patients harder to treat. Patients may have problems that are exacerbated by their social circumstances, that get in the way of medical therapies. Patients may not comply with doctors' wishes and expectations. They may indulge in high-risk behaviors that obviate therapies. Patients of this sort

throw doctors off from providing the care they have learned is most effective. Giving them optimal care requires exploration and insight into their individual lives, which physicians may not be able, or willing, to give and are not, in any case, trained to do. Such patients are frustrating and time consuming in a medical environment that more and more demands efficiency. All this feeds into doctors' attitudes toward those they treat.

The kinds of patients who bring these sorts of extramedical problems into their interactions with doctors tend to be more poorly educated and from lower socioeconomic groups. They also tend to be from racial and ethnic minorities. Over time, many doctors build or buy into stereotypes of these groups in ways that can and do influence diagnosis and treatment. One influential study that looked at physicians' perceptions of patients showed that doctors thought of African American patients as less intelligent, less educated, more likely to be drug abusers, less likely to follow doctors' orders, and less likely to enjoy the help and support of others while in treatment than their white patients—*even though the study was controlled for education level, income, and other potentially confounding factors*. Finally, white doctors felt less affiliation—that is, less friendliness—toward their black patients.¹⁵ ◇

Bengali Harlem and the Lost Histories of South Asian America

2013

VIVEK BALD

In the late nineteenth and early twentieth centuries, Bengali Muslims quietly joined some of America's most iconic neighborhoods of color. As steel and auto workers in the Midwest, as traders in the South, and as halal hot dog vendors in Manhattan, they created lives that challenge assumptions about assimilation and cross-racial affinities. Here Vivek Bald recounts the cross-country travels of Dada Amir Haider Khan, a seaman from Kashmir who in 1918 deserted his grueling life on a British steamship. He hoped to find a better way in America, where he stayed until 1926, but what he found was a political awakening.



BY THE TIME an Indian seaman reached the waterfront of New York, Philadelphia, or Baltimore, he had already gone through a kind of transformation. Most had spent their early lives in rural areas far from the ocean before making their way to Calcutta and Bombay. They had often spent months in these cities' crowded docklands and then weeks, months, or years working at sea in the company of men from their own and other villages and regions, as well as moving in and out of large, bustling, cosmopolitan port cities across the globe—Alexandria, Naples, Tunis, London, Liverpool, Glasgow, Antwerp, Kobe, Shanghai, Singapore. The decision to jump ship in a Northeastern port—to escape the inequities of the British maritime trade and break the immigration laws of the United States—was itself the sign of a confidence that for many would have grown over their time spent in the maritime trade. Many

would have witnessed and been encouraged by other seamen who had developed knowledge about moving on and off ships as they docked in different places, or who had told of the opportunities and networks that awaited deserters onshore. But what happened to these seamen once they jumped ship in the United States? What happened to their sense of self, their sense of possibility, and their sense of the world once they entered into the spaces of U.S. port cities and factory towns as workers, as migrants, and as men of color in a society deeply divided by race and class? This is a question that cannot be answered for most of the Indian seamen who deserted in U.S. ports in the 1910s and 1920s. There are likely as many answers to the question as there were men who jumped ship, and now, years after this generation has passed away, there is little record of their experiences, let alone of the changes they underwent. The vast majority of these men were nonliterate, and those who were literate appear to have had little opportunity or inclination to record their stories in writing.

There is, however, one remarkable exception: the memoir of Dada Amir Haider Khan.¹ The first volume of his *Chains to Lose* was written from a British Indian jail cell between 1939 and 1942, after Khan had been imprisoned for his activities in the independence movement and his organizing work for the Communist Party of India. More than four hundred pages long, it details the early part of Khan's life, from his birth in a small village in northwestern Kashmir to his years as a teenage coal trimmer on British steamships, through the period of his life, from 1918 to 1926, that Khan spent moving into, out of, and across the United States. In this relatively short period, he worked as a member of the American merchant marine, with New York as his home port, as a boilermaker in a railway workshop near Buffalo, New York, and as an autoworker in Detroit, Michigan. He rode the rails in the segregated South, earned certification as a steam engineer, via a correspondence course, and became a licensed pilot, after attending an aviation school in rural Southern Illinois. Khan's memoir is perhaps the only existing firsthand account of the life and movements of an Indian maritime worker in the United States before the 1930s.

Dada Khan was exceptional in many ways. He possessed a boldness and intolerance for injustice that led him to challenge superiors and organize fellow workers on British ships from the time he was just sixteen years old and then to plunge himself into the political landscape of cities such as New York and Detroit in his twenties. By the time he was twenty-six, he had been recruited

by representatives of the Communist International in the United States and sent to Moscow to train and study. As exceptional as he was and as singular as some of his experiences were, Dada Khan's story is important because it illuminates so many different aspects of the history of Indian seamen in the United States, and it moves through so many of the spaces these men inhabited. As Khan recounts his movements and observations, we gain a first-hand account of the lives that Indian seamen forged for themselves throughout the networks they set up in U.S. port cities and industrial towns. Khan describes his time on and near the New York City waterfront; encountering recruiters and middlemen; working on ships with Indian crews, mixed crews, and white crews; laboring in factories in New Jersey, upstate New York, and Michigan; living with other Indian "seafaring men"; congregating in restaurants, laundries, and rooming houses; attending political meetings in ships' quarters, hotels, and Baptist churches. Khan's story gives us a sense of just how different were the pathways through which Indian ex-seamen moved after jumping ship in the United States, compared to the smaller number of Indian elites—students, intellectuals, and professionals—who lived in the United States during the Asian exclusion era and the much larger numbers who arrived after 1965. As racialized and criminalized workers, Indian maritime deserters inhabited different spaces onshore; they encountered different people, ideas, difficulties, and challenges.

As a result, they were presented with different possibilities for reimagining themselves as social, cultural, and political actors, and this is what Dada Khan's memoir illuminates so clearly.

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Amir Haider Khan and the other Indian seamen who jumped ship in the United States during this period also occupied a realm of work and everyday life that set them apart from elite radicals and introduced them in a more immediate way to the realities, and often the violence, of American racism. While Khan's entry into Indian nationalist politics is central to his narrative, his account of his developing consciousness around race and racism is equally significant. Although this parallel "awakening" had a longer arc, it was a crucial part of his experience in the United States, in the U.S. merchant marine, and in his transformation from coal passer to revolutionary. Khan's writing about race is striking in its honesty, particularly as he assesses, after the fact, his own blind spots in his regard for African Americans and in his understanding of antiblack racism. Over time, Khan came to recognize that his na-

tionalism was at the root of this blindness—that because his rejection of British subjecthood was predicated upon an embrace of the United States as a land of freedom and opportunity, he was unable to see the negative aspects of American society that were right in front of him. This changed over time, as Khan witnessed racial injustices and experienced them himself, and as he and other Indian ex-seamen lived near and among working-class African American migrants in Detroit at a time of major political mobilization in the black community.

Khan's account of his shifting consciousness around race is largely written in a reflective past tense in which he simultaneously records the instances of racial injustice, large and small, that he witnessed after jumping ship in the United States in 1918, and notes his often inadequate responses to or understanding of these events at the time they occurred. A striking example came early on in his career as an engine-room worker on American vessels. In the fall of 1918, the ship on which he was working, which was en route from New York to Saint-Nazaire, France, to deliver supplies to U.S. troops, struck a rock in the shallows outside Saint-Nazaire and began taking on water. The barges that arrived to save the ship, Khan writes, brought pumps to keep the ship from sinking, along with "groups of Negro Army workmen," who were sent into the icy water deep inside the hold of the sinking ship to salvage its cargo. Khan watched as these black men, "at the instruction of their white overseers, would fish out pieces of cargo night and day." This process continued for two months, even after the end of hostilities. "Though Christmas is the biggest [holiday] in the United States," Khan remarks, "there was no relief from the ceaseless toil of the Negro workers, whose bodies had become numbed by continuously working in cold weather and using the same wet overalls without any change. While standing nearby, I heard a Negro sergeant complain on behalf of his men that they were ready to collapse from exhaustion. His white overseer threatened that . . . the slightest hesitation would result in punishment. Although the war had ended, the harsh treatment of the Negroes who were among the U.S. expeditionary forces in France did not improve."² Khan was equally struck by the way U.S. military officials imposed American racial hierarchies upon the French port cities where American forces were concentrated, noting that while, in French cities like Paris, "one could often see Negroes, Chinese, or men of other colonial nationalities accompanied by French ladies in the most fashionable shops and cafes," in Brest and Saint-Nazaire, "the Americans . . . compelled the . . . French to segregate the American

Negroes, and all the local businesses including restaurants, catered only to Whites. . . . [T]he Negroes were allowed only into some of the ugliest back-street dumps.”³

At this stage, however, Khan did not appear to have been moved beyond the act of observing and remembering, and in fact admits to having been “infected” by American racism himself. Having caught cold while his ship was docked in Brest, Khan was sent to an army hospital onshore. Here, because of his dark skin, he was put in the black medical ward that U.S. authorities had set up, but instead of protesting the segregation in principle, Khan sought to be reassigned. “Seeing that they had put me in a Negro ward, I did not want to stay and told the nurse I was really not that sick. . . . She reported this to the admitting doctor who probably sensed the real reason for my refusal to stay. . . . [H]e asked me where I was born and I replied, ‘I was born in India.’ He instructed that I be put in a ward with whites and told me that I should remain in the hospital for treatment. . . . This I was [now] quite content to do and I received very good care.”⁴ Writing more than twenty years later, Khan used this episode to illustrate that “American racism often takes the form of a contagious disease,” accounting for his own actions and attitudes in these naturalized terms: “Even I, whose skin was not much fairer than the average Negro, had subconsciously been infected by a superiority complex within a few months of my arrival in the United States, though I knew absolutely nothing of the country and could not even speak its language.”⁵ Over the next few years, Khan’s response to repeated personal experiences of racism in the American merchant marine would continue to take this form—he attempted to disassociate himself from African Americans and “prove” his worth as a seaman to his white American shipmates while explaining away these shipmates’ racism through the metaphor of disease, or being “infested with the germ of this peculiar psychological illness.”

However, Khan’s attempts to explain away racism as an anomaly rather than a central feature of American society eventually began to break down. Amid a postwar slump in shipping, Khan writes, the American Legion and Ku Klux Klan gained increasing influence among white American seamen. Now he experienced one incident after another in which white crew members shunned him the minute he stepped on board a new ship. Although his response was to work even harder once on board, to gain the respect of these racist shipmates—to help them overcome their “illness”—he reached a breaking point in 1922, when, assigned by the Shipping Board in New York

to an outgoing steamer, he experienced, once again, a “complete social boycott.” When, on his second day on board, with the ship still in port, the “sneering” first engineer accused him of arriving late to his shift and “pick[ed] a quarrel,” Khan quit on the spot, leaving the ship, and maritime work, for good. Khan’s narration makes clear that this moment was the culmination of many years of growing self-confidence and racial consciousness—and the beginning of the end for Khan’s belief in the promise of American equality and opportunity. Interestingly, this loss of faith in the national myth was grounded in an equally strong faith in the “cosmopolitanism” of New York City:

I was not surprised or offended [by the racism on my previous ship] because the crew was from the southern part of the United States and I had joined the ship at Norfolk, Virginia where racial and colour prejudice was rampant. But I did not expect . . . such prejudice around the port of New York . . . Indeed, I was proud of New York and its cosmopolitan life of which I always spoke very highly. I felt more confident in New York than in India . . . I had innumerable friends and acquaintances in the city from various walks of life. Thus I was not willing to tolerate any racism or be looked down upon on account of my foreign birth or the colour of my skin. I had suffered through nasty personal experiences in the past . . . and the additional treatment on this ship added insult to injury.⁶

Ironically, it was this incident that sent Khan running from New York City, its waterfront, his friends, and his political work to take the first job he could find in the industrial interior of the country—in this case a job in a rail yard in Olean, in far upstate New York.⁷

The move upstate initiated a series of events that gave Khan a view of American racism that was less clouded by his faith in the abstract promises of his adopted country. In Olean, he almost immediately found himself in an altercation and fistfight with a white coworker, who referred to him as a “little Hindu” and threatened, “I shall kill you and send you back . . . where you came from.”⁸ When he took leave from his job for two months to pursue a course in small plane aviation in rural southern Illinois, Khan was confronted by a local man “with the handle of a gun protruding from his hip pocket” who told him to “leave this place on the next available train.” He discovered that “not a single Negro was allowed to work, live, or enter the vicinity of the town.” Khan still felt compelled, when he met his aviation instructor, to insist that “I am not a coloured man, but . . . come from India.”

At the same time, when he describes the lengths that his instructor now had to take in order to convince the owner of the town's hotel that he is "not a Negro," Khan relates this act of racial distinction in a sarcastic rather than matter-of-fact tone: "I presumed he was giving the owner a discourse in anthropology, and probably sociology . . . to convince the man that I was not a Negro [and h]ence no outrage would be committed against the white race in renting me a room. . . . After completing all the arrangements, he came back and, smiling triumphantly, announced his formidable achievement."⁹ By the time that Khan, resting in an Indiana hospital room after crashing his plane on a test flight, looked out his window to see a white-hooded phalanx of the Ku Klux Klan marching through the town's main street, he had already come to a clearer understanding of his position in the United States' racial hierarchies—closer to "Negroes" than to the white shipmates he had once tried to "cure" of their "illness"—and his belief in "America" had been deeply shaken.

It was in this state that Khan came to rejoin his network of Indian ex-sailors in the Detroit neighborhood of Black Bottom, where he went through a final transition in his understanding of race and racism in the United States. Khan and the other Indian Muslim seafaring men living in Detroit in 1925 had come to the city at a significant moment for its African American residents. Marcus Garvey's influence in Detroit and in black communities across the United States was at its height, and this year, after appeals against manufactured charges of mail fraud failed, Garvey was sent to jail. Also in 1925, Duse Mohammed Ali, a Sudanese Egyptian Pan-Africanist and adviser to Garvey, began holding Muslim meetings and prayer services in Detroit that brought African American and immigrant Muslims together within the same organization, the Universal Islamic Society. These meetings, which were attended by some of the city's Indian ex-seamen, may have influenced the development of two of the most important African American Muslim groups, the Moorish Science Temple and the Nation of Islam.¹⁰ Finally, 1925 was the year in which an African American doctor, Ossian Sweet, went on trial for murder after he and his friends took up arms to defend his new home in a previously white Detroit neighborhood from a violent mob. While Dr. Sweet's case garnered widespread national attention, it was a particularly strong rallying point for Detroit's own African American community, which included thousands of residents of Black Bottom and Paradise Valley who were recent migrants from the segregated South.¹¹

Khan and other Indian Muslim seamen were living near the heart of Detroit's African American community on the east side of downtown Detroit at this moment of cultural and political ferment. No doubt, many of the men from the subcontinent kept to their own circles, living and socializing among Indian ex-seafarers and other immigrant Muslim autoworkers in their pocket of rooming houses on East Congress, Fort, and Lafayette Streets. As in New Orleans, however, a number of Indians married African American women and moved further into the residential center of Paradise Valley and Black Bottom, to the north and east of the immigrant boardinghouse district. British surveillance documents from the period show that Detroit's British Consul was keeping a close eye on this smaller group of more settled Indian ex-seamen. While the consul eventually expressed concern that "the lascars" were a radical element within a local Indian nationalist organization, the United India League of America, his first worry seems to have been that the ex-seamen had "married coloured women" and were associating with members of the "large influx of . . . Coloured people from the south," gaining the negative attention of local authorities and bringing disrepute to a group of Indian students then attending Michigan State University.¹²

It is unclear exactly where Khan himself took up residence in 1925—it appears to have been in or near the immigrant boardinghouse district—but he was quickly drawn to Black Bottom's cultural and entertainment district, and pulled into the local African American community's unfolding political activism.

In his memoir, Khan describes for the first time "hav[ing] the opportunity to get in close contact with . . . American Negroes" and to "appreciate [their] difficulties." This brought about a "revived political interest"; Khan now "made full use of [his] free time every week by attending . . . political, educational, or social meetings." He learned about the militant Marxist organization the African Blood Brotherhood, its newspaper, the *Crusader*, Garvey's United Negro Improvement Association and Black Star Line, and more generally, the frustrations of black ex-servicemen who returned to face unemployment and increased racial violence after the war. From his jail cell in India years later, Dada Khan wrote about this moment with passion, calling the United Negro Improvement Association the only "organization worth its name at the time" and expressing admiration for the self-sufficiency of the African American community in Detroit, which included both workers and "already, a middle-class educated section . . . such as lawyers, doctors, dentists,

preachers, teachers, journalists, and some property and house-owners." As a whole, the community were "holding their own."¹³

Khan writes of two key figures who brought him into contact with "many political-minded . . . Negroes" in Detroit. The first was a roommate, whom Khan describes as a "South Indian who was brought up by American missionaries in [the] U.S.A." Although he does not specify the race of his roommate's adoptive parents, it is clear that as an adult, this South Indian was living in the black community and active within its church circles. The roommate began taking Khan to "Negro churches" in the neighborhoods where, in Khan's words, African Americans "led a segregated life as untouchables have to do in . . . India." Visits to services and meetings in these churches apparently became a part of Khan's routine for the months he lived in Detroit. The second person who introduced Khan to black political circles was Duse Mohammed Ali. Historian Richard Brent Turner has described Duse Mohammed as "a prominent member of London's Muslim community" in the 1910s who became Marcus Garvey's "mentor in Pan-Africanism." Duse Mohammed had published a journal, *The African Times and Orient Review*, from 1912 to 1920, in which he published "many articles on Islam in the British Empire, particularly in India," and developed a political vision that fused Pan-Africanism, antiimperialism, and Pan-Islamic unity.¹⁴ In the 1920s, he came to the United States and eventually settled in Detroit.

Dada Khan does not detail how he first came in contact with Duse Mohammed Ali. It may have been through some of the other Indian Muslims in Detroit who had begun attending the meetings and prayer services that Duse Mohammed was conducting under the auspices of a newly formed Islamic Society. Khan was impressed by the diversity of this group, in which Indians participated side by side with African, Arab, and African American Muslims. He was also drawn to Duse Mohammed's ideas of "mutual help . . . among the different oppressed peoples." The Sudanese Egyptian, writes Khan, had started "an organization at Detroit . . . to develop the worldwide commercial relations between all the colonial, semi-colonial, and oppressed people" and had "collected around him some middle-class Negro supporters of his plan apart from some Negro working people." What is interesting in Khan's account, however, is his suspicion both of Duse Mohammed's reliance on religion as the primary unifying force for oppressed peoples and of the elder figure's underlying motives. Identifying more with his black neighbors and coworkers than with his Muslim "co-religionist," Khan thought it wrong that

Duse Mohammed Ali would take the hard-earned money of “Negro working people” in subscription fees to support his commercial schemes. Khan’s relationship with Duse Mohammed, in other words, stands out not only, as Khan says, for the opportunity it provided for him to “[come] to know many more Negroes” in Detroit, but also as an indication of his own sharpening political vision, in which Khan increasingly came to see the importance of global solidarity based not on religion, but on the shared and overlapping oppression of the racialized, the colonized, and the “wage slave.”

This vision, rooted in Khan’s experiences as a maritime worker and an industrial worker, a colonial subject of British India and a racialized subject in the United States, came together in Detroit as Khan witnessed the grassroots African American movement in support of Ossian Sweet. Khan appears to have developed a strong connection to Detroit’s working-class black community by the time of the Sweet trial, and was swept into the event, attending informational and support meetings in black churches and community spaces much as he had attended similar events in support of Indian independence in New York five years before. Khan was deeply moved by what he saw. “There [was] all sorts of [string]-pulling going on behind the scene to hinder [Sweet’s] defence, and thus to deprive the accused of a fair trial. Negroes in the U.S.A., who were fully aware of the whites’ treatment of their race rose to the occasion throughout the country. . . . Negro groups did not leave any stone unturned to rally the race in defence of the accused.”¹⁵ Describing one packed meeting that he attended “in the company of my South Indian friend” at Detroit’s historic Second Baptist Church, Khan writes that “speaker after speaker poured out his heart to the audience in the most moving speeches.” Then, “when the appeal was made for contributions for Dr. Sweet’s defence fund,” Khan continues, “everyone contributed whatever [they] could. By me were sitting some Negro working women of different ages. When the collection basket came, those who had no cash with them took off their earrings, finger rings, or whatever else [they had] to contribute towards the defence funds. . . . That day I saw how in face of a common danger, the Negro community stood united in defence of [a] man of their race.”¹⁶

Haider Khan’s description of the sustained organizing efforts of the African American community around Sweet’s case makes clear that his experience of this time deepened his understanding of both the violent and the institutional sides of American racism; demonstrated to him what was possible when people came together around a common cause across various lines of

difference (in this case class, age, and gender); consolidated his racial and political identification with African Americans; and ultimately stretched his own politics beyond the realm of anti-British anti-imperialism to an internationalism that was inspired by and rooted in his witness of African American popular protest. Ultimately, Khan's decision to pursue political training in the Soviet Union later in 1925 appears to have been as catalyzed by this experience of African American antiracist organizing as by his experiences as a worker or his meetings with the Soviet representatives who recruited him.

Dada Amir Haider Khan was clearly an extraordinary figure, both in terms of the incredible breadth of his travels, encounters, and experiences over the course of the seven years that followed his desertion from the SS *Khiva* in 1918 and in terms of the written record he left behind. This is precisely why Khan's account is so important—not because it represents, from beginning to end, the exact trajectory that other Indian Muslims followed in the 1910s and 1920s, but because it provides a picture of so many of the *different* pathways that Indian seamen took and so many of the places they lived and worked. After jumping ship in New York City in 1918, almost everywhere Khan went and in almost everything he did, there were other Indian ex-seamen who were there or who had been there before him. On the New York waterfront; in its boardinghouses and Indian-run restaurants and laundries; in the meetings of the FFI in New York City and the United India League of America in Detroit; in the American merchant marine; in munitions factories in New Jersey, railway workshops and steel foundries in New Jersey and up-state New York, and auto factories in Michigan; in Black Bottom rooming houses and Paradise Valley homes; in black churches and in the prayer meetings of Duse Mohammed Ali's Islamic Society in Detroit—in all these spaces through which Khan's trajectory passed, there were other Indian ex-seamen. His story thus gives us a sense of the possibilities that were open to Indian "seafaring men" as they moved through onshore networks in the United States—the pathways they followed and carved out; the spaces in which they lived, worked, and interacted; the encounters both within and outside Indian circles that were unique to their trajectories; and the transformations that were possible in the ways they saw themselves and the world. ◇

Lines of Descent: W. E. B. Du Bois and the Emergence of Identity

2014

KWAME ANTHONY APPIAH

W. E. B. Du Bois never felt so at home as when he was a student at the University of Berlin. But Du Bois was also American to his core, scarred but not crippled by the racial humiliations of his homeland. In Lines of Descent, Kwame Anthony Appiah traces the twin lineages of Du Bois's American experience and German apprenticeship, showing how they shaped the great African American scholar's ideas of race and social identity. In this excerpt, Appiah introduces us to the paradoxes inherent in the many identities to which Du Bois could lay claim.



THESE DAYS, we would say that William Edward Burghardt Du Bois was an African-American. He would not, of course, have used that term. He would have said that he was an American and a Negro, and, in *The Souls of Black Folk*, his slender masterpiece, he suggested that these descriptions did not fit easily together—that they gave rise to “two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder.”¹ And what was a Negro? Well, that was a question about which Du Bois thought a great deal over many decades. Negroes, he would have said, were a race. Yet *race*, as he knew better than most, is an elusive concept; indeed, he called the story of his own life “the autobiography of a race concept,” implying that his own understanding had changed over his long life. At times, as we’ll see, he spoke of a vast family, of shared descent and common impulses; at other times, of the inheritors of a common memory; but in the pitliest of his many attempts

at definition he said, “The black man is a person who must ride ‘Jim Crow’ in Georgia.”² Each of these conceptions has its defenders today. Still, the continuities in his understandings are as striking as the discontinuities. To appreciate his advances, it is helpful to bear in mind the ways in which he was not our contemporary.

Du Bois was born in 1868, the year that *Die Meistersinger von Nürnberg* had its debut; he died in 1963, when “Surfin’ U.S.A.” was on the charts. His longevity gives us, I think, a sense that he is more modern than he really was. It can be startling to realize, for example, that when Khrushchev gave him the Lenin Prize in 1959, Du Bois was being honored in the name of a man two years his junior. If Du Bois sometimes sounds old-fashioned, it is in part because his fashion was set in the nineteenth century. Still, even by the standards of his peers, his prose could be florid. It flows through his many volumes in a torrent, his distinctive style recognizable from the first sentence of his most famous book: “Herein lie buried many things which if read with patience may show the strange meaning of being black here in the dawning of the Twentieth Century.”³ More than fifty years later, in his ninety-third year, Du Bois published the last volume of his trilogy *The Black Flame*; it ends with these words: “Over his dead body lay a pall of crimson roses, such as few kings have ever slept beneath.”⁴ They were the same self-consciously antiquarian cadences, a sort of literary Puginism. Describing *Souls*, Du Bois ventured another diagnosis: “The style is tropical—African. This needs no apology. The blood of my fathers spoke through me and cast off the English restraint of my training. The resulting accomplishment is a matter of taste. Sometimes I think very well of it and sometimes I do not.”⁵ Yet Du Bois’s abiding concerns retain their urgency, and the challenge he set himself—to come to grips with the social reality of race in a way that both resisted scientific racism and responded to the claims of cosmopolitanism—remains daunting.

Nor is Du Bois’s conceit of calling his life story an “autobiography of a race concept” as far-fetched as it first seems. Born and raised in the Massachusetts town of Great Barrington and educated in unsegregated schools, Du Bois was a child when the Compromise of 1877 brought an end to what he was to call the “splendid failure” that was Reconstruction.⁶ The bright hopes earlier pinned on institutions like the Freedmen’s Bureau (1865–1872) and on direct black participation in the legislative process were already dimming; now they went dark. Among blacks, the result was a certain disaffection with

politics as a means of achieving change. As hopes switched to economic development, the emancipationist rhetoric of Frederick Douglass gave way to the practical counsel of Booker T. Washington, who began the work of the Tuskegee Institute in 1881. The voices of back-to-Africa emigrationists grew louder as well.⁷ As industrialism led to an influx of blacks to major cities, the “Negro problem” began to conjure urban pathology as well as agrarian backwardness.

Du Bois, graduating at the top of his high school class, began his undergraduate career at Fisk, in Nashville, Tennessee, because a black college was the right place for an African-American, however accomplished, especially one of modest means, dependent for the cost of his education on the philanthropy of strangers. Fisk taught him a great deal—not least, he insisted, how to live in a segregated community. He spent two eye-opening summers teaching poor black kids from East Tennessee in a schoolhouse that was no more than a windowless log hut. His class oration was about Otto von Bismarck, heralding the Prussian statesman’s success in making “a nation out of a mass of bickering peoples.”⁸ Listening to him speak about the Iron Chancellor, his hero, you might have guessed that this young man had a vision of himself as a black Bismarck; or, perhaps, in a metaphor that would have resonated more deeply for his African-American audience, as a Moses who could lead his people to a promised land.

His achievements at Fisk allowed him to take his bachelor’s degree to Harvard, where he earned a second BA two years later in 1890, *cum laude*, and was chosen to give one of the four commencement orations. A year later, he had a Harvard MA in history, working under the tutelage of Albert Bushnell Hart, one of the founders of modern historical studies in the United States. Determined to make a scholarly pilgrimage to Germany, Du Bois petitioned the Slater Fund for a fellowship, firing off a series of letters and testimonials to its head, former President Rutherford Hayes—the very man who gained the White House by agreeing to dismantle Reconstruction. (“To properly finish the education thus begun, careful training in a European university for at least a year is, in my mind and in the minds of my professors, indispensable to my greatest usefulness,” the Harvard graduate fellow wrote Hayes).⁹ At last, the fund agreed to provide a stipend for up to two years, and Du Bois, recalling his flush of exhilaration, tells us that, when he left a meeting with President Hayes, the promise of a scholarship secured, he was “walking on air.” “I saw an especially delectable shirt in a shop window.

I went in and asked about it. It cost three dollars, which was about four times as much as I had ever paid for a shirt in my life; but I bought it.”¹⁰ Du Bois, who was always a bit of a dandy, planned to arrive in style.

When Du Bois did arrive at the Friedrich-Wilhelms-Universität (as the University of Berlin was called by the time he got there) he was not disappointed. It had thirty-odd lecture halls on three floors, and its amenities were notably advanced, since it had recently been equipped with electricity, toilets, central heating, and ventilation.¹¹ Its faculty was the largest of any German university, and included many of the era’s most august intellectual figures—a good number of whom we will be meeting in the pages ahead. But after a period of enormous personal and educational growth, his stipend ran out and the Slater Fund turned down his request for a renewal. He had completed a dissertation on systems of farming in the American South, and his advisors at Berlin wrote letters (which Du Bois forwarded to the Slater Fund) explaining that a technicality prevented Du Bois from taking the oral examination that would have made him eligible for a doctorate. A university rule required that doctoral candidates have attended the university longer than Du Bois was able to do.¹²

Nursing his disappointment, Du Bois “dropped suddenly back into ‘nigger’-hating America.” He wrote to a friend, “I must step, walk, stumble and climb now; for the *Lehrjahre* [learning years] were passed—I fancied—and the *Meisterjahre* [adult years] begun.”¹³ He took a position at Wilberforce University while he completed another thesis, which would earn him a doctorate in history at Harvard, the first doctoral degree that Harvard had granted to an African-American. This thesis, on the suppression of the African slave trade, was, as it happens, the first dissertation to be published in the Harvard Historical Monograph Series. (In its preface, he was at pains to note that he had tested “the conclusions of this study by the general principles laid down in German universities.”)¹⁴ In 1896, the year he published this monograph spanning two centuries of Atlantic history and three continents, the author left his job as a classics professor at Wilberforce to begin a sociological study, at the University of Pennsylvania, of the African-American community of downtown Philadelphia. (Du Bois hadn’t liked Wilberforce University much—“What business had I . . . to teach Greek when I had studied men?”—but he met and married Nina Gomer there, a “slip of a girl, beautifully dark-eyed,” so he couldn’t regard his time in Ohio as entirely wasted.)¹⁵ Three years later, after a period of intensive research, Du Bois published his

second book, *The Philadelphia Negro*, which is, arguably, another of his many firsts: the first detailed scientific statistical sociological study of an American community.

By the time that *The Philadelphia Negro* appeared, however, Du Bois himself was no longer a Philadelphia Negro; he had become one of those Georgia Negroes, riding Jim Crow in Atlanta. He had taken a job as professor of history and economics at Atlanta University, which was among the crop of Southern black colleges that sprang up in the years immediately after the Civil War. Founded in 1865 by the American Missionary Association, and supported by the Freedman's Bureau, it was, by the turn of the century, educating black teachers to meet the growing needs of the segregated black schools of the South. The University of Pennsylvania, Benjamin Franklin's institution, was willing to harbor his research: but in the 1890s it could not offer a black man—even one as credentialed as Dr. Du Bois—a job as a professor.

Du Bois spent more than a decade in Atlanta, editing the Atlanta University Studies in the sociology of Afro-America, organizing conferences, teaching and conducting research—research that shows up in the detailed knowledge of the rural South displayed in *The Souls of Black Folk*. Atlanta University was where Du Bois lived out his professorial vocation. And all the time he was publishing. The preface of *The Souls of Black Folk* (he called it a “Forethought”) is signed “Atlanta, GA, Feb 1, 1903,” which was three weeks before his thirty-fifth birthday. One imagines that on February 2 he began (if he did not finish!) the next work. But simply by posing the sly question, “How does it feel to be a problem?”—one of that book’s best-known lines—he had invented a new way of writing about race in America.

When he wasn’t writing or teaching or doing research, he was helping to establish organizations of racial uplift: in 1897, he co-founded the American Negro Academy; in 1900, he attended the first Pan-African Conference in London; in 1905, he helped organize the opening conference of the Niagara movement, whose aim was both to ensure black voting rights and to oppose Booker T. Washington’s accommodations with segregation. But these institutional efforts of Du Bois’s were largely fugitive. The Academy drifted on desultorily for three decades; and the Niagara movement had four conferences and disbanded in 1910. That movement did pave the way, however, for the creation, in 1909, of the National Negro Committee, which was to develop into the National Association for the Advancement of Colored People (NAACP).

It was the NAACP that took Du Bois back out of the South in 1910 to edit its official magazine, *The Crisis*, in New York City and to direct the organization's publications and research (though not before he had added a new genre to his vita, by publishing his impassioned biography of John Brown). He was forty-two, a professor with a curriculum vitae and a list of publications and awards unmatched among African-Americans and equaled by few academics of any color anywhere. Now this scholar in his prime had a national platform on which to speak for the Negro, and he did so there for the next quarter century, until conflicts arose with the organization's integrationist (and integrated) leadership over his statements of support for all-black institutions. He resigned in one of his famous fits of indignation in 1934, at an age—he was sixty-six—when most people of his generation would have been established in a peaceful retirement.

Through these years he shifted slowly further to the left. He had joined the Socialist Party briefly, in 1912, but broke from his mild Fabianism to support Woodrow Wilson. Only in his fifties, after the Bolshevik Revolution, did he begin to read Karl Marx seriously; and, he said, writing in 1940, that Marx came to him then like "a beam of new light."¹⁶ (He was unimpressed by the American Communist Party, however, and its insistence on reducing race problems to class problems. Its official policy of race-blindness, he feared, gave it little appeal to either white workers or blacks.) He returned to Georgia to chair the sociology department at Atlanta University. Within the year he established his place as a major American social historian by publishing *Black Reconstruction*, which gave full due to the agency of the newly enfranchised black Americans in the two decades after the Civil War; he started a new journal, *Phylon*; and naturally he published more books and articles.

When he was forced to retire from Atlanta University in his mid-seventies, he went on working, writing newspaper columns, starting the *Encyclopedia of the Negro*. He continued to organize Pan-African Congresses; at the fifth Congress, held in Manchester in 1945, he was elected chairman, and met a new generation of Africans agitating for independence (including my father), many of whom went on to help govern their newly freed countries. He returned to the NAACP as a director of special research, from 1944 to 1948, when his activism in peace movements and deepening leftism once again brought him in conflict with the organization. He campaigned for nuclear disarmament, chairing the Peace Information Center, and attracting, inevitably, the attention of Senator Joseph McCarthy and his coterie in Washington.

Tried and acquitted in his eighty-third year on charges of being an “unregistered foreign agent,” he was denied a passport by the State Department anyway; and so was unable to accept Kwame Nkrumah’s invitation to attend the ceremony marking Ghanaian independence. Only as he entered his tenth decade did the Supreme Court finally rule, in *Kent v. Dulles* (1958), that denying American citizens the right to travel because of their political opinions was unconstitutional. Du Bois applied for a passport and promptly began a sort of triumphal world tour.

In addition to that visit to the University of Berlin, he traveled in Europe on both sides of the Iron Curtain; met Khrushchev in Moscow and Mao and Chou En Lai in Peking. (Du Bois could have a blind spot for nonracial forms of domination.)¹⁷ Shirley Graham, whom he had married in 1951, a year after Nina’s death, wondered that a man should be laurelled and lionized around the world and yet forbidden to enter the Harvard Club back home. By 1960, he was able to accept Nkrumah’s invitation to come to Ghana and celebrate the final constitutional separation from Britain, as Ghana became a Republic. He also made a visit to Lagos, where he met Tom Mboya, the Kenyan independence leader and, as it happens, a friend and mentor of Barack Obama, Sr.¹⁸ A year later, in 1961, Du Bois moved to Ghana for good . . . and finally joined the Communist Party. In 1963, the boy from Great Barrington, Massachusetts, denied a new U.S. passport by the American Embassy in Accra, became a citizen of that African nation. He was ninety-five.

This was the man who wrote *The Souls of Black Folk*. And what a paradoxical figure he is. He was a man of the left, but also an elitist and a dandy, who developed the notion that the African-American community should be led by what he called a “Talented Tenth.”¹⁹ He could be bitterly anticlerical, and yet his works are etched by the Christian narrative of suffering and redemption. He was profoundly committed to literature, poetry, art, and music, writing movingly of coming to know Beethoven and Wagner, Titian and Rembrandt when he traveled to Europe. He declared that “art is not simply works of art; it is the spirit that knows Beauty, that has music in its soul and the color of sunsets in its headkerchiefs; that can dance on a flaming world and make the world dance, too.”²⁰ But he also announced, “all art is propaganda and ever must be, despite the wailing of purists.”²¹ He wrote that his people were “Americans, not only by birth and by citizenship, but by our political ideals, our language, our religion”; but he claimed membership, too, in a black race that transcended nationalities. And, in the end, his love of race and

disappointment with America led him to renounce his American citizenship and take up with the new nation of Ghana.

Du Bois's adoption of a homeland on the African continent did not reflect a loss of interest in the fate of the Negro in America. Among his last acts was to compose a telegram of support on August 27, 1963, to the March on Washington—a message that went out before he went to sleep on the night he died, five years short of a century old. Roy Wilkins announced his death to the vast crowds gathered on the Washington Mall. "If you want to read something that applies to 1963," Wilkins told them, "go back and get a volume of *The Souls of Black Folk* by Du Bois published in 1903." Du Bois's state funeral in Accra, the next day, was one of the first great public events in the post-Independence history of Ghana: President Nkrumah hailed him as "a real friend and father to me."²² No one came from the United States Embassy to represent the country of his birth. If he died angry at America, he had his reasons.

Of course, indignation was one of his modes. He had raged at America, off and on, for much of his life, so that was nothing new. Yet his feelings were anything but unalloyed. In his posthumously published memoir, he invokes "that dichotomy which all my life has characterized my thought: how far can love for my oppressed race accord with love for the oppressing country? And when these loyalties diverge, where shall my soul find refuge?"²³ What's clear is that, right to his Ghanaian end, his identity was intimately tied up with his Americanness; and if his American nationalism was that of the patriot betrayed, pained by the inability of his country to live up to her best self, well, those sentiments are sentiments you can only have as an American. When the decision in *Brown v. Board of Education* was announced, Du Bois said, famously: "I have seen the impossible happen."²⁴ (Many people, I am sure, had the same thought when another American son of Africa was elected to the Presidency half a century later.) Did Du Bois ever give up on this country of ours, which he once called, only half in irony, "knightly America"? Or did he see in the growing successes of Dr. King and the Civil Rights movement the possibility of a future in which a thoughtful and self-respecting black man could love America without reservation?

Du Bois was America's last romantic. And romantic love, in the tradition established by the troubadours, is always an impossible love. It admits impediment, even as it strives to overcome impediment. So it was with Du Bois's arguments over the Negro's definition and destiny. Du Bois's arguments were

tethered to the varieties of racial romanticism and postromantic thought that he took from Germany's intellectual traditions; they were kin to the ideas through which Germany sought to define itself as a nation among nations. But these arguments mattered, he believed, to the fate of humanity in general, not just to black people in particular. They mattered to him, above all, because at their heart were puzzles about who he was himself, that brilliant son of Great Barrington. He faced in a peculiarly public way one question that faces every human being: What am I to do with the identities that fate has given me? In exploring his answers, and the life they enabled him to make, we can learn something about how to shape our own—no doubt, different—responses. ◇

From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America

2016

ELIZABETH HINTON

How did the “land of the free” become the home of the world’s largest prison system? Challenging the belief that America’s prison problem originated with the Reagan administration’s War on Drugs, Elizabeth Hinton traces the rise of mass incarceration to an ironic source: the social welfare programs of Lyndon Johnson’s Great Society. In this excerpt, Hinton shows how policymakers combined social programs aimed at eliminating crime’s root causes with police training and penal reforms intended to suppress criminal activity. The result was a shift from antipoverty programs toward anticrime policies, with a focus on policing black urban youth.



THE ROOTS OF MASS incarceration had been firmly established by a bipartisan consensus of national policymakers in the two decades prior to Reagan’s War on Drugs in the 1980s. Thus the expansion of the carceral state should be understood as the federal government’s response to the demographic transformation of the nation at mid-century, the gains of the African American civil rights movement, and the persistent threat of urban rebellion. Between World War I and Vietnam, more than 6 million rural African Americans escaped the exploitation and terror of southern segregationist regimes and moved to northern cities, a mass migration that transformed the nation. Black civil rights activists and labor leaders began organizing at the start of this migration and eventually pushed President Franklin D. Roosevelt to desegregate defense and government industries in the context of World War II. The

marshaling of federal resources to challenge discrimination during the New Deal grounded unrelenting calls for integration that eventually led the Supreme Court to endorse the desegregation of southern public schools in 1954's *Brown v. Board of Education* decision. With Jim Crow's "separate but equal" principle destabilized, the African American protest movement flourished, using direct-action tactics, petitions, and class-action lawsuits to demand an end to racial inequality. Young activists came to play an increasingly important role in these local and national struggles, which had evolved to demand economic justice for African Americans nationwide and galvanized hundreds of thousands of protestors to participate in the March on Washington for Jobs and Freedom in the summer of 1963. As black citizens continued to relocate to the urban north amid the burgeoning civil rights movement, the ongoing exodus of primarily white, middle-class residents from cities to suburban areas required new approaches to the problems municipalities faced with tax bases in decline.¹

In response to these transformations, federal officials now made the entwined goals of remedying racial discrimination, ending poverty, and fighting crime in American cities central to domestic programs. Most African Americans had been excluded from Aid to Dependent Children, the GI Bill, and many other social welfare programs associated with the New Deal, making the Kennedy administration's "total attack" on delinquency one of the federal government's first responses to the impact of the Great Migration in American cities. Kennedy's creation of the President's Committee on Juvenile Delinquency and Youth Crime in the spring of 1961 began a series of direct government interventions in cities with high concentrations of black citizens.²

The President's Committee set the strategies and established the partnerships with local municipalities and private organizations that Johnson expanded into a "War on Poverty." With the specific purpose of promoting socioeconomic mobility in the nation's most devastated low-income areas, in March 1964 Johnson sent the Equal Opportunity Act to Congress, legislation that vastly increased the scale and the potential power of the federal government's urban intervention. Concerns about controlling crime in black urban neighborhoods, however, limited the range of possibilities of New Frontier and Great Society programs alike.³ Although federal policymakers and officials did acknowledge unemployment and subpar urban school systems as factors contributing to both poverty and crime, incidents of

collective violence during the second half of the 1960s moved liberal sympathizers away from structural critiques of poverty and support for community action programs.

From the ashes of the Watts “riot” in August 1965, a growing consensus of policymakers, federal administrators, law enforcement officials, and journalists came to understand crime as specific to black urban youth. They concluded that only intensified enforcement of the law in black urban neighborhoods, where contempt for authority seemed widespread, would quell the anarchy and chaos on the nation’s streets. Increasingly, federal policymakers treated antipoverty policies less as moral imperatives in their own right and more as a means to suppress future rioting and crime. The Johnson administration quickly combined the existing education, health, housing, and welfare programs aimed at eliminating crime’s root causes with the police training, research programs, and criminal justice and penal reforms intended to suppress criminal activity.⁴

Even as the equal opportunity efforts of the War on Poverty only feebly attacked the underlying structural and historical factors that caused mass unemployment, deteriorating housing conditions, and failing public schools, federal policymakers supported the influx of more police officers and military-grade weapons on the streets as riot prevention measures. Yet the uprisings only increased in their fury and frequency, with destructive incidents of collective violence in Newark and Detroit in July 1967. The Johnson administration believed that African American men between the ages of fifteen and twenty-four, influenced by civil rights activists increasingly advocating for self-determination and community control, were primarily responsible for the unrest.⁵ This group quickly emerged as the foremost target of federal policymakers. It seemed that antipoverty programs had failed to reach the “hard-core” black urban youth who appeared particularly susceptible to collective violence and, by extension, crime. Without evoking race explicitly, the White House and Congress then built a set of punitive policies that focused on controlling this group by expanding the field of surveillance and patrol around them.

President Johnson saw urban police officers as the “frontline soldiers” of the War on Crime, and, as such, law enforcement authorities received new military-grade weapons and surveillance technologies, along with new powers in the direction and administration of urban social programs. Beginning in

the late 1960s, police departments began to establish themselves in the spaces that had been vacated by War on Poverty programs. With federal funding, the police force in Washington, DC, started an after-school program for black youth in a center that had been left behind by a community health clinic almost immediately after it closed in 1967. And in Baltimore, police officers delivered food and toys to African American families.

When issues of crime control, sentencing, and confinement moved to the center of domestic policy, the strategies federal policymakers adopted for the urban intervention yielded new possibilities for supervision in the halls of urban schools, in the elevators of housing projects, and in the reception rooms of welfare offices. Soon, federal policymakers required employment initiatives, public schools, and grassroots organizations to partner with juvenile courts, police departments, and correctional facilities in order to receive funding, an act that was perhaps more consequential in the long term than the modernization and militarization of American police forces. The result was a vast and ever-expanding network of institutions responsible for maintaining social control in post–Jim Crow America. Born from the fusion of law enforcement and the community action, job training, and public housing programs within the Great Society, this network metastasized into the modern carceral state.

When Johnson introduced a comprehensive antipoverty program in low-income urban communities for the first time while simultaneously launching an anticrime intervention, the balance tilted from social welfare to punishment as the national law enforcement program crowded out the goals of the poverty war. By expanding the federal government's power in the pursuit of twinned social welfare and social control goals, Johnson paradoxically paved the way for the anticrime policies of the Nixon and Ford administrations to be turned against his own antipoverty programs.⁶ After 250 separate incidents of urban civil disorder—what policymakers, journalists, and most of the public at large called “riots”—that occurred in 1968, nearly half of them in the aftermath of Martin Luther King Jr.’s murder in April, Johnson signed the Safe Streets Act in June.

This law introduced block grants into domestic policy, a new approach to federalism that placed nationally funded programs under the control of governors rather than localities and community groups. Using block grant formulas, the White House and Congress urged state governments to create

criminal justice institutions and dedicate resources to increasing the nation's punitive and carceral capacities. Directives from the executive branch propelled the revolution in American law enforcement and criminal justice, but block grant formulas allowed states to develop crime control strategies as they wished, as long as they matched or contributed to congressional allocations.⁷ States from New York to California increasingly turned to the LEAA and block grant funding to administer job training programs and community centers that had been funded by the Office of Economic Opportunity during the War on Poverty.

Indeed, in deciding to bring punitive measures into urban policy, channelling funds through block grants, and inviting private sector participation in public social programs, the Johnson administration helped to lay the groundwork for subsequent federal action generally associated with conservatism. The Law Enforcement Assistance Act of 1965 and the crime control legislation that followed it underscore the extent to which, even at the height of the liberal welfare state, the seemingly opposing domestic policy approaches put forth by liberal and conservative policymakers were in fact complementary. The fact that federal crime control programs criminalized racially marginalized citizens and perpetuated inequality does not make those programs inherently conservative. After all, Democrats controlled both chambers of Congress from the Johnson administration through the final years of the Carter administration. Across party lines and working together during and between political campaigns, representatives increased urban patrol forces, enacted harsh and racially biased sentencing laws, and endorsed new penal institutions that made mass incarceration possible.⁸

Emphasizing the significant spheres where conservatism and liberalism overlapped is not an attempt to argue that conservatives and liberals had no policy innovations or distinct agenda of their own. The civil rights movement had led to a shift in the popular and political consciousness during and after World War II that increasingly viewed racial discrimination in housing, employment, and education as pernicious. In line with the changing national mood on "the crisis of race relations," liberal political rhetoric of the 1960s consistently emphasized the harms of prejudice in American society. Kennedy's "total attack" on delinquency and Johnson's War on Poverty were seen by federal policymakers as attempts to address finally the racial inequality that had stained American history and promote opportunities for citizens who had been systematically excluded from civic life. Conservatives cited a belief in

limited government in opposing the partnerships that liberals forged between the federal government and local organizations, and they immediately cited the extension of civil rights and the franchise as a cause of crime and lawlessness. Johnson and Goldwater both called for “law and order,” but Johnson saw his approach as a complement to the Great Society programs that his opponent and other conservative politicians sought to invalidate. The issue of civil liberties also produced ideological rifts between liberal and conservative policymakers that played out in debates over the Safe Streets Act and later policies of the Nixon administration.

The New Frontier and the Great Society had expanded the granting powers of the president and Congress for social programs, creating a new degree of federal influence that conservatives led by Nixon seized on to transform the revolution in law enforcement and criminal justice in their own image. During the 1970s, the diffusion of crime control techniques into the everyday lives of low-income African Americans intensified as all urban social programs were increasingly integrated into the bureaucracies, institutions, and industries at the heart of the carceral state. The ongoing imposition of separate and overlapping methods of surveillance, a process that fostered what historian Heather Ann Thompson has described as “the criminalization of urban space,” came to define everyday life for low-income urban Americans on the ground.⁹

As Nixon acted to weaken programs of the War on Poverty, his administration led Congress in revising the block grant formulas and funding incentives to reflect its own priorities, including prison construction. Although states had relative autonomy in how they spent money designated for crime control purposes, block grants firmly established the goal of expanding incarceration in the early 1970s. Building from the wiretapping provisions that Johnson reluctantly endorsed when he signed the Safe Streets Act, new crime control policies advocated by conservative policymakers led to some of the gravest civil liberties violations in American history. The punitive priorities of the right wing of the bipartisan consensus included the extensive surveillance unleashed by FBI agents and local police against black radicals and the militant left, thousands of raids conducted by officials representing Nixon’s Office of Drug Abuse and Law Enforcement, and a series of reforms of the federal criminal code, adopted in haste by the states that increased opportunities for the arrest and supervision of entire low-income urban neighborhoods.

In blatant contradiction of his own stated commitment to states' rights, Nixon assumed even greater control of the discretionary portion of the crime control budget to ensure the federal government's investment reached black urban communities. Indeed, the mobilization of law enforcement resources, the growth of the American prison system, and the high concentrations of low-income men of color behind bars can be gauged most clearly in federal policymakers' use of discretionary funding. During the Nixon and Ford administrations, discretionary allocations, which offered the White House and the LEAA a means to institute law enforcement initiatives of their own choosing, supported the extensive deployment of militarized special police units at the federal and local levels, the use of electronic surveillance, and the reliance on decoy and undercover strategies that often blurred the distinction between entrapment and sound police work. Carter appropriated discretionary funds to improve security in public housing projects, creating new links among the entire spectrum of executive agencies responsible for domestic social programs. All of these measures ensured that the programs of the War on Crime would remain focused on segregated low-income communities.

Although members of the broad political consensus that mobilized the War on Crime and, later, the War on Drugs differed over the contours of government surveillance and civil liberties in general, their determination to police low-income urban citizens proved to be a more powerful unifying force. Both liberals and conservatives worried that collective urban violence would become a permanent feature in American life, and they could not envision prevention and crime control strategies outside of creating a more central role for law enforcement in vulnerable neighborhoods. Even Johnson's attorney general Ramsey Clark, considered one of the most liberal federal officials of his era, clearly articulated the main objective of this broad political consensus in his testimony during House hearings on juvenile delinquency in 1967. For Clark, his colleagues in the Johnson administration, and their conservative and liberal allies in Congress, the merger of social welfare with punitive programs and the focus on black youth in domestic urban policy seemed "the best way to protect society, because for better or for worse, these people are going to be with us, and we had better get them straightened out."¹⁰

MAKING BLACK CRIMINALS

Bolstering this consensus were new ways of understanding and responding to black urban crime that emerged during the 1960s and 1970s, based on new research into the problem of urban crime that was supported with federal funding and grounded in cultural interpretations of racial inequality. By consistently reinforcing the urgency of the crime issue, the new data and the new policies together became a self-perpetuating force that deeply shaped domestic policy and encouraged the continual flow of law enforcement resources into low-income African American communities.

The research of the postwar period extended a long tradition of racially biased understandings of crime. In the decades following Emancipation, scholars, policymakers, and social welfare reformers had analyzed the disparate rates of black incarceration as empirical “proof” of the “criminal nature” of African Americans. The publication of the 1890 census and the prison statistics it included laid the groundwork for popular and scholarly discussions about black Americans as a distinctly dangerous population. Coming twenty-five years after the Civil War and measuring the first generation removed from slavery, the census figures indicated that African Americans represented 12 percent of the nation’s population but 30 percent of its prisoners. The high arrest and incarceration rates of African Americans served to create what historian Khalil Gibran Muhammad has called a “statistical discourse” about black crime in the popular and political imagination, and these data deeply informed ongoing national debates about racial differences. Statistical discourses rationalized the expansion of the American prison system, sustained harsh sentencing practices, informed decisions surrounding capital punishment, and endorsed racial profiling in general. Although the problem of crime among poor white and immigrant communities also concerned elected officials and academics, it was often explained as the product of socioeconomic factors rather than biological traits, and by World War II, Irish, Italian, Polish, Jewish, and other European ethnic groups had for the most part shed associations with criminality. The perception that crime and violence were a hereditary problem among citizens of African descent has long endured.¹¹

Considered an objective truth and a statistically irrefutable fact, notions of black criminality justified both structural and everyday racism. Taken to its extreme, these ideas sanctioned the lynching of black people in the southern

states and the bombing of African American homes and institutions in the urban north before World War II, both of which were defended as necessary to preserve public safety. In the postwar period, social scientists increasingly rejected biological racism but created a new statistical discourse about black criminality that went on to have a far more direct impact on subsequent national policies and, eventually, served as the intellectual foundation of mass incarceration.¹² ◇

Dark Ghettos: Injustice, Dissent, and Reform

2016

T O M M I E S H E L B Y

Why do American ghettos persist? Scholars and commentators often identify some factor—such as single motherhood, joblessness, or violent street crime—as the key to solving the problem and recommend policies accordingly. But, Tommie Shelby argues, these attempts to “fix” ghettos or “help” their poor inhabitants ignore fundamental questions of justice and fail to see the urban poor as moral agents responding to injustice. In this excerpt, the author argues that policy efforts to abolish the ghetto must abandon this “medical model” approach to social reform, and instead aim to empower and respect the ghetto poor.



THE GHETTO SHOULD BE ABOLISHED. Like American slavery and Jim Crow segregation, the ghetto should never have come into existence. In calling for its abolition, I’m not suggesting that black neighborhoods should be proscribed or that their poor black inhabitants should be dispersed. There is nothing wrong with the existence of predominantly black urban communities and, in light of the long-standing predicament of black people in the United States, there is much to be said in favor of such neighborhoods. The problem is that too many black neighborhoods lack needed resources, are offered only inadequate public services and substandard schools, are beset with violent street crime, and are home to many stigmatized and unjustly disadvantaged people with little spatial or economic mobility.

Abolishing the ghetto should not be seen simply as a matter of overcoming racial prejudice or reviving the War on Poverty. It should instead be viewed as an aggressive attempt at fundamental reform of the basic structure of our society. We, as residents of the United States, are all implicated in the perpetuation of ghettos. The ghetto is not “their” problem but *ours*, privileged and disadvantaged alike. The ghetto is a sign that our social order is profoundly unjust. It is a sign obscured by a host of legitimating ideologies—racist, sexist, economic, moral, religious, and nationalist. Insofar as we uphold that order, we are complicit in the oppression of our fellow citizens and, for some at least, contributing to our own oppression. Our duty of justice calls for response.

In recent reform efforts, disadvantaged ghetto denizens are too often viewed more as unruly chess pieces than as moral agents and allies. Yet the myriad ways in which they register dissent—sometimes subtle, sometimes overt—suggest that many act defiantly out of a sense of justice. Their non-compliance with societal expectations—refusing to delay childbearing, to marry, to accept low-paying and demeaning jobs, to respect the law, and to submit to other “mainstream” norms—can be a healthy expression of self-respect and a morally rooted opposition to the status quo, not mere nihilism or despair. Even though some of their defiant acts of transgression may add to their burdens (and annoy, anger, and frighten the affluent), they are not unjustified and certainly don’t warrant condemnation. Instead this rebellion should draw our attention to the failures of reciprocity embedded in the social institutions and informal practices that constitute the structure of our society. Of course not everything the ghetto poor do and say merits approbation, and some of their conduct is, frankly, harmful wrongdoing and should therefore be discouraged and sometimes punished. But there is much to be learned from the impure dissent that emanates from American ghettos, whether this dissent takes the form of hip hop expression or more implicit modes of communication. These valuable elements should be seen as part of a political ethic that we might label *ghetto abolitionism*.

Calls for the abolition of ghettos date back to the Civil Rights movement. The movement to end Jim Crow was based primarily in the South, where blacks were not fully urbanized, explicit segregation laws were enforced, and blacks lacked an effective right to vote or run for public office. It took years of organized protest, skillful political maneuvering, and the Civil Rights Act (1964)

and the Voting Rights Act (1965) to abolish the Jim Crow regime (though its negative effects are still felt today). Meanwhile, in cities like Los Angeles, New York City, Philadelphia, Detroit, Chicago, Newark, and Baltimore, blacks had been locked in the ghetto for decades, despite the absence of explicit segregation laws and notwithstanding the freedom to participate in electoral politics. It was in these cities (and others) that early calls for the abolition of the ghetto rang out—in the fiery speeches of black militants; in the verse, essays, plays, and books by intellectuals and artists; in the boycotts and union organizing of working-class people; and in destructive urban riots. These campaigns for social justice highlighted the plight of the oppressed in poor black urban communities, and demanded not only civil rights and an end to institutional racism, but also economic justice and a fair criminal justice system.

Consider the Black Panther Party’s “Ten Point Program.”¹ It called for the political empowerment of black communities, a full-employment economy and guaranteed income for the involuntarily jobless, reparations for years of labor exploitation, decent and affordable housing, quality education for all, universal health care, and fundamental criminal justice reform. The group recruited in ghettos, capturing the attention and raising the consciousness of poor black youth. Indeed, Huey Newton, cofounder of the Party, argued that the “lumpen-proletariat”—the unemployable element of the working class with no assets or marketable skills who therefore often turn to the underground economy for income—had revolutionary potential.² Whatever one thinks of the ideology, tactics, or leadership of the Black Panthers, it cannot be denied that they mobilized to abolish ghettos on grounds of systemic injustice. Ghetto abolitionism, for these black radicals, was a collective effort, one that included the ghetto poor as allies, to (in my terms) fundamentally change the basic structure of U.S. society.

After the demise of the Black Power movement, the emergence of a relatively large black middle class (most of whom no longer live in ghetto neighborhoods), and the substantial increase of black elected officials (including many mayors of large U.S. cities), demands for the abolition of the ghetto have been less insistent and more muted. The call must be renewed. Perhaps that’s what we’re seeing in the recent Black Lives Matter movement to end unjustified police violence and racial profiling and in the youth-led uprisings in Ferguson and Baltimore. These welcome developments echo the fifty-year-old

Black Panther Party demand for “an immediate end to POLICE BRUTALITY and MURDER of Black people.”³ Such defiant protest is an essential element of ghetto abolitionism, though it must move beyond a focus on racism and the police to a broader campaign focused on economic justice.

I join the call for ghetto abolition, and this book—which is insufficient as a solution to all of the complex problems of the ghetto—is meant as an answer to the call. It is a contribution to the intellectual arm of a collective effort that reaches back at least to Du Bois’s *The Philadelphia Negro* (1899).⁴ I offer no new political strategies or policy proposals. Others are better equipped for those tasks. What I have offered is a defense of a set of values and principles that should inform the next ghetto abolition movement (a nonideal theory of corrective justice with its accompanying political ethics). I’ve offered a way of conceptualizing the problem (as one of basic justice rather than black poverty). And I’ve defended a philosophical framework for responding to the problem (a systemic-injustice model rather than the medical model that now reigns in policy circles and among black elites). Let me close by briefly commenting on each of these ideas.

Ghetto abolitionism, when viewed within the systemic-injustice framework and in accordance with liberal-egalitarian principles, would aid more than just the ghetto poor. It would help all who are unjustly disadvantaged. It not only attacks racism in all its forms, but calls for more robust enforcement of antidiscrimination law. It opposes class-based stratification, demanding a more equitable sharing of the benefits of social cooperation, technological advance, and economic growth. It insists on equal and extensive liberty for all, from freedom of expression and association to the right to an unconditional social minimum and to participate as equals in collective self-governance.

Ghetto abolitionism must be a grassroots effort, at least initially. It aims to change minds, to extend the bonds of solidarity, to mobilize and organize, and ultimately to influence public policy, from local ordinances to federal law. Liberal-egalitarian policy, when in corrective justice mode, is not limited to antipoverty initiatives but seeks more comprehensive social reform. When it embraces ghetto abolitionism, as it should, such policy eschews the medical model of social problem solving and fully embraces the systemic-injustice paradigm. Fundamental questions about the basic structure of society are not avoided and considerations of civic reciprocity are kept clearly and constantly in view.

Given the duty to ease the burdens of the oppressed, policy efforts must lighten the load on the ghetto poor while we work diligently to bring about a fully just society. These efforts must respect the moral and political agency of ghetto denizens, however. This means, for instance, not treating residential integration as a policy goal. The ghetto poor should be economically empowered and protected from housing discrimination so that they have real freedom to choose their neighborhood communities. Reproductive freedom should be respected. And while some wrongful procreation among the ghetto poor may exist, a stingy welfare regime should not be used to deter it, as this would only compound the economic injustices faced by many black women. No doubt poor families would be better off if they had two adult co-parents to share the workload. But the public lacks legitimate tools to do any more than recommend this familial arrangement. As there is nothing wrong with single-mother families (provided they receive the public support they are due), the state isn't justified in maintaining a highly punitive child-support regime on the basis of paternity alone. Nor is the state a suitable matchmaker for the oppressed, and many who share a biological child would do better—for themselves and their children—by not sharing a household.

Policymakers should certainly expand employment opportunities for the jobless. But the employment options and wages for low-skilled workers would need to be significantly improved and welfare requirements dropped altogether if the state is to avoid pushing the black poor into exploitative and demeaning forms of servitude. While voluntary job training and skills enhancement programs are welcome, a state that has created and allowed the ghetto to persist lacks the moral standing to act as an aggressive agent of cultural reform in the lives of its most embattled citizens.

In view of the serious injustices that disfigure the basic structure of society, sinking it below any reasonable standard for tolerable injustice, the ghetto poor owe neither loyalty nor obedience to the state. Even the state's enforcement rights are in jeopardy in light of racialized mass incarceration and unnecessary (and often malicious) violence in law enforcement practice. Criminal justice reform has to be a priority. Due process is a constitutional essential that underwrites the state's moral right to punish criminal offenders, and some who commit violent acts in ghettos must be contained to protect the weak and vulnerable in those communities.

As my title indicates, this book is partly inspired by and a tribute to Kenneth B. Clark's important but neglected work *Dark Ghetto: Dilemmas of*

Social Power (1965).⁵ Clark is best known for his role in convincing the U.S. Supreme Court that school segregation negatively affects black youth, which led to “separate but equal” public policy being declared unconstitutional. He also conducted the noted series of televised interviews “The Negro and the American Promise,” which featured Martin Luther King Jr., Malcolm X, and James Baldwin. The interviews were later transcribed and collected in the book *The Negro Protest*, wherein Clark, reflecting on the political ethics of blacks in America, concludes: “The Negro has no more or less virtues or frailties than those found in other human beings. He is an individual who varies as much in courage and cowardice or ambivalence as do other human beings. He reacts to injustices and cruelties with the same patterns of accommodation, intimidation, rebellion, or philosophy as do others.”⁶

Although Clark’s *Dark Ghetto* is rooted in psychology and my book is a work of philosophy, I am entering the long-overdue conversation his book initiated but that was never fully taken up. The post-civil-rights scholarly and public discussion of ghetto communities was shaped more by another work, made public the same year: Daniel Patrick Moynihan’s “The Negro Family: The Case for National Action.”⁷

I prefer Clark’s treatise, not because Moynihan uses the inflammatory word “pathology” to describe features of black life in ghetto communities. Clark uses the word even more frequently and to refer to precisely the same phenomena (welfare dependency, single-mother families, nonmarital births, broken homes, disorder, delinquency, addiction, violence, and crime). I don’t prefer *Dark Ghetto* because Moynihan “blames the victim” and Clark does not. Clark is actually much more critical of the conduct of ghetto denizens. I don’t side with Clark because he is black and Moynihan white, or because Clark spent many years living in a ghetto and Moynihan did not. No doubt Clark’s racial identity and past residence in a ghetto community give him greater standing (among blacks and whites alike) to be bold when assessing the actions and attitudes of the ghetto poor—a privilege that, arguably, I am exercising myself. But my claims rest on no presumption of epistemic privilege by virtue of my race or class background. Finally, my fondness for Clark over Moynihan is not because one is a “liberal” and the other a “radical,” as both were avowed liberals.⁸ Rather, I’m drawn to Clark’s study because it seems to me to better exhibit the systemic-injustice model than Moynihan’s infamous but influential report.

I do not endorse *all* of Clark's particular theoretical conclusions. I don't agree that dependence on public support is pathological or an unfair burden on the public, for instance.⁹ Nor do I think reliance on public support is a threat to personal dignity. I do not accept his patriarchal conception of the family or of male gender identity. And I'm not inclined to see integration as a solution to black disadvantage. Yet I believe that Clark's book falls into fewer pits than Moynihan's report, rooted as Moynihan's was in the medical model approach to social problems.

Moynihan does insist that U.S. society has not provided substantive equal opportunity for all blacks and should seek racial parity in socioeconomic well-being. But he conceptualizes the problem of the ghetto as primarily one of "family instability," which, he claims, perpetuates the cycle of poverty and its associated dysfunctional conduct. He takes the linchpin of this problem to be high rates of male unemployment, which calls for an antipoverty strategy of enhancing job opportunities and increasing labor force participation. While he acknowledges the significance of past racial injustice in creating unstable black families, he says, "At this point, the present tangle of pathology is capable of perpetuating itself without assistance from the white world."¹⁰ Drawing attention to his implicit reliance on the medical model of reform isn't to indict Moynihan. After all, as assistant secretary of labor at the time, he was attempting to persuade the Johnson administration to take proactive measures to address racial inequality. He wasn't addressing the general public or trying to spur or support a social movement for wide-ranging egalitarian reform. Nevertheless, the differences between his approach and Clark's are striking and important.

Clark consistently structures his explanatory claims around questions of social justice. He does not avoid making judgments of value or tackling controversial moral questions. He insists that objectivity in social inquiry is not equivalent to value neutrality.¹¹ And he speaks freely about empirical facts and social justice without attempting to reduce matters of value to matters of fact, without treating values as merely subjective, and without regarding disagreements about justice as intractable or irresolvable. He recognizes, and this is key, that the only way forward is to give both scientific research and ethical reflection their due.

Grasping the importance of listening to the voices of the ghetto poor, Clark's prologue, titled "The Cry of the Ghetto," consists of thirty-two quotes

from ghetto denizens, male and female and of all ages, who reflect on their plight and register their strong dissent from the status quo, condemning racism and discrimination, economic inequality and exploitation, lack of access to decent education, police brutality and harassment, inadequate protection from violence, political marginalization, media representations of black life, and American imperialism. In Clark's text, the ghetto poor are treated as agents of social change, as playing a central role in rebuilding their communities, and as taking the lead in reform efforts.¹²

However, Clark does not romanticize the ghetto poor. He suggests, for example, that the ghetto outlaw persona is often mere pretense. He claims that self-esteem is sometimes acquired, perversely, through violent conduct. He notes the rampant political cynicism in ghetto communities. He believes that some ostensible dissent is nothing more than catharsis and posturing. Clark highlights the challenge of maintaining self-esteem and self-respect under ghetto conditions and the challenge of maintaining black solidarity in the face of internal class division. Yet he holds that the preservation of self-respect despite pervasive injustice is a prerequisite for any successful campaign for justice. In some acts of delinquency, he sees rebellion against oppression. For instance, he argues that dropping out of school is sometimes a defiant affirmation of self-respect in response to the condescension, low expectations, and racism of teachers. And he believes it would be productive to enlist delinquents and criminal offenders in the collective project of solving community problems.¹³

Clark regards unemployment and underemployment as problems, but he emphasizes the fact that poor blacks are often restricted to menial service jobs that pay poverty-level wages. Joblessness as such is not therefore the linchpin. It is the quality of the jobs available and the low wages that call out for remedy. To prevent urban riots, Clark suggests creating decent jobs and reducing socioeconomic inequality. This would require fundamental change, a dramatic movement toward a more just society, rather than mere work programs and social services for the poor. Indeed, Clark appreciates how the single-minded focus on "helping" disadvantaged blacks obscures and evades the fact that the ghetto poor are in "need" because they live under a social structure that is unjust and that has shaped their personalities, conduct, and ambitions. This benefactor stance also conceals the fact that there are people with a vested interest in leaving the basic structure more or less as it is. Social work and philanthropy are inadequate and insulting responses to the problems of the

ghetto, because they are rooted in benevolence rather than justice and opt to leave black communities dependent upon the goodwill of others rather than empowering them.¹⁴

Clark invokes with approval the *internal colonization thesis*—the Black Power claim that the “white power structure” functions as a mother country over its black ghetto colonies. The analogy is not perfect, but it has the virtue of making vivid social relationships of domination and exploitation. Clark also focuses on the privileges of affluent whites, their tendency to rationalize their complicity in injustice, and their role in perpetuating ghetto conditions. And he even notes how some black leaders in the ghetto—clergy, informal spokespersons, and elected representatives—exploit the status quo for personal gain.¹⁵

Finally, one of the things that Clark appreciates is that the modern American ghetto is not only appropriate for social-scientific study but also ripe for philosophical reflection:

To understand Harlem, one must seek the truth and one must dare to accept and understand the truths one does find. One must understand its inconsistencies, its contradictions, its paradoxes, its ironies, its comic and its tragic face, its cruel and its self-destructive forces, and its desperate surge for life. And above all one must understand its humanity. The truth of the dark ghetto is not merely a truth about Negroes; it reflects the deeper torment and anguish of the total human predicament.¹⁶

My book is “political” in the way some academic books are and political philosophy must be. While it is not a social-scientific study, it is informed, indeed deeply shaped, by such studies and offers an interpretation of their moral significance. But this book is also a philosophical meditation on life in America’s ghettos. I was searching, and continue to search, for those deeper, elusive, and more general “truths” behind the familiar facts about poor black neighborhoods. I hope my empathy for the plight of disadvantaged ghetto denizens is evident. But though moved by a sense of identification and solidarity with them, I have tried to remain objective and self-critical throughout.

A philosophical treatise on the ghetto might seem foolhardy, arrogant, and quixotic. The issues are tremendously complex. The topic is so big that no lone individual can be expected to say anything about it that is at once true, significant, and comprehensive. The relevant empirical and philosophical literature is vast, more than one can master in a lifetime of study. And

the subject is highly controversial, where emotions run hot and enemies (and strange bedfellows) are easily made. So it might seem wiser (or safer) for a philosopher to dip his or her toe in these dark waters rather than dive right in. Yet here I am, soaked from head to foot.

Though I have been developing its arguments for more than ten years, this book is not, as Kenneth Clark claimed his *Dark Ghetto* to be, a “study of the total phenomenon of the ghetto.”¹⁷ There are relevant issues—concerning education, democracy, and health, for example—that I have not addressed. I feel compelled, however, to make my current thinking public, trusting that readers will understand that all interdisciplinary work (particularly across the humanities–social science divide) has limitations of scope and depth. My hope is that other scholars, seeing merit in my approach, will be moved to supplement, build on, and correct these initial efforts. I don’t expect mine to be the last word. ◆

Bound in Wedlock: Slave and Free Black Marriage in the Nineteenth Century

2017

TERA W. HUNTER

Americans have long viewed marriage between a White man and a White woman as a sacred union. But marriages between African Americans, Tera W. Hunter shows, have seldom been treated with the same reverence. This discriminatory treatment is the legacy of centuries of slavery, when the overwhelming majority of Black married couples were bound in servitude as well as wedlock. Recognition of African Americans' right to marry on terms equal to White couples would remain a struggle into the Jim Crow era and resonate well into the twentieth century. Here Hunter discusses the lack of legal protection for the intimate relationships of Black people in the antebellum United States.



"THE status of the African in Georgia, whether [bound] or free, is such that he has no civil, social or political rights or capacity, whatever, except such as are bestowed on him by Statute," wrote Joseph Henry Lumpkin, the slaveholding chief supreme court justice of the state, in 1853. He argued that "the act of manumission confers no other right but that of freedom from the dominion of the master, and the limited liberty of locomotion." Manumitted slaves did not have masters, but they did need white guardians to protect their interests and watch over them. They were expected to live in a "state of perpetual pupilage or wardship," which they could not escape of their own volition, he wrote. In reality, even their "liberty of locomotion" was of a limited kind, encumbered as it was by a state increasingly restricting where

black people could live upon emancipation in the antebellum decades. Justice Lumpkin's sweeping opinion went well beyond the conventional boundaries of a case adjudicating the property rights of free blacks. He argued that "to become a citizen of the body politic, capable of contracting, of marrying, of voting, requires something more than the mere act of enfranchisement." Free blacks should never expect "to be the peer and equal of the white man," he opined. The free black "resides among us, and yet is a stranger. A *native* even, and yet not a citizen."¹

Lumpkin's opinion could not be more clear about the lack of legal protection for the intimate relationships of blacks, regardless of their status as slave or free. Slaveholding states provided free African Americans few of the positive rights in the statutes he identified. The right to marriage was not guaranteed. Lumpkin's sweeping condemnation reflected what free blacks were up against in slave societies in the South and even societies in the North where the number of slaves was dwindling. Georgia was one of the states most hostile to the rights of free blacks, but Lumpkin's views were neither extreme nor singular. His words anticipated the Dred Scott decision, and his sentiments were widely shared by like-minded peers in positions of power. In the first half of the nineteenth century, freedom and slavery were not polar opposites for African Americans but points along a continuum. The protracted process of emancipation in the North and the uneven process of individual and episodic manumission in the (mostly upper) South meant that many African-American families were part-slave and part-free for years and even decades on end.

Free African Americans encountered an avalanche of restrictive legislation, psychological assaults, and physical threats and violations that diminished their status in the antebellum era. Mixed-status marriages, unions between slaves and free blacks, were treated no better than slave marriages and sometimes even worse, since some states expressly forbade them by statute. As the South increased its commitment to slavery, white elites minimized the distance between slavery and freedom by dividing society into two distinct groups: enslaved (black people) and white (free people). Free blacks were increasingly forced to take extreme measures that were incongruent with their presumed status in order to protect their most viable assets—their marriages and families. They understood their ability to form intimate ties as essential to their individual and group survival, and, as we will see, they sometimes were forced to sacrifice their freedom to sustain them. Black couples were the

least privileged and most fragile among the free married people in their communities. And yet surprisingly little has been written about their relationships, despite attention to nearly every other aspect of their experiences, including political activism, labor, property ownership, housing, education, and religion. Interracial relationships rather than relationships between blacks have attracted the historical spotlight.²

The family matters of free people of color are most visible in the historical records in legal proceedings, some of which they initiated themselves, and others that targeted them for various infractions that threatened both their status as free people and their relationships. Even as their rights became ever more limited and increasing numbers of free people were denied citizenship, they used the legal system, especially in their local communities through petitions to counties and state legislatures, and civil and criminal court cases, including divorce proceedings. Extant documents not only tell us about their official status but also allow us to peer into their intimate affairs. They offer a rich repository of narratives about the daily domestic lives of a diverse group of free people of color. Together their stories illustrate the range of experiences and challenges they faced. Most strikingly they reveal that freedom, at best, was a process, not an achievement that could be taken for granted. “The mere act of enfranchisement” did not guarantee marital or any other rights.

The process of emancipation had been protracted in the Northern states, and manumission of individuals in the Border States, begun following the American Revolution, was still under way after 1800. Many blacks remained caught somewhere between slavery and freedom. The end of slavery in the North was propelled more by atrophy of the slave population (through mortality, low fertility, runaways, and the decline of the Atlantic slave trade) than by the efforts of abolitionists. Vermont was the first state to outlaw slavery in its constitution, in 1777, but the ban applied only to men over twenty-one and women over eighteen, not to children. All other states passed variations on legislation that promised freedom to children born of slave women after a certain date and then prescribed indentureships for them. In effect, this meant that adult slaves would by law live out their natural lives in the same condition, and their unborn children would suffer the fate of involuntary servitude to their mothers’ masters until they reached the prescribed age of maturity, later for men than for women. In all cases, the initial laws and constitutional provisions were ineffective enough to require the passage of

subsequent legislation that took decades to complete. Northern states with the most slaves were the most resistant to laws proscribing enslavement, such as New York and New Jersey. New York began a gradual program in 1799 and then ended slavery completely in 1827. New Jersey began its gradual plan in 1804. The number of slaves declined there significantly by the 1840s, but a few slaves still remained in the state when the Civil War began. The Thirteenth Amendment to the Constitution, ratified in December 1865, freed the rest.³

The gradual emancipation plans implemented in Northern states were particularly difficult for the offspring of slaves, who were remanded to indentured servitude until well into adulthood. Masters, not parents, retained final authority over the children of slaves. They were birthed into a system that crippled their ability to advance economically or socially. Masters had few obligations to teach black children skills or educate them, as they had done with white servants. Thus there were few distinctions between being a slave for life or a servant for a term. Indentured servants were especially vulnerable to abuses in the system, even to the real threat of being sold to the South. Some slaves were able to negotiate to end their indentureships before their terms expired, and others ran away. Manumission could also come with strings attached, forcing those who violated agreements with former masters back into bondage. The arrival of refugees from the Haitian Revolution—foreign slave-owners with slaves in tow—also boosted indentured servitude in places like Philadelphia, where the judicial system upheld the right of masters to subject their slaves to terms of servitude. The situation was worse in New York, where the law permitted masters to prolong their authority over formally enslaved chattel through indentures as late as 1848. Ironically, some abolitionists inadvertently prolonged indentured servitude in the North in their attempts to rescue Southern slaves and place them in positions of term service rather than outright freedom. Marriage was typically illegal for indentured servants, and when it was allowed, the permission of the master was required, just as in slave marriages. These restrictions negatively affected the family lives of free blacks in communities where they served terms until late in their twenties, pushing their marriages much later in their life-cycles than was the case for whites.⁴

Most free blacks lived in the South. Their numbers grew in the Upper South following the Revolution as changes in the economies allowed masters to sell off excess slaves or let them purchase their freedom. But the window

that had opened at the turn of the nineteenth century quickly closed by 1820, as slave-owners feared that the growing numbers of free blacks were a threat to slavery. After 1820 masters tended to manumit only their most privileged slaves, especially their mulatto offspring, on an individual basis. The number of free blacks in the Lower South stagnated and then declined. Typically, only the most elite slaves were able to purchase their freedom or gain access to it as a stipulation included in their masters' wills. Yet despite the limits imposed on free blacks in the South, they were better off economically than their counterparts in the North because they faced less competition for certain skilled jobs. Nonetheless, their physical and social mobility was far more limited by the constant fear that their color made them vulnerable to re-enslavement.⁵

Free blacks were increasingly perceived as a menace to Southern slave society as it became more reliant on bound labor. The absolute subjection of people of color, no matter their status, became an imperative because freedom contradicted the rationale for the enslavement of blacks, and ties between the enslaved and the free made it difficult to distinguish one from the other. As one group of whites in Virginia wrote in a petition to the state legislature in 1831, "Standing thus in a middle position between the two extremes of our society, and despairing of ever attaining an equality with the higher grade, it is natural that they should connect themselves in feeling & interest, with the slaves among whom many of their domestic ties are formed, and to whom they are bound by the sympathies scarcely less strong, which spring from their common complexion."⁶

Southern states passed laws over the course of the antebellum era making it harder for blacks to gain and retain any meaningful free status. Many states forced manumitted slaves to leave or prevented free people of color from migrating there. In 1806, Virginia was one of the first states to force manumitted slaves to leave the state within one year of their freedom. Mississippi lumped all African Americans together—"slaves, free negroes and mulattoes"—in one consolidated law in 1822 that contained eighty-six parts. Among the requirements of the law, free people were forced to pay security of five hundred dollars "to keep the peace" and ensure their good behavior. If they failed to pay the security or violated its terms they could face jail or be sold into slavery to the highest bidder. The state passed more laws in 1845 that were part of a restrictive campaign referred to as "the inquisition" as violators were rounded up and deported from the state. Manumissions by last wills

were outlawed. Georgia required all free people of color to pay an annual tax of five dollars starting in 1851. Within a few years it permitted those who could not afford to pay to be fined or hired out. Those who were considered “idle immoral profligate” or were caught “strolling about” could be convicted for vagrancy, with the severe punishment of sale into slavery for two years for the first offense and permanently after the third offense.⁷

The process of manumitting slaves individually in the South significantly disadvantaged blacks when choosing marriage partners. The uneven achievement of freedom meant that many blacks found themselves related to or married to unfree people. These mixed-status marriages were part of a larger pattern of irregular marriages in European colonies in the Americas among slaves, quasi-free people, and poor populations across the color line. Formal marriage was initially a privilege that people in the (mostly white) upper echelons could attain, though it was becoming more accessible within the lower ranks, at least in the North in the eighteenth century. Mixed-status marriages were common throughout slave societies, although their legal status and white society’s level of tolerance toward them changed over time.⁸

In the colonial period, mixed-status intraracial marriages had some legal standing in the North and even in some places in the South—though in all cases the unions fell short of inviolability because masters could interfere at any time. At first states tolerated such couples, in some places, like Virginia, allowing them to register their unions legally and legitimize their children. By the end of the eighteenth century, however, legislatures begin to pass laws restricting slaves and free blacks from socializing. Eventually, they increased the constraints, prohibiting marriage without a master’s consent or in some places outlawing it altogether. In North Carolina, if the master of the enslaved granted permission to marry, couples could expect to pay him a fee. Louisiana, which outlawed mixed-status marriages, punished the slave-owner and the free spouse when the law was violated. But it also allowed an unusual exemption. Free men of color could marry their own slave women (if they had no legitimate wives) “according to the forms prescribed by the church”—sacramental ceremonies officiated by Catholic priests. Their wives would then be declared free and their children legitimate. This practice ended, however, after the Louisiana Purchase and the implementation of American civil laws in the state in 1808. This was consistent with the general antebellum trend toward more policing and prohibitions of mixed-status coupling. Mississippi, for example, included restrictions in its 1822 omnibus

law, but they were designed to give masters' optimal control over enslaved women by empowering owners to sue free black men who took their property away.⁹

Regardless of statutory laws, mixed-status relationships could hardly be avoided or eliminated. States struggled to enforce the laws and prosecute violations, which meant that many couples found ways of evading the laws or disobeying them with impunity. There is no way to estimate how many mixed-status couples existed or what proportion of black marriages they constituted at any given time. There is substantial evidence of the presence of such marriages everywhere, however.¹⁰ Because women were manumitted more often than men, they made up a greater percentage of free black populations and were forced to seek spouses outside their cohort, including among the enslaved. Mixed-marriages in general were the product of several converging forces. Slaves and free blacks lived, worked, and played in close proximity to one another, forming various kinds of allegiances on the basis of blood and social connections. The staggered nature of manumission meant that though some couples began their marriages while both were slaves, at some point one spouse became free and the other either followed at a later date or was never manumitted. Slaves able to hire themselves out and live independent of their masters were most likely to be in positions to marry or engage in intimate arrangements with free blacks. Many of them were thus able to share the same households, though some, as was the case with enslaved couples, lived abroad. Still others lived full time in the household of the master of the enslaved spouse. In some cases in order to get masters to agree to such an arrangement, the free person became an indentured servant for a time, sacrificing their own freedom and risking subordination beyond the agreed-upon terms. These deals could be attractive because they sometimes entailed the freedom of the enslaved spouse at the end of the specified term. This was especially crucial for slave women as prospective mothers as it meant their children would be free at birth.¹¹

These couples remained at the mercy of the master of the enslaved spouse. A decision to move slaves into the master's household or to sell them off could create havoc. Theoretically, at least, the free person could potentially move or follow behind a beloved one if they were to be separated. Doing so, however, meant incurring the financial costs of relocating and potentially violating laws that impeded free people's migration across state lines. Laws forcing migration on manumitted slaves sometimes meant that the free spouse

was the one to leave the state. Returning legally to visit or to reclaim kin left behind required dispensation from legislatures, which was not often granted.¹²

Mixed-status couples had big incentives to free their enslaved loved ones, given their divided family status. They depended on masters, legal guardians, and surrogates to keep their word when they made arrangements to buy out kin. Slaves in positions of relative privilege often worked overtime to earn enough money to buy their own freedom. Once the agreed-upon sums were accumulated and paid, they might assume that the deal was complete. But it was not necessarily legally binding. Most slaves could not read or write, furthering their disadvantage and dependence on the goodwill of outsiders. Southern laws that required former slaves to leave their homes upon manumission meant that freedom could come with a price. Any hope of staying in place often meant raising extra money as security to be paid for their good behavior and also special commendation from state legislatures granting them exemptions from forced-exile laws. One former slave, for example, petitioned the Tennessee legislature in desperation after being told that he was not legally free, despite the deal he had made and fulfilled with his former master. He was concerned about his own status but even more worried about his wife and child. As his sponsors explained, as “dear as liberty is to him, and galling as are the chains of bondage, he would prefer remaining a slave.” That is, if he could not be free and keep his family intact, along with his land, freedom did not amount to much. With the assistance of many white friends who vouched for his character, industry, and honesty, the state legislature granted him a reprieve.¹³

Many slaves tried to purchase themselves and other family members to protect their interests. The birth of a new child might spark the desire to emancipate family members, especially if the mother was a slave.¹⁴ When one spouse was free and the other a slave they worried about the fate of the enslaved spouse upon the death of the freedperson. Buying family members and holding on to them as nominal slaves could be a strategy for protecting them. But it could backfire if the free spouse died first, leaving the enslaved spouse in abeyance or at the mercy of executors. As couples advanced in age freedom became more imperative. One elderly free person argued that he feared “the tyranick grasp and relentless cupidity of some unfeeling wretch, [to] be deprived of that portion of liberty, which the sweat of [his] humble brow has purchased for them.”¹⁵ Unfortunately, not all free people were able to get their fiscal affairs in order before they died, even if they may have been in the pro-

cess of trying to do so. Drawing up wills could be protracted affairs for free people reliant on others to carry out their wishes for their estates, putting enslaved family members at risk while the details were worked out. If they died intestate their enslaved loved ones had to rely on the good graces of white guardians to carry out their wishes and do right in freeing their wives and children.¹⁶ Free spouses might also deliberately choose not to free their enslaved spouses whom they nominally owned before they died to avoid automatic ejection from the state, instead devising other creative maneuvers to safeguard them. One husband thought his enslaved wife was better off if he left her property in his will, which he presumed would in itself make her free. Sometimes these arrangements were made in consultation with lawyers who helped free blacks find loopholes within tenuous laws. Such risks paid off for some, though by no means all.¹⁷

Enslaved men with sufficiently accumulated resources for self-purchase sometimes preferred to free their wives even before freeing themselves. One couple had endured years, if not decades, in an abroad marriage living at a considerable distance of twenty-five to thirty miles. But despite their years together, they still felt their relationship was not secure from a separation that would make it harder to care for each other as they grew older. The desire to emancipate one to make it easier for the couple to live in closer proximity was further complicated by forced-migration laws for manumitted slaves, however. The slave man was required to get a white guardian to go before the legislature of his state to seek a special exemption that would allow him to purchase his wife and also allow her to stay in the state. The absence of such a guarantee would defeat the entire purpose of her emancipation.¹⁸

Couples in mixed-status marriages could feel especially vulnerable when they had property owned by either spouse or both. Imagine this predicament for slave men married to free women. They were helpless and dependent, beholden to women who would otherwise be their subordinates, if not for their own enslaved status. Whatever property a slave man owned he could not legally claim, but he could vest it in his wife. A slave man in North Carolina petitioned the legislature (through a guardian) with care and trepidation for his freedom. The couple had accumulated significant wealth, which consisted of land, livestock, cash, and even slaves—none of which a slave could legally claim. His wife had purchased him from the executor of his master's estate, but the transaction appeared to be incomplete. He was in limbo, which put him at the mercy of his wife. He acknowledged that he was concerned that

either her death or change of heart could wipe out his share of their treasure. He had no reason to believe the latter would happen, but he clearly did not want to see his hard work wiped away under either circumstance. Unfortunately for him, the legislature did not agree to pass an act on his behalf.¹⁹

Some free people tried to prevent the problems that mixed-status couples faced by removing their beloved from the grips of slavery even before they married. A free man in Virginia designed such a plan when he became “fascinated by a lovely female of his own Color who happened to be a slave.” They agreed, however, that she should be emancipated so that they could marry legally. He had to borrow money to make the purchase and entrust a white guardian for help. He succeeded in buying her on an installment plan, and they began to build their family, welcoming two children within a short time. But they had to face another bind: the laws of the state required his wife to leave upon being granted her freedom. Even as the husband continued to pay off the debt of purchasing his wife, he pleaded with the legislature to allow them to remain in the state and keep their freedom, which it refused to do.²⁰

Legislators were not always amenable even to the wishes of slave-owners. In some cases, masters were willing not only to permit mixed-status couples to wed but also to do everything in their own power to protect them from the caprice that could threaten or dissolve their union. This required extra vigilance, expert legal counsel in estate planning, and faith that their heirs and executors would follow through with their wishes post mortem. Slaves as valued property were frequently entwined in legal cases that could drag on for years, as the estates of decedents were settled, partially or entirely on the basis of redistributing, exchanging, or selling bound labor in ways that broke up black families, leaving the free spouses unable to do much if anything to intervene.²¹ Masters using the greatest forethought tried to avoid these predicaments, but they were also limited by laws designed to prevent them from having unfettered reign over the disposal of assets without due consideration of other fiduciary and social stakeholders. Others died intestate with all the best intentions never being formalized in their wills, leaving mixed-status families stranded. A slave-owner could give a plot of land to a special slave and her free husband and allow the slave to hire out her time to him, effectively allowing them to live as quasi-free. But in the absence of a will, others could easily question the legitimacy of those decisions and accuse the deceased of breaking rules against illegal trusts or skirting the laws

that prevented masters from manumitting their slaves without legislative approval.²²

The gender configurations of mixed-status coupling could make a difference in how spouses were considered by slave-owners. Free men married to enslaved women were often looked on favorably by masters of the women, as the addition of the man's labor and economic contributions could be financially beneficial. But free men could also raise competing interests between the rights of husbands and the rights of slave-owners, a conflict over *cōverture*. The rights of husbands to have unencumbered dominion over their wives and children were considered so foundational that they could not be easily reconciled in the face of challenges of property rights. Even in jurisdictions that tried to make clear that recognition of marital rights of people in bondage did not contravene the preeminence of property rights, mixed-status couples' ambiguous status could call these into question. But there was no such right safe from revocation even in the North or Border States, where legal marriage was sometimes protected.²³

Free men who had slaves as wives faced further complications, especially if they tried to purchase their freedom. In the process of obtaining ownership of a spouse, did the slave become a wife or was she merely the property of a man who could not be her legal husband? The perverse contradiction of the laws of slavery and freedom is exposed in a scenario in Kentucky. The laws in that state made it clear that African Americans could not participate in the slave trade for commercial purposes. They were allowed to purchase only certain slaves who were relatives for the purpose of protecting them and keeping families from being split apart. This was further buttressed by the fact that a master's consent to sell his slave woman, effectively "giving" her (for a fee) to a man to be her husband, sealed the objective of solidifying marriage. And yet creditors were legally entitled to challenge these very facts when they inconveniently disrupted their own fiduciary interests in the marketability of slaves. They could assert their superior rights to make claims on slave property regardless of the relationship between chattel and owner. Creditors could claim that a free man's purchase of his wife was a "pretended sale" designed to exempt his property (wife or no wife) from execution for the purpose of paying his debts. A free black man could purchase a slave (wife) only for the purposes of rescuing her from the normal rules of the slave market. And yet the same slave was legally liable to being subjected to credi-

tors demanding that she be sold off to pay her husband's debts. Free black men had few enforceable legal rights that white men were bound to respect.²⁴

Free women who married slave men, by contrast, were in the unique position of being considered heads of household because their husbands had no legal standing. In one sense they were regarded as *feme sole*, single women who had legal rights that women customarily relinquished when they married. They had to play out reversed gender roles and perform the duties as providers and protectors of hearth and home that their enslaved husbands could not. But in other respects they were treated as inferior forms of *feme covert*, married women who were more like dependent children or slaves in the eyes of the law.

A case from Massachusetts illustrates these dilemmas. Whatever concessions Northern states made with one hand to support slave and mixed-status marriages, they took away with the other. Harriet, a pauper in the state of Maine in 1820 and the mother of an infant, was the subject of a battle between two towns, neither of which wanted to be deemed her official place of settlement and thus responsible for her care. The determination rested in large part on whether her grandfather Isaac Hazzard Stockbridge, a slave, and her grandmother Cooper Loring, his free wife, had a legal marriage. Hazzard (as he was called in the documents) died in the colony of Massachusetts in 1780, before Maine became a separate state and before his granddaughter Harriet was born. Harriet's mother, Lucy, was eleven years old when he died. The plaintiff in the case, the town of Hallowell, argued that Hazzard was effectively abandoned by his master and thus was emancipated, which established his residence, and that of his family, in the town of Pittston, later incorporated into Gardiner, where he and his family had last lived. Thus the marriage to Cooper Loring was legal. But if he was still a slave, then his marriage was void and his wife's settlement would have been assigned to the other town. If the marriage was legal and Hazzard was still a slave, then neither he nor his wife could be legal residents. In short, Hallowell argued that no matter what his condition or the legality of the marriage, Hazzard did not belong as a resident there, and thus, neither did his wife nor children and grandchildren.²⁵

The defendant in the case, the town of Gardiner, argued that his master did not emancipate Hazzard. But regardless of his status, slaves had the right to marry under the laws of Massachusetts colony since 1707. As a slave, he could not establish a settlement of his own for himself or his family. Nor could

his wife, a free woman, establish residency because to give her such recognition would violate the norms of marriage by treating husband and wife as separate entities rather than as one. If the wife was allowed to establish residency on her own, her children could not, unless they were illegitimate. So if the marriage was legal the children were legitimate and their settlement rested with their father, who was a slave without rights. Like Hallowell, Gardiner tried to pass along responsibility for taking care of the family at the center of the case. It worried about the limited services that Harriet, a *feme covert* with an infant, could render and the taxes that she could not afford to pay. The plaintiff's rebuttal summed up how the logic of the arguments on both sides left Harriet in a bind: "she has no settlement by the father he being a slave;—none by the mother, she being lawfully married;—and none in her own right;—and yet she is a native of this State."²⁶

The judge ruled that Hazzard was indeed a slave, not manumitted by his master, and that the slave marriage was valid, though in the same way that minors had the right to marry. He also ruled that Hazzard's wife, Cooper Loring, could not obtain a separate settlement from her husband, as the defense had argued it would contravene the relationship of the couple. In effect, the wife's rights to establish residency was overruled by the determination to protect the mixed-status couple's abstract marriage, albeit not one that accrued all the civil rights of fully endowed adults. Thus she could not be a resident of Gardiner. Neither could Lucy, the daughter of the couple, as a child, ten years old at the time the town of Pittston was incorporated by Gardiner. Legal marriage came to naught for Hazzard, who suffered the disadvantages of being a slave and Loring, who suffered the disadvantages of being a free woman of color married to a slave man. The plaintiffs lost. Harriet lost more.²⁷ ◆

The Fateful Triangle: Race, Ethnicity, Nation

2017

STUART HALL

Stuart Hall was one of the founding figures of cultural studies. In The Fateful Triangle—drawn from lectures delivered at Harvard University in 1994—he untangles the power relations that permeate categories of race, ethnicity, and nationhood, showing how old hierarchies of human identity in Western culture were forcefully broken apart when oppressed groups introduced new meanings to the representation of difference. In this excerpt, Hall explains how globalization is reconfiguring concepts of cultural identity and ethnicity.



SO WHY, THEN, are we witnessing the return of ethnicity, the positive re-evaluation of *ethnos*, not only in the examples I have given but as a worldwide phenomenon? How are we to understand and narrate what is happening globally around questions of cultural identity, cultural difference, and the politics of cultural representation in these postcolonial, post-Enlightenment times, which also seem to be postnational—that is, when the Western imperial nation-state may be a thing of the past. I emphasize the conjunctural moment because its transitional and unsettled character is really what the prefix *post-registers* for me, underlining the question of what we are coming after, what we are in the wake of, without being in any achieved sense beyond its reverberating effects, and without being able to name any new condition toward which we are definitively headed. Indeed, this ubiquitous prefix carries more than a hint that the transition may be a permanent state of

affairs—transition without termination, dislocated times without the promise of supersession.

Thus *postcolonial* means after the epoch when imperial power was exercised by direct colonization, but it also means an era when everything still takes place in the slipstream of colonialism and hence bears the inscription of the disturbances that colonization set in motion. The term indicates a moment when everything in the conversation makes reference to the colonizing dominant, to the West, which may be resisted, but whose presence as an active force, as an interlocutor, cannot be denied, since the configurations that characterized the earlier epoch remain visible and operative, having real effects. So one might say postcolonial in the same sense that *poststructuralism* is the theoretical moment after a not completely superseded structuralism, which is still being referred to in the theoretical positions that post-structuralism is trying to displace. It follows too, then, that *postmodernism* is the time after modernism, a time that is unthinkable except as a reversal and a rearticulation of the discourse of modernism, which gives us modernism in the streets, not just in the gallery. And *deconstruction* is the time after the grand narratives of Western metaphysics and modernity, but a time that is unable to transcend the discursive limit points against which its own antifoundationalism is directed. Under such circumstances, cultural identities would be another concept now placed “under erasure,” for precisely the embodied forms of cultural identity and difference that were constituted by the great discourses of modernity—imperial, national, racial, ethnic, masculine, ethnocentric, heterosexual—are now simultaneously decentered and reconfigured in new combinations. So how, in our global times, is cultural identity to be constituted and narrated?

What is powerfully dislocating cultural identities at the end of the twentieth century is a complex of processes and forces of change that, for convenience, can be summed up under the term “globalization.” By globalization we mean the comprehensive integration of economic production, markets, financial systems, information flows, and technologies across the globe, alongside the worldwide movement of capital, goods, media messages and images, and people, with the disruption of settled borders, real and symbolic, as a result. Globalization refers to these intersecting processes, which increasingly cut across national frontiers, integrating and connecting nation-states, national cultures, diverse communities, and organizations into new space-time combinations that make the world, in reality and in experience, more

interconnected. All of this implies the decline of the classical political idea of the sovereign nation-state, the classical economic concept of the self-regulating national economy, and the classical sociological conception of society as a sutured totality; the last of these now being displaced by a perspective that looks at how social life is ordered through overlapping and discontinuous times and spaces.¹

Such space-time compressions, or disjunctures of distances and temporalities, are among the most significant features of globalization with a direct bearing on questions of identity and culture. Time and space are, after all, the basic coordinates of all systems of representation, as David Harvey has incisively demonstrated in *The Condition of Postmodernity*.² Every medium of representation—writing, drawing, painting, photography, telecommunications, information systems—must translate its subject into spatial and temporal dimensions. Thus literary narratives translate events into beginning-middle-end time sequences, and visual systems of representation translate three-dimensional objects into two dimensions. In his exciting book *The Black Atlantic*, Paul Gilroy speaks of trying to change how we represent the story of black music from a linear one, where African authenticity gives way to American inauthenticity, to a “two-way traffic between African cultural forms and the political cultures of the diasporas.” He introduces the idea of a shift “from the chronotope of the road to the chronotope of the crossroads,”³ borrowing Bakhtin’s notion of the chronotope as “a unit of analysis for studying texts according to the ratio and nature of temporal and spatial categories represented . . . an optic for reading texts as x-rays of the forces at work in the culture system from which they spring.”⁴ Homi Bhabha, looking at similar questions but now in a postcolonial frame rather than a post-slavery context, defines the relations between the colonizer and the colonized in terms of disjunctive temporalities in which “the colonial” can only repeat itself in “the colonized” at a distance, with a destabilizing difference, through a series of dissimulating figures, with mimicry, parody, and grotesque realism being only some of the many loops through which the colonized occupy the interstice or gap “in between” these disjunctive temporalities so as to turn back and radically unsettle the linear time of Enlightenment modernity.⁵ Questions of memory and radical disjunctures among time signatures in Toni Morrison’s *Beloved* function in the same way to renarrate the experience of slavery in the African American context.⁶

The shaping and reshaping of space-time relationships within different discursive systems of representation have profound effects for how identities are narrated and understood. All identities are located in symbolic space and time. Like sexuality, they take place in the “field of vision,” as Jacqueline Rose suggests in her book of that name, and vision always has its spatial coordinates, real or imaginary, in a field or the overall gestalt in which the subject is perceptually “placed.” One might say that the mirror stage, which for Jacques Lacan is the very site of imaginary identification, is precisely such a theater of spatial-speaking relations regarding such placement among the different parts of the self, and between the self and its reflection in the gaze of the other.⁷ To say that all identities are located or imagined in symbolic space and time is thus to say that we can see cultural identities as “landscaped,” as having an imagined place or symbolic “home,” a *heimat*. In addition to their placings in time—in narratives of the self, in our own life stories, in invented traditions binding past and present into myths of origin that project the current moment to the archaic past, and in narratives of the nation that connect the individual to larger events on a collective scale—we need to grasp the full significance for cultural identity of the spatial relations that Edward Said called “imaginary geographies.”⁸

Place is one of those strong representational coordinates of cultural identity. It matters both as a dense, particular, local site where many relationships have overlapped across time, producing a richly textured sense of the ways in which space is grounded by distinctive ways of life, and as a kind of symbolic guarantee of stable, continuous, cultural patterns consistently reproduced through traditions that mirror the stability of kinship and blood ties among a settled, gathered, and interrelated population. These particular coordinates of space and time are especially important for what I would call the “strong” version of cultural identity inscribed by the concept of ethnicity, where social activities, common worlds, and all-encompassing systems of meaning are imagined as taking place in the same real or highly specific landscape, a place fixed discursively at another level by shared blood ties of family and kinship, and thus to a certain degree, perhaps, by shared physical features or characteristics. Where a people share not only a language or common customs but an *ethnos*, their sense of being bound to or belonging to the group is especially strong, and their version of cultural identity thereby becomes markedly confined and homogeneous as a result. Indeed, ethnicity

in this strong sense is a form of cultural identity that, though in fact historically and culturally constructed, is powerfully tied to a sense of place and of group origins that comes to be so unified on many levels over a long period—across generations, across shared social space, and across shared histories—that it is experienced and imagined by many not as a discursive construction but as having acquired the durability of nature itself. Although discursively constructed, the strong sense of the *ethnos* of a community as having been transmitted through natural inheritance, as imprinted and inherited outside what we would call the play of history and culture, as if through the natural laws of descent, points to this version of ethnicity as the discursive form in which cultural identity appears as part of “kith and kin,” rooted in “blood and soil.” Ethnicity in this strong sense helps us to imagine culture as being simultaneously “at home” and as “home” itself, the place where we originally came from, which first stamped us with our original identity, from which there is no escape, and to which we are bonded by ties that are inherited and obligatory, the separation from which is painfully repeated in every other subsequent loss that we experience.

You may recall that in my first lecture I described the discursive work that race as a sliding signifier performs in constituting a chain of equivalences that enables us to read off from the visible signs of “the grosser physical differences of color, hair and bone” those meanings that come to be fixed back down the chain, as it were, in the biological and the genetic, and that are fixed further up the chain, as referring to the cultural and the civilizational. I now want to suggest that ethnicity not only functions within the same discursive chain as race but also operates in similar ways, that is to say, as a sliding signifier. Thus, whereas race is grounded in the biological and slides toward the cultural, *ethnos* or ethnicity in the strong sense that I’ve just described appears to be grounded exclusively in the cultural, in the realm of shared languages, specific customs, traditions, and beliefs, *yet it constantly slides*—especially through commonsense conceptions of kinship—toward a transcultural and even transcendental fix in common blood, inheritance, and ancestry, all of which gives ethnicity an originary foundation in nature that puts it beyond the reach of history.

My argument here is that, in addition to its many other dislocating effects, globalization powerfully fractures the temporal and spatial coordination of the systems of representation for cultural identity and imagined community that are at stake in the concept of “ethnicity,” with the decisive result

that identity is nowadays increasingly *homeless*, so to speak. Anthony Giddens speaks of the separation of space from place that is effected by globalization in its late modern forms. Whereas place is imagined as specific, concrete, known, and familiar—as the site of social practices that have formed and shaped our lives over long periods of time—what Giddens argues, with regard to space, is that

in pre-modern societies, space and place largely coincided, since the spatial dimensions of social life are, for most of the population, dominated by “presence”—by localized activities. The advent of modernity increasingly tears space away from place by fostering relations between “absent” others, locationally distant from any given situation of face-to-face interaction. In conditions of modernity . . . locales are thoroughly penetrated by and shaped in terms of social influences quite distant from them.⁹

It follows from this that one of the consequences of the recent forms and intensification of late modern globalization is to force us to abandon, as Doreen Massey argues, “the notion of places simply as settled, enclosed, and internally coherent,” and to seek instead “its replacement or supplementation by a concept of place as meeting-place, the location of the intersection of particular bundles of activity spaces, of connections and interrelations, of influences and movements.”¹⁰ Such thinking underpins the view that place “is the vast complexity of the interlocking and articulating nets of social relations . . . always formed by particular sets of social relations and by the effects which juxtaposing those interrelations produce.”¹¹

Despite such developments, however, globalization is not a recent phenomenon *per se*. We could say it was inaugurated in the moment at the end of the fifteenth century when Europe, having expelled its others—Jews and Muslims—turned outward and the Euro-imperial adventure we call modernity began on a global scale. The dislocation of a world composed of settled, kin-bound, territorially unified peoples began, then, with exploration and conquest, colonization and slavery, as I have discussed elsewhere.¹² The first tentative formation of a capitalist and commodity-based market economy took the form of a global rather than regional or continental phenomenon. Where Karl Marx famously stated, apropos the dislocating effects of this world system, “all that is solid melts into the air,” one might add that in its late modern incarnation, globalization has simply acquired a new intensification of this effect, which has assumed new forms.¹³ But even though capitalism

and the world market long ago intersected the homogeneous cultural spaces that underpinned traditional conceptions of collective identity, it is striking to note that such versions of “imagined community,” in Benedict Anderson’s sense, have largely remained intact until recently, since the nostalgia for community, for shared culture, is one of modernity’s consistently compensatory and consoling refrains.¹⁴ There is now considerable evidence that late modern globalization as we are experiencing it is further undermining and putting into crisis those centered and unified formations of cultural identity, including that most powerful of modern identities, the nation. Such evidence of a loosening of identification with the national culture suggests that what we are witnessing is a strengthening of cultural flows and collective ties that operate “above” and “below” the level of the nation-state, functioning on interpenetrating scales that disrupt our conventional distinctions of locality, neighborhood, and region.

Some cultural theorists of late modernity argue that there is now an overwhelmingly powerful trend toward global interdependence that is leading to the breakdown of all strong identities. The dissolution of our older idea—or was it a fantasy?—of “the local” produces a fragmentation of cultural codes, a multiplicity of styles mediated by current technology, an emphasis on the ephemeral, and a celebration of difference within contemporary cultural pluralism, all of which passes under the name of the *global post-modern*.¹⁵ Cultural flows within globalized consumerism, however uneven they may be and however far they are dominated by the West, have been said to create the possibility of new kinds of transnationally shared identities, even if the process of sharing among people widely separated in space, time, and cultural conditions is mediated by the status of the participants as customers for more of the same goods, as clients for more of the same services, and as audiences for more of the same images.¹⁶ People in remote villages in poor third-world countries can today receive in the privacy of their homes the messages and images of the rich consumer cultures of the West, which are the privileged content transmitted by global television or the ubiquitous radio, satellite, and other information systems that bind those on the former periphery into the new global networks. Jeans and sneakers, the uniform of the young in Western popular culture, are as omnipresent in Southeast Asia as in the United States or the United Kingdom, not only because they are often actually manufactured in Taiwan, Hong Kong, or South Korea for shops in London, New York, Los Angeles, Paris, or Rome, but also because of the growth of the world-

wide marketing of the Western youth consumer image culture as well. It is hard, under such conditions, to think of Indian cooking as something expressive of the authentic “ethnic” traditions of the South Asian subcontinent when there are at least two Indian restaurants on the main streets of every town and city in Britain. In London’s East End, Tower Hamlets, or the Isle of Dogs, for instance, “going for a curry” is the favorite way for National Front skinheads to warm up before an evening’s entertainment of beating up Bangladeshi youths; the combination is now as “English” as a cup of tea.

Yet for all of these examples of the global postmodern, cultural homogenization is the fast-growing orthodox narrative of globalization as a transnational strategy. Since there is a distinct power geometry to it—it being easier to “eat ethnic” in Los Angeles than it is in Calcutta—this is a narrative that I observe to be particularly seductive for critical intellectuals in the West. There is, no doubt, a great deal of truth in it. All the same, it is in my view a one-sided account of cultural exploitation—a tale with which to frighten little children. Let me try to say, quietly, what I believe is wrong with this way of conceptualizing the effects of globalization, and what is wrong, by extension, with the equally homogenizing and essentializing conception of “ethnicity,” which, by its absent presence in the discourse of lament, underpins the narrative of cultural homogeneity as its mirror opposite.

One objects to this thesis, first, because the most striking aspect of the newer forms of globalization is the appearance, alongside the tendencies toward homogenization, of the *proliferation of difference* of all sorts. Only some of these developments are effectively harnessed to the global market, which in any event moves and responds as much by exploiting diasporas as by regulating them; it uses forms of niche marketing in which tapping into marginal advantages produces fluctuating effects of which capital is only in partial control. What the cultural homogenization narrative loses sight of is that the march of global capital is accompanied by the unexpected revival and return of new kinds of local identifications, new forms of symbolic attachments to the connotations of place and cultural specificity, and new discursive formations of the traditional. Even in matters of taste and style that span the vast distances integrated by the new global technologies and which link together the various times and spaces of capital turnover in production, there has emerged a new symbolic “tribalism,” as Alberto Melucci calls it, alongside the consumer homogenization story of Coca-Cola, Big Macs, Nike sneakers, and CNN broadcasts everywhere.¹⁷ What else is street style or “street cred,” or

the symbolic global significance of place names such as Bed-Stuy, Brixton, or Trenchtown as they circulate in the new world musics of rap and reggae, if not a marking of locality, with its connotations of place, as a response to the forces of homogenization? We see other such cases of an emphasis on the local in forms of popular culture in Japan and Southeast Asia.

There is a difference, of course, between the forms of difference that are harnessed to and permeated by the capitalist market and other forms of marking cultural difference that represent fissures, breaks, or fault lines in the cultural system that the market has to negotiate. The fact that there is negotiation means we are not dealing with absolute difference. But where would you draw the line in rap or reggae between differences permeated by the market and differences that signify social ruptures? Certainly these new localisms that emerge with the proliferation of difference are not simply a repetition of the primordial and homogenizing attachments that place names may have been taken to signify in the past; instead they function, as Kevin Robbins argues, as a new kind of “local” that acquires specific meaning by operating within a larger, globalized cultural *topos*.¹⁸ Such localisms as “Bed-Stuy” indicate the movement of a reconfiguration of ethnicity, marking looser, more porous, more open-ended, and increasingly hybridized forms of cultural identity, which are thus the site not of the unilateralist triumph of the global postmodern but of something more difficult, complex, and historically specific, namely, new articulations between “the local” and “the global” that cannot be mapped within the terms of nations and national cultures as we might have tried to do in the past. The proliferation of such cultural differentiations confronts us with articulations of differences and similarities that no longer cohere within a single cultural, discursive, or political framework; these new forms of articulation of the local and the global cannot be convened, as it were, under the roof of a single identity, all overlapping in the same space. The prolific spread of such cultural differentiations produces something more diverse, more fragmented, more discontinuous, and less sutured than anything that has come before, giving rise to often contradictory articulations across spaces, times, and discourses that produce complex points of cultural identification—positionality that tend to dislocate rather than reprise one another. Nevertheless, such developments and tendencies are critical for our story since this is how “difference” is more and more actually being produced and negotiated in our world. It is precisely from such hybridized and incomplete foci of difference that many new identifications are arising. The produc-

tion of new points of identification—as well as the return to and revival of old ones, which I shall come back to in a moment—is thus an all-important key to the emergence of what we may call the reconfiguration of ethnicity under the conditions of the global postmodern.

A second objection to the cultural homogenization narrative stems from the way this story, with its built-in oscillation between the binary poles of “tradition” and “modernity,” not to speak of Antonio Gramsci’s old friends “pessimism of the intellect” and “optimism of the will,” recapitulates and repeats the assumptions of the Enlightenment grand narrative. Liberalism and Marxism, which were both in their different ways Enlightenment grand narratives in that they sought to tell stories of human progress, led us to expect that those old ties and bonds of symbolic attachment to place, tribe, locality, religion, and landscape would be gradually but remorselessly swept aside by the advance of capitalist modernity, commodifying, rationalizing, and thereby homogenizing everything in its wake. Marxism’s logic of capital and liberalism’s drive toward secularization and universalism are, in this sense at least, not antithetical but mirror discourses of each other.

But in my view, the ways that liberalism and Marxism alike tell the story of modernity are one-sided and incomplete. Capitalist modernity has always advanced as much by way of the production and negotiation of difference as it has through enforcing sameness, standardization, and homogenization. Those who know capitalist modernity at the periphery always know that in Latin America and Africa, with their dependent economies of the interior and their neocolonial or export sectors integrated into the world market unevenly, it is the exploitation of difference—the taking advantage of differentials, and not the standardization of economic variables—that pushes the story of capitalist modernity remorselessly onward. This applies equally to the combination of tribal homelands, migrant labor camps, and segregated residence in South Africa until recently, and was indeed an underpinning to New World slavery itself in the Americas and the Caribbean, where unfree and forced labor exist in a differential relationship that is foundational to the so-called free market of the global capitalist economy. What we see at both the periphery and the center of the system is that differences have been gendered, sexualized, and classed as well as being ethnicized and racialized as a condition of the functioning of the world market.

One sometimes suspects that in the face of such complexities of articulation, in both past and present configurations of Western modernity, there is

a degree of collusion among the various identities connected by trade and so on. It is true that globalization, whether early modern or late modern, is a combined and uneven process, with dramatically differential effects in different places and in different strata. Both the corporate executive in his business-class seat aboard a jumbo jet flying from Jeddah to Tokyo and the Arab desert traveler on his camel moving between oases over which the former unwittingly passes are postmodern “nomads” in the sense that each occupies very distinct time-space trajectories. Nevertheless, the fact is that ever since the onset of the Euro-imperial adventure, global times and spaces have never peacefully coexisted but have been brutally truncated and condensed into one overarching, dominant, abstract, and imperial chronotope, which is the time of the West. The societies of the periphery have never been the closed hinterlands they have been represented to be, for they have always been open to Western cultural influences and vice versa. The idea that the colonial peripheries are closed spaces, ethnically pure, culturally traditional, and forever undisturbed in what Claude Lévi-Strauss called the “old zones of history until yesterday” is merely a fantasy about otherness, a colonial fantasy maintained about the periphery by the West, which tends to like its natives pure, its beaches empty, and its exotic places to be faraway and untouched by human hands.¹⁹

Another consequential effect of staging the process of globalization in terms of a static opposition between two essentialized objects of discourse—their “backwardness” and our globally modern “advancement”—is the way in which such an approach tends to construe the symbolic reconfiguration of ethnicity today as necessarily a form of fundamentalism, a refusal of modernity, which makes it, by definition, regressive, archaic, and atavistic. I will come back to this way of thinking about the return to ethnicity when I discuss the category of “nation” in my third lecture. Nevertheless, to the extent that such a binary between “backward” and “advanced” is embedded in commonsense discourses of tradition and modernity, one would hardly believe that the new forms of cultural identity and identification arising with the current forms of globalization have also been profoundly important sites of resistance.

This last point brings me to a third objection to the globalization-as-homogenization narrative: that this narrative not only is unable to countenance a politics of resistance but also cannot account for the production of new identities as they arise under late modern conditions. One has only to

think of the role played in national liberation and decolonization struggles by the idea of a people and a culture that predate colonialism (however much it functioned as a foundational myth, a necessary fiction), or the role that the symbolic recall of “Africa” played in the renarrativization of history that led in the 1960s and 1970s to the civil rights movement in the United States and the cultural revolution that transformed the British West Indies into a “black” space for the first time since slavery, to realize that what twentieth-century history confronts us with is the *production of new subjects* and not the mere repetition of old ones. As a way of understanding that what is at issue in the return of ethnicity today is the production of identities and identifications, rather than the uncovering of essences given in nature, one might equally recall how an idea of “Africa”—not a place actually located on any map but a country of the mind—alone enabled young children of Caribbean migrants, the second generation, to survive life in the United Kingdom in the 1970s. It was cultural forms such as the music technology of the recording studio, the sound system, and the vinyl disc, as much as the metaphorical languages of Rastafarianism, that allowed them not just to survive but also to acquire the sense of self-pride, the symbolic centeredness, and their own way of styling their bodies that characterized their new ways of being—or rather “becoming”—black in the postwar history of multicultural Britain.

The view that any of these highly complex and variable forms of new ethnicity, whether in African America, black Britain, or the Caribbean, could be understood, deciphered, or explained away as simply a return to “backwardness” is simply laughable. One could much more easily and convincingly make the case that what one sees in such phenomena is precisely the doubling—the Janus face—of ethnicity in global times, which compels our attention toward the discursive effects of doubleness, reversal, and transcoding that are its characteristic symbolic and cultural features. Above all, what such new ethnicities confront us with is the symbolic “detour” to the present that moves through the past, marking the site of collective investment in stakes made on the future within these difficult, more vernacular experiences of modernity. ◇

The Color of Money: Black Banks and the Racial Wealth Gap

2017

M E H R S A B A R A D A R A N

When the Emancipation Proclamation was signed in 1863, the Black community owned less than 1 percent of the United States' total wealth. More than 150 years later, that number has barely budged. The Color of Money probes the persistence of this racial wealth gap by focusing on the generators of wealth in the Black community: Black banks. Studying these institutions over time, Mehrsa Baradaran challenges the idea that Black communities could ever accumulate wealth in a segregated economy. In this excerpt, she examines banking in a segregated economy and the political and economic hurdles faced by Black-owned banks in the early twenty-first century.



THERE ARE TWO BANKING systems in America. One is the regulated and heavily subsidized mainstream banking industry; the other is the unregulated, costly, and often predatory fringe industry. The Black community has historically been under the latter system, having been left out of the former. This has come at great expense to that community. Richard Thaler and Cass Sunstein found that blacks pay on average of \$425 more for loans than white customers.¹ Most black neighborhoods are “banking deserts,” neighborhoods abandoned by mainstream banks.² The FDIC’s surveys on the “unbanked and underbanked” reveal that 60 percent of blacks are either unbanked or underbanked.³ In striking contrast, only 3 percent of whites do not have a bank account and 15 percent are underbanked. Those without bank accounts pay up to 10 percent of their income, or around \$2,400 per year, just to use their

money.⁴ That is a meaningful amount of money for low-income Americans, and it is being sucked up by alternative financial services. This problem has been exacerbated since the crisis of 2008, when 93 percent of all bank closings occurred in low-income neighborhoods.⁵

When banks leave a neighborhood, the sharks usually fill the void. Banking deserts are left vulnerable to high-cost payday lenders, title lenders, and other fringe banks.⁶ Once the subprime profits dried up as a result of the crisis, banks began avoiding the ghetto again. By 2016, an investigation of mortgage lending in St. Louis found that banks made fewer loans to borrowers in black neighborhoods than white ones. Mortgage applicants from minority zip codes were denied at significantly higher rates than applicants in white neighborhoods.⁷ Unsurprisingly, it appears that contract selling has actually made a comeback in these areas abandoned by banks. This time, private equity firms are leading the charge.⁸ Buyers are given loans that look like mortgages, but they are in fact more like rental agreements, under which the borrower can be evicted because of a missed payment. In one example, a private equity investor bought a foreclosed home for \$8,000 and sold it on contract for \$36,000.⁹

In banking deserts, blacks rely disproportionately on payday lenders—they are more than twice as likely as any other race to use payday loans.¹⁰ With such costly credit options, it is no wonder that debt collectors extract as much as *five times more* judgments against black neighborhoods than white ones. Two studies conducted between 2015 and 2016 revealed that blacks were much more likely to be sued by debt collectors than any other racial group, even when differences in income were accounted for. One in four black residents in the studied communities was being sued by a debt collector. Most of these lawsuits were similar: large debt collectors suing for small amounts.¹¹ The study found that debt collectors were not intentionally discriminating, but that “white consumers are, in general, better able to resolve smaller debts.”¹² Indeed, the study confirmed that black communities simply have less wealth than white ones and therefore enjoy less of a buffer against hardship.¹³

Unsurprisingly, black college graduates owe an average of \$53,000 more than their white counterparts in student debt. Blacks have to borrow more for college and have to carry greater debt several years after graduation—usually from two to three times the amount of white graduates. Black students default on student debt at a rate five times higher than white or Asian

graduates and because student loans cannot be discharged in bankruptcy, this debt is carried until it is paid off.¹⁴

The racial wealth gap not only means that black families have greater difficulty ascending the economic ladder; it also means that it is much easier for these families to fall. Because wealth provides a cushion against life's hard edges, those without it are exposed to devastating financial shocks like bankruptcy, eviction, and apparently lots of lawsuits. These lawsuits further ratchet up the financial pressure through wage garnishments, aggressive collection practices, and criminal prosecutions. These actions create what one black resident in the study called a "web of indebtedness."¹⁵ A wage garnishment can feel like extortion, but increasingly, creditors are using actual extortion. Often the original credit, such as a municipality, sells its debts to an underworld of unregulated debt collectors who threaten debtors with criminal prosecution in order to intimidate them into paying their debts.¹⁶ These threats are usually baseless and illegal, but that does not stop these unscrupulous bounty hunters from continually harassing debtors.

In 2015, a cell phone video showed a police officer shooting an unarmed man, Walter Scott, who was running away from the officer. The press coverage focused on the fact that the officer had allegedly lied about the shooting and appeared on video to be planting a weapon near Scott's body. Less attention was paid to the reason Scott was running away from the officer in the first place. It was revealed that he was likely running because he had unpaid debt and may have been worried about criminal retribution.¹⁷ The wealth disparity leads cryptically and tragically to many seemingly unrelated injustices suffered by the black community.

The destructive economic and social forces created within the boundaries of a racially segregated ghetto are interrelated. The effects of the most recent loss of black wealth were not just in lost homes and bank accounts, but in the resulting loss of social and community capital. From 2003 to 2013, Detroit closed 150 public schools and Chicago closed fifty in 2013 alone, primarily in black and brown neighborhoods. Black unemployment reached a twenty-year high, and black and brown prisoners make up almost 60 percent of the prison population.¹⁸ Many black communities are "opportunity deserts," lacking in paths toward upward mobility yet with an overabundance of pitfalls that result in incarceration or worse. Languishing in what Chimamanda Ngozi Adichie has called "the oppressive lethargy of choicelessness," many are born into and live their whole lives with the certainty that they will not

be able to escape their circumstances. The National Urban League reported in 2015 that the state of black America was one of “crisis.” The report followed up, in words reminiscent of the Kerner Commission, “America today is a tale of two nations.”¹⁹

The Obama administration did make inroads into poverty alleviation; specifically, the Affordable Care Act was aimed at lowering health-care costs, which are a major source of financial distress for the low income.²⁰ President Obama, like his predecessors, did not specifically target the racial wealth gap, nor did he advocate a race-based economic agenda. The administration’s efforts were a continuation of theories underlying black capitalism and the updated community capitalism of the Clinton administration. In several speeches, Obama heralded the importance of small businesses and minority businesses, including renewing Minority Business Enterprise Week and praising the importance of minority businesses in several small forums.²¹ On the campaign trail, he had promised “to help bring businesses back to our inner-cities.” He envisioned creating institutions akin to the World Bank to “spur economic development.” He lamented that “less than one percent of the \$250 billion in venture capital that’s invested each year goes to minority businesses that are trying to breathe life into our cities. This has to change.” He promised that he would make sure every community had “financial institutions that can help get them started” on the road to building wealth.²²

These promises were not pursued, either because of the game-changing financial crisis, the antagonistic legislative environment, or perhaps due to the president’s lack of conviction on black capitalism. When Obama was asked in 2012 to respond to criticism that his administration had not done enough to support black business—the premise being that helping black business was akin to addressing black poverty—he responded, “I’m not the president of black America. I’m the president of the United States of America.”²³ The Treasury did announce in 2015 that it would name its newly created wing after the Freedmen’s Bank. This would be the first time, of course, that the Treasury would actually be linked to the bank. (The last time, the link was purely speculative and the depositors paid the price.) The Treasury also decided to put Harriet Tubman on the \$20 bill.

Banking agencies are still carrying out their FIRREA legislative mandate to support minority banks. The Minority Bank Deposit Program (MBDP) is still ongoing, which means that federal agencies and federal grant recipients are encouraged to deposit funds into banks owned or controlled by women

or minorities.²⁴ Typical deposit funds are agency deposits of public money, cash advances to federal contractors and grantees, Postal Service funds, and other moneys held by the agencies.²⁵ The FDIC also runs its own minority bank deposit program, called the Minority Depository Institution Program (MDIP).²⁶ The MBDA, the successor to the OMBE, is still active and advertises on its website that it is “the only federal agency created specifically to foster the establishment and growth of minority-owned business in America.” Its most advertised feature is a website for minority entrepreneurs called the “Minority Business Internet Portal,” which is described as “an e-commerce solution designed for the MBE [Minority Business Enterprise] community.”²⁷

In 2007, the House Committee on Financial Services held a hearing to assess whether regulatory agencies were meeting the FIRREA mandate of “preserving and expanding minority banks.” Black bank representatives and top agency officials testified about the state of minority banks, with a focus on black-owned banks. The hearing was accompanied by an expansive GAO report. The FDIC testified that it was offering “technical assistance” and “training and educational programs” to minority banks.²⁸ As for the charge to preserve and promote minority banks, the agency explained that it did not have a process in place to do this, but made decisions on a case-by-case basis. The Office of the Comptroller explained that it had held conferences, offered technical assistance, and then after periodic bank examinations, the examiners contacted minority institutions to “make sure that the institution understands any issues or concerns that we have highlighted in the report. And we can help them.”²⁹ The Office of Thrift Supervision (OTS) explained that its program consisted of technical assistance and education.

Education, guidance, training, and counseling—that was the theme of the support being given to black banks. Apparently, it was not just minority subprime borrowers who needed “education,” but also minority banks. The regulators have essentially been playing the role of high school guidance counselor—available for advice or technical assistance with the occasional workshops for good measure. With Section 308’s vague requirements and no clear mandates from either the president or Congress, what else were they supposed to do but offer regulatory hand-holding?

Unsurprisingly, the minority banks were not relying on their regulators for help. The GAO reported that only 30 percent of minority banks had used the technical assistance offered by regulators.³⁰ Moreover, no agency had ever assessed whether its “assistance” was actually helping these banks. The GAO

revealed that the agencies had “not undertaken the more difficult and time-consuming, but ultimately much more important, task of truly understanding the unique challenges these institutions face” or of trying to tailor their “regulations, supervision and examinations” to help black banks to “survive and prosper.”³¹ Less than one-third thought the regulators were doing a “very good” or “good” job.³² Robert Cooper, representing the National Bankers Association, the main trade group for black-owned banks, put it bluntly. “To be honest,” said Cooper, “we have not seen much benefit from FIRREA Section 308.” Regulators had not applied “any different rules or approaches to minority institutions than majority institutions.” Regulators were doing the bare minimum required by law, which amounted to “technical assistance,” and had “steadfastly refused” to make use of their available power to benefit minority banks.³³ The regulatory support was a façade, but then again, so was the premise underlying the entire framework.

Even before the financial crisis virtually wiped out the industry, several government studies showed that black banks were lagging *significantly* behind their peers in profitability. According to Standard & Poor’s data, the average median return on equity in 2016 was 8.04 percent for the banking industry as a whole. For black-owned banks, the median was just 1.19 percent.³⁴ The reasons black banks remained unprofitable had not changed after almost a century of operation. Cooper told Congress that the biggest struggles black banks faced were (1) the economically depressed communities they operated in, (2) their need to keep high reserves for losses, (3) higher general expenses than other banks, and (4) higher transaction costs because they dealt with a higher proportion of retail customers on a face-to-face basis.³⁵ Black banks were still hamstrung by their reliance on small, high-activity deposits, and they made fewer and smaller loans than white banks, which reduced their profitability. They had lower non-interest-based income—19.5 percent compared to 42.7 percent for nonminority banks—because they sold fewer fee-based products to their less wealthy customers.³⁶ The CEO of Liberty Bank, one of the largest and most successful black-owned banks, described his bank’s struggle: “my expenses are twice as much because I have to do more counseling to my borrower. I may have to have guard service because I am in a high crime area. My deposits are much smaller.”³⁷

While regulators were offering education and training programs to help black banks, it was clear that the black banks knew exactly what their problems were, and it was not a lack of technical knowledge. However, just as it

is unfair to place the burden of the black wealth gap on black banks, it is unfair to blame bank regulators for not helping enough. The regulators' sole focus is to manage bank risks; they do not have the tools, mandate, or even the *education* to understand and fix the unique bind in which black banks find themselves.

Perhaps recognizing this limitation, black bank advocates did not ask for more help from regulators during the congressional hearing. What they wanted was meaningful regulatory and legislative action. Specifically, NBA President Cooper asked that banking regulators consider how their broad policies might affect minority banks, and consider changing them so as not to unduly burden the banks. For example, recent regulatory changes had added another obstacle for black banks in raising capital. Most banks in need of capital can issue "common stock," but minority banks cannot sell shares in their banks in this way because it threatens their minority status. In order to maintain minority ownership, they issue preferred stock. However, banking capital rules, specifically the Basel I guidelines put into effect in 2004, discounted preferred stock and favored common stock, which gave black banks a weaker capital profile than majority banks.³⁸

Kim Saunders, president of Mechanics and Farmers, explained that black banks are "at a significant disadvantage regardless of our stature of profitability in our abilities to raise capital."³⁹ Saunders proposed that the existing CDFI fund, which offered tax breaks to banks in underserved communities, reserve some of those benefits for minority banks. According to Representative Maxine Waters, out of \$16 billion in tax credits available through the New Markets Tax Credit program, only one black bank had received a grant.⁴⁰ Instead, large banks such as Capital One, Wachovia, Bank of America, and others had received tax credits for development projects in the inner city. According to Saunders, mainstream banks had recently and "suddenly found those unserved or underserved markets to be a worthwhile place for a bank branch," but according to Saunders, they were not there for the benefit of the community.⁴¹ Black bankers had always seen their mission as being larger than profitability.

If the economic milieu in which black banks found themselves had not changed significantly in the preceding century, neither had their noneconomic appeal. NBA President Robert Cooper explained that "these institutions aren't just providers of financial products and services. They truly are beacons of hope for the community."⁴² Maxine Waters admitted during the 2007 con-

gressional hearings that she had investments in several of the black banks being discussed. In the black community, according to Waters, “the test of your commitment to economic expansion and development and support for business is whether or not you put your money where your mouth is . . . you will find that most black professionals belong to, participate with, their minority banks in their community. It is expected of us. We should do it. And it is a true test of our commitment.”⁴³

Before the legislators could resolve any of the issues presented at the hearing, the 2008 financial crisis rocked the country, especially the established banking regulatory framework. Congress responded with the 2010 Dodd-Frank Act. Dodd-Frank did contain specific provisions dealing with minority banks, but they were far from robust. The act ignored most of the recommendations that came up during the hearings. The only change to the regulatory framework consisted of Section 367(4)(A) of the act, which amended FIRREA Section 308 to apply to all the banking agencies instead of just the OTS and the FDIC, which was due in part to the act’s termination of the OTS altogether.⁴⁴ Section 342 of Dodd-Frank also required each banking agency to establish an Office of Minority and Women Inclusion (OMWI), which is required to increase the diversity of agency staff and to offer assistance to minority- and women-controlled banks. Now all the agencies offer technical assistance, but still no tax breaks, no help with capital, and no structural reforms.

Yet regulators continue to celebrate black banks relying on myths that bear little resemblance to actual history. Comptroller of the Currency Tim Curry said at the National Bankers Association meeting in 2013, “As in the early years after the Civil War, when the Freedmen’s Bank provided a secure place for savings and a source of credit to encourage economic growth, minority institutions today can be a catalyst to ensure the vitality of low-income communities.”⁴⁵ In fact, the Freedmen’s Bank was not a secure place for savings and it provided no credit. Likewise, minority institutions have been unable to “catalyze vitality.”

The black banking industry has ebbed and flowed since the 1860s, with several peaks in the 1920s, 1960s, and 1980s that correlated with peaks in the economy, racial unrest, and sometimes increased segregation. By 2016 the industry was in a decade-long decline. Mechanics and Farmers of Durham, North Carolina, announced in June 2015 that it was “revamping its business model” to become a community bank and not a black-owned bank. The bank

changed its name to M&F, and CEO James Sills explained that the bank will be trying to “reach new customers, to attract younger customers, and diversify [their] customer base.”⁴⁶ This is a historic shift for the largest, oldest, and strongest of the black-owned banks, one of a handful that have withstood the Depression and every other recession since 1907. In the last decade, the black-owned banking industry has shrunk by more than half, from fifty-one banks in 2000 to twenty today.⁴⁷ The struggles of the largest black-owned banks reveal some of the ongoing tensions in this sector.

The poster child of community capitalism, ShoreBank, failed in 2010. The bank’s failure was not due to anything remarkable or unusual—the bank failed because inner-city Chicago was financially devastated after the 2008 financial crisis. The bank had not made subprime loans, but it was still affected by the widespread fallout.⁴⁸ Some criticized the bank’s overzealousness and wondered whether the bank failed because it was “too much into the social welfare thing.”⁴⁹ Although the failure was unremarkable, what happened afterward was.

ShoreBank’s application for \$70 million in TARP bailout funds created a media firestorm and a rage disproportionate not only to the funds requested, but completely disconnected from the scale of the total bank bailout.⁵⁰ The unprecedented scrutiny and attention over ShoreBank’s failure matched the hubbub over its founding—the press couldn’t resist reporting on the demise of Clinton and Obama’s favorite bank and calling out “political favoritism.” Representative Judy Biggert (R-IL) demanded information from the White House, suggesting that “the government was rescuing a *politically connected* bank while letting hundreds of others fail.”⁵¹ President Obama had no connection to the bank except that they were both in Chicago at the same time. Even though the president played no role in allocating TARP funds, conservative conspiracy theories abounded about special treatment.⁵² Glenn Beck used his famous chalkboard to weave a ludicrous conspiracy theory that connected ShoreBank to all of his favorite enemies, including President Obama, ACORN, Bill Ayers, and Hillary Clinton.⁵³

The bank did not receive a bailout and failed, causing losses to inner-city Chicago residents and bank investors. After the failure, the bank’s assets were taken over by Urban Partnership Bank, which was a consortium of top Wall Street banks and investors, including Goldman Sachs, American Express, Citigroup, Bank of America, JPMorgan Chase, GE Capital, Morgan Stanley, and Wells Fargo.⁵⁴ All of these *politically connected* banks had received

not millions, but billions in TARP bailout funds. The bank is now a certified CDFI, and all of the investor banks receive CRA credit for their investment.⁵⁵

Harlem's bank also failed, but with a slightly different result. After its main competitor, Freedom National Bank, failed in 1990, Carver remained as the only black-owned bank in New York and one of the largest in the country.⁵⁶ As is often the case, Harlem was hit especially hard during the financial crisis, and Carver suffered more than \$60 million in loan losses. The bank held very few subprime loans (only 2 percent of its portfolio), but the domino effect of the financial crisis could not be avoided.⁵⁷ For a bank that had seen only \$20 million in total earnings since it went public in 1994, the loss was substantial.⁵⁸ On the brink of collapse, the bank had to turn to the behemoths downtown for salvation. Carver received help from Treasury and a \$55 million cash injection from a consortium of Wall Street banks, including Goldman Sachs, Morgan Stanley, Prudential Financial, and Citigroup. After the bailout, the U.S Treasury owned 25 percent of the bank, with the Wall Street consortium controlling another 73 percent.⁵⁹ Thus, the original shareholders were left with just 2 percent of the shares of their bank. The purchase helped Goldman secure an "outstanding" CRA rating after its purchase.⁶⁰

The purchase saved the bank but wiped out its shareholders, many of whom were Harlem residents and longtime investors in the community institution. The bank is now listed as *black-controlled* instead of black-owned.⁶¹ The country's largest black-owned bank had ceased to be owned by blacks, but is owned by the same few banks that own virtually every other bank in the country. In announcing the deal to shareholders, Carver CEO Deborah Wright announced, "I understand the optics, but there was no alternative. The amount of capital we needed wasn't available locally."⁶²

The "optics" are indeed bad, especially when one considers what happened when Citigroup and Goldman Sachs, key actors responsible for the financial crisis, were exposed to severe losses during the 2008 financial crisis: the government bailout restored 100 percent of their shareholder value. Their shareholders lost nothing. The same Wall Street banks that were enriched by pushing black families into subprime loans now owned one of the few remaining black banks that were working to serve rather than exploit the community. And the reason they now owned the bank was that they survived the crisis they helped create through a taxpayer bailout, while Carver did not. Goldman was saved because it was deemed too big (in reality, too important) to fail. Carver was not.

The transformation of Carver from a struggling black bank to a Wall Street-owned bank mirrors exactly the transformation of the neighborhood it serves. Indeed, Harlem is experiencing something of a real estate renaissance, which looks more like a transformation. Instead of a smattering of small-scale businesses, Harlem now has large retail outlets, hotels, and businesses that have followed the wave of more prosperous residents. Many black residents are being priced out of Harlem as Manhattan's booming population begins to overflow uptown. Carver is also being priced out of the new Harlem. When the largest new residential property, a twenty-eight-story condominium, was built in Harlem, large banks downtown did all the financing. Carver sat out the monumental transformation of Harlem because it did not have enough capital to participate.

The bank's current management remains committed to helping the black community with their distinctive business needs. In 2015, Carver's CEO Michael Pugh, a Detroit native who worked as a bank teller in college and became a Capital One executive, outlined a plan for meeting Harlem's small business needs. Pugh proposed offering the community loans of \$10,000 or less, which most banks consider too small to be worthwhile. Pugh explains, "If a person who's running a kiosk on 125th Street came looking for a loan, another bank might offer him a credit card—or nothing. We're going to provide something better." The bank is starting to turn a profit, but has a very small margin.⁶³ Carver is being told to carry on with a commitment to the community. In a recent meeting at Carver's headquarters, the head of the U.S. Small Business Administration, Maria Contreras-Sweet, praised the bank for its history of creating opportunities for the community. "We need more like you," she told the Carver management. "Thank you for being here. I know it hasn't been easy." Pugh responded, "No argument there."⁶⁴ ◇

The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America

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BETH LEW-WILLIAMS

The American West erupted in anti-Chinese violence in 1885. Beth Lew-Williams shows how American immigration policies incited this violence and how the violence, in turn, provoked new exclusionary policies. Ultimately, she argues, Chinese expulsion and exclusion produced the concept of the “alien” in modern America. By locating the origins of the modern American alien in this violent era, Lew-Williams here recasts the significance of Chinese exclusion in US history and makes clear that anti-Chinese sentiment continues to have consequences as the resurgence of xenophobia builds upon past fears of the “heathen Chinaman.”



“A TOLERANCE OF FOREIGN FACES, garbs, and tongues is, perhaps, the birthright of citizens of New-York,” opined the editors of the *New York Times* in 1890. On the streets of the “polyglot city,” Americans, Germans, Dutch, British, and Irish now regularly mixed with the people of Scandinavia, Bohemia, Armenia, Japan, Russia, and China. But even when surrounded by other foreigners, “the Chinese within our gates” seemed “more alien than any” according to the paper. And it was not only among immigrants that the Chinese stood out. “The black man and the red man are better liked,” commented the editors. “With the proper care and teaching, with fair treatment as citizens, the red and black assimilate and become of us, to the extent that we are willing they should.” “Not so the Chinaman,” concluded the *Times*. “The Chinese are not to be digested.”¹

In retrospect, the making of the Chinese alien looks peculiar against the larger backdrop of late-nineteenth-century America. With the end of the Civil War, after all, came a dramatic expansion of U.S. citizenship to people who stood outside the traditional bounds of whiteness. The 1866 Civil Rights Act and Fourteenth Amendment made America's former slaves into citizens by virtue of their birth on American soil. Though these measures still excluded "Indians not taxed," Congress began, in piecemeal fashion, to extend citizenship to rising numbers of Native Americans in the decades that followed. In part, the postbellum reconfiguration of formal citizenship was driven by pragmatic concerns. In the South, African American citizenship helped dismantle the former Confederacy, and in the West, Native American citizenship accelerated the dispossession of tribal lands. But lofty ideals of racial inclusion also played a vital role. Radical Republicans envisioned a state-guided process of assimilation and incorporation that would enfold the "black" and "red" races into the nation and its polity. Through the reconstruction of the South and the West, the federal government would mold these "uncivilized" peoples into worthy citizens. Federal projects of prolonged naturalization could be coercive or even violent, but envisioned a more inclusive America.²

Why, then, did Chinese exclusion and the modern American alien emerge at this time? Looking back on this turn toward racial liberalism, the treatment of the Chinese may appear anomalous. But in fact, these histories of rigid exclusion and radical inclusion are two sides of the same coin. The postbellum period saw both the creation of the modern American citizen and the modern American alien, a synchrony that was not coincidental. There could be no substantive concept of alienage in American law and society before there was a meaningful concept of citizenship. And it was only after the Civil War that the national citizen was born.

Of course, there were both citizens and aliens in the antebellum period, but at that time citizenship and alienage played only a minor role in defining a person's rights and status within society. This was due, in part, to the fragmentary nature of citizenship in the early nineteenth century and, even more so, to the many competing forms of social membership available. Since the Constitution had not created a single, formal, undifferentiated notion of national citizenship, states reserved the right to grant citizenship and enumerate its privileges. This resulted in diverse and disparate civil rights, many of which ended at the state border. In addition, local and state jurisdictions rec-

ognized many other forms of social membership from which individuals derived their rights, privileges, and duties. An individual's status was based on sex, race, freedom, property, marital status, church affiliation, state of residence, and more. With these many forms of membership came many forms of exclusion. Instead of a national gate separating Americans from foreigners, there were internal fences dividing masters from slaves, men from women, parents from children, property holders from the landless, and New Yorkers from Rhode Islanders.³

This convoluted system of membership did not stop all attempts at gatekeeping. Since the founding of the nation, nativist movements and immigration laws had targeted small groups of Europeans and Africans for exclusion and expulsion. This regulation of migration was left primarily to the states in the early nineteenth century. As an outgrowth of colonial poor laws, states developed systems to exclude and remove paupers and other "undesirables." Often, these state regulations targeted aliens, but they also removed citizens born in other states. In addition, southern states often regulated the entry of free blacks (whether or not they were born in America) in order to preserve the institution of slavery. This produced a splintered system of state gatekeeping, which policed the movement of aliens as well as that of citizens, free blacks, and slaves.⁴

Other than the regulation of the slave trade, the only federal laws to restrict immigration before 1882 were the Alien Enemies and Alien Friends Acts of 1798. The former affected enemy aliens solely during times of war, but the latter allowed the federal government to expel any alien based on suspicions of danger. Though a clear precursor to Chinese exclusion, the highly controversial Alien Friends Act was never enforced, quickly expired, and left little judicial trace.⁵ Other attempts to federalize border control were blocked by southern statesmen. In order to preserve their ability to regulate the movement of slaves and free blacks, southerners consistently fought federal intervention in matters of migration. Therefore, on the eve of the Civil War, the United States lacked consolidated notions of citizenship, alienage, and national gatekeeping.

The aftermath of the Civil War spurred dramatic changes in the regulation of aliens and citizens in the United States. With the Thirteenth Amendment's emancipation of slaves in 1865 came the end of southern resistance to federalized border control. No longer was there such a strong incentive for the

southern states to claim the power to regulate the movement of people. And with the Fourteenth Amendment's promise of equal protection in 1868 came increased judicial scrutiny of state regulations. In the years following, judicial decisions found that the states had little right to police the movement of citizens and aliens. These legal and political shifts paved the way for the federal government to take control of national gatekeeping.

The postbellum era also marked a transformation of U.S. citizenship. Not only did Congress extend citizenship to more people, but it also imbued the idea of citizenship with new meaning. For the first time, Congress defined a singular form of national citizenship, granted citizens certain rights and immunities, and pledged federal protection of these civil rights. Constitutional amendments did not bring actual equality in law or practice—sex, race, class, and ability continued to influence one's legal and social status—but they provided the theoretical outlines of modern citizenship. To forever protect Americans from slavery or other abuses by the states, Congress enshrined in the Constitution the rights-bearing citizen who lives on to this day.⁶

Once the federal government began to fashion the national citizenry, it was only a matter of time until it defined who would stand outside those ranks. The existence of the citizen demanded the concept of alien—and they developed in tandem.⁷ Though national citizenship had begun taking shape in the late 1860s, it was not immediately clear what alienage in modern America would entail. Who would be considered an alien and for how long? Which aliens would be allowed to enter the nation? What power did the government hold to exclude and expel unwanted aliens? What rights did an alien possess? Could unauthorized aliens claim those same rights? The Chinese were not America's first aliens, but America first drafted national answers to these pressing questions for the specific purpose of excluding the Chinese. As the state and the public made Chinese migrants into the epitome of alienage, they also invented the very concept of the alien in modern America and began to delineate its meaning in law and in practice.

The invention of the modern American alien is closely tied to the post-bellum reconfiguration of citizenship. The Fourteenth Amendment opened the possibility that people of Chinese ancestry would someday be U.S. citizens by birth—a prospect that galvanized the movement for exclusion. Long before Chinese migrants arrived in the United States, American leaders feared that social heterogeneity could undermine their republican experiment. In the antebellum period, social hierarchies and internal exclusions promised to

mitigate the power of undesirable minority groups, but with the postbellum expansion of citizenship and enfranchisement came heightened fears of the destructive power of cultural diversity on American society.⁸ In response, the public and the state both turned to projects of African American and Native American assimilation with newfound vigor and became particularly obsessed with the “inassimilability” of the Chinese.

With birthright citizenship newly open to the Chinese, anti-Chinese advocates worked to narrow the other two avenues to citizenship: naturalization and immigration. Since 1790, the privilege of naturalization had been confined to “free white men.” When American diplomats negotiated the Burlingame Treaty in 1868, they reaffirmed Chinese ineligibility. In 1870, Congress returned to the question of naturalization as they debated how to grant citizenship to newly emancipated slaves who were foreign-born. Some believed that it was time to strike the word “white” from America’s naturalization statutes and allow the Chinese to enjoy the same rights as all other immigrants. But many congressmen, including Senator William Stewart of Nevada, argued that the recent extension of citizenship had gone far enough. “Because we have freed the slaves and then given them their civil and political rights, does it then follow that we must extend those political rights to all people throughout the globe?” Stewart queried. For him, the answer was clearly “no,” for this would “render American citizenship a farce.”⁹ As fences came down within the postbellum nation, Stewart believed that walls needed to go up at its borders. In the end, Congress agreed, and naturalization rights were only extended “to aliens of African nativity and to persons of African descent.” Not all congressmen were content with this decision, however. “If you deny citizenship to a large class, you have a dangerous element,” Senator Samuel Pomeroy of Kansas cautioned, “you have an element you can enslave; you have an element in the community you can proscribe.” He recognized that a permanent alien underclass would be in grave danger of abuse. Few heeded his warning.¹⁰

After consigning Chinese migrants to permanent alienage without a path to citizenship, the federal government then moved to restrict their entry and curtail their rights. When anti-Chinese advocates violently asserted their status as rights-bearing citizens, Congress responded with an expanding program of exclusion. First came the Page Act of 1875, which slowed the migration of Chinese women and, as a result, the birth of Chinese Americans. Then the Angell Treaty of 1880 and the Restriction Act of 1882 temporarily limited

Chinese labor migration. When pushed by the unprecedented outbreak of anti-Chinese violence in the mid-1880s, Congress turned to a unilateral policy of exclusion in 1882 and, after more violence, expulsion in 1892.

As we have seen, the expansion of border control and the continual efforts of Chinese migrants to challenge it provoked a series of key judicial decisions regarding the rights of aliens. Previously, the Supreme Court had found constitutional grounds to regulate immigration, but in 1889, the court declared immigration an extra-constitutional matter of sovereignty. With the plenary power doctrine, the court granted Congress absolute power to define, exclude, and expel aliens, virtually abdicating authority to review the political branches in this domain. Nineteenth-century racial fears and prejudices permeated these judicial rulings. The Supreme Court proclaimed Chinese migration “an Oriental invasion” and “a menace to our civilization” as it denied aliens the full constitutional guarantees of due process and equal protection in matters of immigration and naturalization. An alleged Chinese alien could be indefinitely detained, summarily excluded, denied government-appointed counsel, and expelled after an administrative hearing. Through these rulings, the court cemented the disadvantages of alienage and enhanced the privileges of citizenship.¹¹

However, Chinese plaintiffs also made some significant legal gains on behalf of aliens. For example, *Yick Wo v. Hopkins* (1886) and *Wong Wing v. United States* (1896) established that aliens retained certain fundamental rights based on their personhood and territorial presence. In 1898, *United States v. Wong Kim Ark* affirmed the citizenship of all children born within the territorial limits of the United States regardless of their parents’ immigration status. In this case, the Supreme Court ruled against the U.S. solicitor general who, on behalf of the William McKinley administration, argued that the Chinese should be denied even birthright citizenship. In each of these landmark decisions, the rights of the Chinese became a test case for the rights of all aliens in America.¹²

This is not to say that Chinese exclusion single-handedly built the scaffolding of modern American gatekeeping. Only a few months after Congress passed the Chinese Restriction Act, it also federalized the restriction of paupers, criminals, and “unfit” individuals in the 1882 Immigration Act. During the 1880s, Congress federalized both Chinese restriction and general immigration control, but it maintained two separate systems of enforcement until 1909 and enacted separate immigration laws until 1924. For decades, the ex-

clusion of all Chinese laborers and the restriction of certain undesirable immigrants developed along separate but parallel lines. Despite these legal and bureaucratic divisions, officials enforcing general immigration laws borrowed strategies from the enforcement of Chinese exclusion and vice versa.¹³

Although Chinese exclusion was not the sole progenitor of national gatekeeping, it did establish the formal and substantive meaning of modern alienage. With the General Immigration Act of 1891, Congress used the precedent of Chinese exclusion to deny judicial review in all immigration hearings, and the Supreme Court soon confirmed that the plenary power doctrine applied to all aliens. This removed immigration cases from the judicial system, where aliens had previously claimed constitutional guarantees of equal protection and due process, and placed them within a distinct system of summary administrative proceedings, where federal officials had broad discretionary power. Still, white aliens never felt the effects of plenary power quite as directly as the Chinese. For them, naturalization, or even declaring the intent to naturalize, offered a safeguard against many of the disabilities of alienage.¹⁴

Migrants from other Asian nations, who began to arrive in significant numbers in the 1890s, found their experience hewed more closely to that of the Chinese. Court rulings gradually confirmed that Japanese, Koreans, and South Asians shared with the Chinese legal nonwhiteness and the inability to naturalize. Chinese exclusion laws had inaugurated the practice of restricting migrants by nativity, and in the early twentieth century the federal government extended this policy to migrants from other Asian nations. The comprehensive immigration law of 1924 continued along these lines by creating a three-tiered immigration program. The Johnson-Reed Act excluded all immigrants from Asia, exempted all immigrants from the Western hemisphere, and granted graded quotas for immigrants from Europe (with preference for nationalities believed to be more easily assimilated). To implement this general immigration law, federal officials deployed tactics of surveillance, detention, interrogation, and removal first tested on the Chinese.¹⁵ And, on a more fundamental level, they relied on the consolidated concept of alienage that exclusion had produced.

National gatekeeping certainly helped to construct the modern alien, but so too did local violence and international diplomacy. The modern American alien was a product of the late nineteenth century, a period when racism and imperialism converged with particular force. The outlines of alienage were

produced at the intersection of multiple formations of power—racial boundaries, national borders, and imperial relations—and at the intersection of multiple scales—the local, national, and international.

By following the cascading effects of anti-Chinese violence, we have seen how these entangled relations of power pushed the Chinese to the margins of American society and American memory. Violent racial politics and home-grown border control infused federal law with local prejudices. And as the Chinese became aliens in the eyes of American government, their position fell in the local hierarchy and on the international stage. In turn, America's mounting ambitions in Asia helped to justify the use of plenary power at home. From this confluence of local violence, national law, and international diplomacy came the modern American alien and, not surprisingly, the "illegal" alien as well.

The post–Civil War rise of national gatekeeping drew a legal line between citizens and aliens that would prove transformative and enduring. Increasingly, the American public and the state imagined the nation as "hard on the outside and soft on the inside."¹⁶ Inclusion within the nation seemed to necessitate exclusion at its edges. This popular notion, which remains sacrosanct in many circles to this day, originated with Chinese exclusion.¹⁷

But the true state of affairs in the late nineteenth century did not easily align with this ideal. While the nation's edges grew harder, in practice the center did not quite soften. Women were not entitled to equal rights, duties, and privileges in the post–Civil War era. And despite the extension of formal citizenship, African American, Native American, and Mexican American men never experienced full inclusion or equality. As the Chinese became aliens, others became second-class citizens.

Mexican Americans had been granted U.S. citizenship through the annexation of Texas in 1845 and the Treaty of Guadalupe Hidalgo at the close of the Mexican-American War in 1848. With their formal citizenship came legal whiteness, a fact that was confirmed by the courts in 1897. Although the federal government backed Mexican American claims to citizenship, local practices often denied Mexican Americans full social and political membership. Viewed as racially ambiguous, Mexican Americans faced widespread disenfranchisement, de facto segregation, and everyday prejudice.¹⁸

For Native Americans, the federal government only granted citizenship to those who were deemed assimilated and cooperative in the postbellum era.

Given the decimation of native populations through removal, disease, war, starvation, and extermination, this did not produce a large number of Native American citizens. Those who did obtain formal citizenship still found themselves unable to claim the same legal rights as white citizens. Even progressive reformers and federal officials who had championed assimilation policies began, by the early twentieth century, to deem Indians racially unsuitable for full citizenship. In 1909, the Supreme Court confirmed a lesser form of citizenship for Native Americans, declaring that the federal government must continue to hold them in a form of wardship.¹⁹

During the same period, African Americans saw their legal rights dramatically curtailed. After the heyday of racial liberalism during Radical Reconstruction, the federal government rapidly retreated from protecting black civil rights. Notably, white violence drove this racial retrenchment in the South. In the 1890s, white vigilantes launched a lethal campaign of racial terror. This vigilantism, like that against the Chinese, was a form of violent racial politics. Through assaults on black communities, southern white supremacists fought to subordinate African American citizens and to assert their own political power. Besieged by violent racial politics, the federal government sought to appease the white vigilantes. For Chinese in the West, federal acquiescence to white violence meant exclusion and the extension of federal power. For African Americans in the South, appeasement entailed federal retreat and tacit endorsement of Jim Crow. Immediately after the Civil War, the federal government had demonstrated the power to suppress white violence, but after a few years it lost its resolve. Instead, Congress began to acquiesce to local demands for black subordination and Chinese exclusion.²⁰

Starting in the 1890s, southern states systematically legislated against black enfranchisement using onerous registration requirements, poll taxes, and literacy tests. Some of these tactics were also employed to diminish Native American and Mexican American enfranchisement, even though the latter group could claim both formal citizenship and legal whiteness. For African Americans, local and state governments in the former Confederacy went a step further and legally proscribed access to public accommodations. Though African Americans retained formal citizenship, the Supreme Court relegated them to second-class status by condoning disenfranchisement and segregation through Jim Crow laws.²¹ While the Chinese primarily met regimes of exclusion at the border, other racial minorities faced structures of subordination in daily life.²²

At the opening of the twentieth century, the full significance of alienage and citizenship remained unclear. Deep fissures within each category continued to obscure the gulf between them. Inside the nation, the federal government had sketched the legal outlines of a universal rights-bearing citizen. But the power of this egalitarian vision was wholly undermined by a lack of execution. At the nation's edges, the state had laid the legal and bureaucratic foundation for a massive national gate. But the power of this exclusionary vision was still checked by limited desire and uneven enforcement. The interior of the nation was not as soft as it should have been; the exterior was not as hard as it could become. While the American concept of citizenship represented an unrealized dream of equality, the legal structures of alienage contained the persistent threat of tyranny.

Despite the dramatic events of the intervening century, these fundamentals continue to define America today. ◇

The Injustice Never Leaves You: Anti-Mexican Violence in Texas

2018

MONICA MUÑOZ MARTINEZ

Between 1910 and 1920, vigilantes and law enforcement—including the Texas Rangers—killed Mexican residents in Texas with impunity. Operating in remote rural areas enabled perpetrators to do their worst: hanging, shooting, burning, and beating victims to death without scrutiny. The full extent of the violence was often known only to the victims' relatives. Monica Muñoz Martinez recovers these incidents of violence and shows how community efforts over generations ensured that victims were not forgotten. Here she discusses the 1918 disappearance of twenty-five-year-old Florencio García outside Brownsville, Texas, and attempts by the Rangers to disavow any involvement in his murder.



IT WAS AN OTHERWISE ordinary day in early April 1918, but Miguel García, a Mexican national living in Texas, was growing concerned. His son Florencio, twenty-five years old, had not yet returned home from his job as a cattle herder in Cameron County. García started walking through town, asking relatives, friends, neighbors, and eventually even the county attorney and local law enforcement officers if they had seen Florencio. Days passed without news. Then someone told García that Texas Rangers had arrested Florencio over a week earlier, on April 5, just south of Brownsville. García knew that when ethnic Mexicans disappeared after being arrested, the prisoners' remains were often found hidden in the groves of mesquite trees in the rural

Texas landscape. This grim news prompted García to start searching the brush in the countryside for his son's remains.¹

Miguel García repeatedly asked for help from local authorities. Oscar C. Dancy, the Cameron County attorney, remembered García's persistence: "the old man, the father of the boy, was at my office. He was at my office two or three times and my residence once."² Weeks later, local residents found human remains outside of Brownsville. "We found the bones of a human being," Dancy would later testify. "We found a pair of pants and a jumper and as I recollect it, a shirt, black hair and a hat . . . a light Texas cowboy Stetson hat," he remembered, adding that there were bullet holes through the jacket, "Two, perhaps three."³ The clothing matched the description Miguel García had previously provided, and the investigation suggested that the body had been shot in the back three times. The remains consisted only of clothes, a skull with a tuft of hair, and bones scattered as far as 300 yards, likely by coyotes or buzzards. García arrived at the scene and identified the shoes, hat, and clothing as belonging to Florencio. The father pulled a monogrammed handkerchief out of the jacket they had discovered and verified that it was his son's.⁴

According to witnesses who last saw Florencio, he had been in the custody of three Texas Rangers (the state police) in the Brownsville jail just before his disappearance. An investigation by Mexican consuls in Brownsville revealed that the Rangers, accompanied by two civilians and a US soldier, arrested Florencio at Las Tranquilas Ranch. The Rangers asked a local rancher, Chas Champion, if they could borrow a lock and chain to secure their prisoner to a tree while they slept. Considering this unnecessarily rough treatment, the rancher instead found a judge, who gave the officers permission to place Florencio in jail overnight in the custody of local police.⁵

Pressure from Mexican consuls mounted. On May 24, 1918, Mexican Inspector General Andres G. García in El Paso wrote to Texas governor William P. Hobby asking for an investigation. According to the state police, the remains could not belong to Florencio because the bones had been bleached white by the sun. These bones, they suggested, belonged to someone killed months earlier. They also denied that the father had positively identified his son's clothing. In addition, the Rangers testified that they had in fact arrested Florencio on April 5 but had released him that same evening and did not place him in jail. They refuted witnesses who saw him behind bars. Their prisoner, they suggested, had not suffered any harm. The Rangers furthermore insisted that the truth was quite different: local residents had spotted Florencio across

the border in Mexico.⁶ Nevertheless, García remained convinced that Texas Rangers had murdered his son.

In light of such discrepancies, how do we go about unearthing the history of violence on the US–Mexico border? If we relied on the Ranger investigation, we would not learn much more. But Florencio, born in Tamaulipas, Mexico, was a Mexican national living and working in Texas. Without immigration quotas or limits on migration from Mexico, Mexican nationals and American citizens moved easily back and forth across the border. The death of a Mexican national in Texas prompted the local Mexican consuls to investigate his death. Their investigation found that Florencio's arrest had been based on unfounded suspicions. Letters from businessmen in the region defended Florencio's reputation as a diligent laborer. According to Oscar Dancy, locals remembered him as an “absolutely straight, square Mexican boy, above the average laborer or peon.”⁷ Was Florencio García a threat and a thief or a dutiful laborer?

To these officials, Mexican and American alike, Florencio García was not a friend, relative, or a neighbor. His death was a diplomatic inconvenience. As one diplomat said, the death threatened both relations between the United States and Mexico and the potential for even more farming in the region. In April in south Texas, lots of crops needed tending. If word spread that Mexican laborers were being continually mistreated, workers might flee for other opportunities in the South or the West. Without field hands, the farming economy would be devastated. For Mexican officials, and some Americans, García's story was the latest in a long series of abusive policing by the Texas Rangers. These state police officers had a habit of disturbing the delicate equilibrium of labor and race relations. That equilibrium needed to be reestablished by diplomats and political leaders, who worried about potential economic losses. The records show that officials recognized the systemic impact of Florencio García's death but reveal no sense that they mourned it.

For the relatives and friends of Florencio, on the other hand, his loss was something else entirely. His loss was personal. Furthermore, it signaled the unjust death of yet another ethnic Mexican without recourse from the judicial system, the state administration, or the Mexican consul. Florencio's death was just one short chapter in a long history of racial violence in the borderlands.

On May 27, 1918, the Cameron County acting coroner, Henry J. Kirk, confirmed the family's claims when he filed a death certificate for Florencio

García. Since the recovered body revealed little, the coroner had to modify the certificate. Its generic language reads: “I hereby certify that I attended deceased from _____ 191_____, to 191_____, that I last saw h____ alive on _____ 191_____, and that the death occurred on the date stated above at ____m.” Kirk drew a line through most of this section, and instead followed the statement “I hereby certify that I” with handwritten words. The modified form continued, “found the identified remains and that death occurred on unknown date.” Where the certificate asked for the cause of death, Kirk wrote “unknown.”⁸ The certificate also included important information about Florencio García and his family. Florencio was born on April 30, 1885, and he was married, although there was no space on the form to include his spouse’s name. The record identified him as the son of Miguel García and Teburcia Velásquez, both of Tamaulipas. It noted that his remains were buried on May 26, 1918, in Brownsville. Miguel García had identified the remains and helped ensure that accurate information would be on file in the official death registry for the state of Texas.

The García family must have been unsettled by Kirk’s decision not to list a cause of death on the certificate, despite investigators who described what appeared to be three bullet holes in the back of Florencio’s jacket. Kirk’s decision, however, did not prevent the family from filing civil charges. Now with a certificate to prove Florencio was indeed dead, and not alive and well in Mexico as the state police suggested, Texas Rangers George W. Sadler, John Sitre, and Alfred P. Locke were arrested just days after the García family buried their son. The officers filed a bond of \$3,000 each and were remanded to the custody of the captain of their company, Charles F. Stevens.⁹ The charges were brought before the same Henry J. Kirk who acted as both county coroner and justice of the peace. Kirk convened a grand jury that consisted entirely of Anglo residents with the exception of one local ethnic Mexican. After reviewing the evidence, the grand jury decided not to indict the Texas Rangers. Oscar Dancy later remembered that by 1918 grand juries in the region were “almost solidly Americans, mostly newcomers.” The newcomers were Anglo Americans who had migrated from southern states. Their arrival expanded Jim Crow laws, the systemic segregation laws targeting African Americans, to the US–Mexico border. Targeted by “Juan Crow” laws, as historians now popularly refer to them, ethnic Mexicans found themselves increasingly segregated from Anglos in schools, churches, and restaurants and discouraged from voting or serving on juries.¹⁰

The grand jury's decision gave the state police continued license to characterize the life of Florencio García as they saw fit. In 1919, when Captain Stevens testified to the incident before a committee investigating abuses by the state police, he ignored the certificate of death and again asserted that García never met harm at Ranger hands. He testified under oath that García had last been seen living in Mexico.¹¹ Stevens's testimony attempted to erase the murder as well as the pain suffered by the surviving García relatives. It also threatened to erase their efforts to seek justice in the aftermath of García's murder. Stevens swiftly disavowed the murder and preserved the reputation of the state police.

García's family pushed the Texas courts and police in multiple ways, imploring them to act on behalf of their son, to find his remains, to record his death, and to prosecute the assailants involved in his murder. His parents, his brother, and his unnamed spouse, as well as Oscar Dancy, Chas Champion, Antonio Valiente, and Leopoldo Espinosa, were impacted by his arrest and his disappearance. They relayed to investigators the details of the last time they saw him alive and provided an opportunity for the judicial system to prosecute those involved in his murder. They left traces from 1918 in the historical record. But with the conclusion of the abuse investigation in 1919, Florencio and his surviving family disappear from the record. And yet this trace, however incomplete, is essential. The small, incomplete traces revealing the collective concern for his life helped ensure that today there are documents that challenge the police accounts. They provide an alternative story to the one where Florencio is a criminal and his family's grief is unfounded.

The larger tragedy of Florencio García's death, and the attempts by the state police to disavow his murder, lies in its utter ordinariness. Searching the Texas landscape for the remains of a loved one was an awful—and awfully familiar—ritual, repeated countless times before. By 1918, the murder of ethnic Mexicans had become commonplace on the Texas–Mexico border, a violence systematically justified by vigilantes and state authorities alike. Historians estimate that between 1848 and 1928 in Texas alone, 232 ethnic Mexicans were lynched by vigilante groups of three or more people. These tabulations only tell part of the story.¹²

Despite popular assumptions that vigilantism in the nineteenth century occurred primarily in regions where law enforcement institutions lacked structure and social influence, vigilantism was in fact practiced in places where criminal justice systems were well established. Violence that superseded

judicial procedures regularly articulated popular distrust of the justice system or local frustration with the bureaucracy of criminal prosecution. Lynch mobs commonly took prisoners from jail even though courts would likely have sentenced them to execution. These vigilante actions, however, were tacitly sanctioned by the judicial system whenever local grand juries failed to indict or prosecute assailants who participated in mob violence.¹³ Moreover, law enforcement officers facilitated the conditions for making prisoners vulnerable to mob violence and even participated in lynchings. Vigilante violence on the border had a state-building function. It both directed the public to act with force to sustain hierarchies of race and class and complemented the brutal methods of law enforcement in this period.¹⁴

In addition to these acts by mobs, state and local police committed extralegal acts of violence that are often overlooked in lynching statistics. When including acts of extralegal violence at the hands of Texas Rangers and local police, the numbers of victims of racial violence in Texas soars.

Extralegal violence at the hands of law enforcement has for too long been shielded in a cloak of legal authority. The decade between 1910 and 1920 was a particularly brutal period, when ethnic Mexicans were criminalized and harshly policed by an intersecting regime of vigilantes, state police, local police, and army soldiers. During these years of vitriol and aggression, law enforcement officers, soldiers, and vigilantes claimed the lives of hundreds more ethnic Mexicans, citizens of the United States and Mexico alike. Estimates of the number of dead range from as few as 300 to as many as several thousand.

State racial terror and vigilantism were linked. In particular, police abuse and collusion with vigilante mobs, followed by state cover-ups, set a pattern for sanctioned abuse. The frequency, and normalcy, of anti-Mexican violence seeped far beyond Texas and encouraged a public passivity toward violent policing that has had long-standing consequences for people living near the border.

The violence on the Texas–Mexico border took many forms. Ethnic Mexicans were intimidated, tortured, and killed by hanging, shooting, burning, and beating. Nearly all the known victims were adult men, though a few women and children suffered the same vicious wrath. What this violence nearly always shared was location: death often occurred in the isolation of the rural Texas landscape. The thick mesquite brush and the dark of night frequently cloaked these acts from public view.¹⁵ These events were also linked

in a broadly felt injustice. Assailants rarely faced arrest and grand juries regularly failed to indict the accused for wrongdoing. For members of law enforcement, a culture of impunity prevailed.

Terror and intimidation permeated the region. For each victim that died, there were others who witnessed the violence. People organized their daily routines to avoid conflict with law enforcement officers or known agitators of vigilante violence. Children witnessed parents being beaten, or worse, and cousins saw their kin being shot. Many of the dead would not be recovered or given a proper burial. Assailants threatened witnesses and prevented them from tending to the bodies of loved ones. Still, relatives and friends searched, and protested the ongoing murders, for months and years and decades. Some would store the sites in their memories, to share them years later.

Journalists described the violent scenes as they were unveiled in the daylight or exposed in unexpected encounters with corpses hanging from telephone poles or the limbs of mesquite trees. People spotted decapitated bodies floating down the Rio Grande.¹⁶ Such encounters with the dead surely provoked a range of reactions, from horror to anger to a righteous sense of justice served. But for friends, neighbors, or family of the dead, and for allies in the struggle against injustice, finding the remains was also part of a much longer process of grieving and of remembrance. ◇

The Privileged Poor: How Elite Colleges Are Failing Disadvantaged Students

2019

ANTHONY ABRAHAM JACK

In the late 1990s, elite colleges and universities began to open their gates to a more diverse student body. But admission is not the same as acceptance. Anthony Abraham Jack shows that the struggles of low-income students continue long after they've arrived on campus. Through interviews conducted at a renowned university, he shows how powerfully students' backgrounds affect their chances of success. In this excerpt, Jack, who grew up in a distressed neighborhood in Miami and then attended a prep school, describes his own experience, starting with his first day at Amherst College.



"WHERE ARE THE *other* poor black kids?" This is the first question I remember asking myself, a chubby freshman with my hair in cornrows, while walking across the Amherst College campus. I was in the center of the main quad, standing outside Johnson Chapel. The lawn was freshly mowed. It looked pristine, a shimmering deep green. The evening, slightly chilly for a Miami transplant such as myself, was filled with excitement as the incoming freshmen meandered around, nervously greeting one another. Conversations bubbled all around me. Wasting little time, my new peers enlisted me in a rite of passage that, fifteen years later, I now call "convocation conversations"—those quick, casual introductory chats that happen en route to meals and classes, where students conveniently work in verbal versions of their resumes and narrate their summer itineraries for any and all to hear.

These strangers—my new classmates—swapped stories of summer fun. Multiweek trips abroad. Fancy parties at summer homes. Courtside seats at professional basketball games. Invitations to private premieres of movies that, as far as I knew, had not yet hit theaters. Many of these kids were white, but the black students were chiming in too, going tit-for-tat recounting the elaborate stories behind their passport stamps. One black classmate casually mentioned that she had flown on a private jet. I thought back to my first time on a plane, which had been just a few months ago: me struggling to chew five pieces of Wrigley's Doublemint gum, because everyone had made me afraid that my ears would pop, as I boarded a Delta Airlines flight from Fort Lauderdale to Hartford, Connecticut, for my Amherst football recruiting trip. I tried to think of a story that I could add. The only family vacations I had known were drives up I-95 from Miami to a cousin's house in Georgia. These rich kids had their own version of summer. In my family, summer was just a season, a hundred days of heat, humidity, and hurricanes. And mosquitoes.

I was surrounded by affluence; some of my Amherst classmates were flat-out rich. The Amherst brochure boasted that roughly 40 percent of students received financial aid, but I knew what that really meant: more than half of my classmates came from families that made too much money to qualify for any financial aid. I was not surprised by the wealth. After all, I already knew what it meant to go to school with rich people. I had just finished my senior year at Gulliver Preparatory, a wealthy private high school in Miami. Although I was only there for a year, it gave me a taste of what was to come, both socially and academically. My best friend at Gulliver, whose father convinced me to start eating burgers medium instead of well done, which was the rule in my house, received a car his senior year, and an all-expenses-paid backpacking trip through Europe as a graduation gift. The first time I heard the word “hostel” was while sitting in the larger of the two family rooms in their sprawling, Spanish-style home.

But there was a difference between what I had experienced at Gulliver and what I found at Amherst. While I was not shocked by the wealth, I was surprised by its color. The rich kids at Gulliver, those who drove Range Rovers and boasted of extravagant vacations, were not black. But at Amherst, many of my new wealthy classmates were.

What I discovered that afternoon was the same thing I would read about years later, as a sociology graduate student, in William Bowen and Derek Bok's

groundbreaking study of American higher education, *The Shape of the River*. Bowen and Bok found that the majority of black students at the twenty-eight elite colleges and universities they studied (from Ivy League institutions, like Columbia University, to flagship public universities, like the University of Michigan at Ann Arbor) came from upper-income families. My Amherst classmates were no exception. Some were the sons of Bain Capital and McKinsey & Company. Others were the daughters of the Mayo Clinic and Massachusetts General Hospital. I was not. I was a Head Start kid from Coconut Grove, a distressed community that, in 2013, the *Miami Herald* called a “neighborhood that time forgot.” My mother patrolled the hallways of Ponce de Leon Middle School for over thirty years, wearing a green polo shirt with SECURITY in white block letters emblazoned across its back. By day, my older brother, his pale blue uniform peppered with bleach spots, cleaned the classrooms of my old elementary school; by night, he cleaned the emergency rooms at South Miami Hospital.¹

Before I transferred to Gulliver, the closest I got to rich was through the stories my grandmother told me. For her entire adult life she cleaned the homes of wealthy white families, mainly doctors and lawyers. When my cousin was arrested for possession of a controlled substance, one of my grandmother’s employers, a lawyer, represented him as a favor for her twenty-plus years of service. She did not gossip about what went on inside her employers’ homes. Now and then, however, she would let slip a detail about an expensive purchase or a lavish family trip. The father of one of the families, a commercial pilot, invited my grandmother to travel on one of his flights so that she could hear his voice come across the intercom greeting passengers as they took their seats. (She never did go.) But second-hand accounts and unanswered invitations were the extent of my exposure—wealth was always just a story to me. Hearing my classmates at Amherst recount their adventures, just as distant as those my grandmother shared when we sat at her knee, I resigned myself to be, yet again, one of the few poor black people in a rich (mostly) white place, just as I had been at Gulliver.

My hasty conclusion that afternoon was reasonable. Higher education in America is highly unequal and disturbingly stratified. Youth from poor families of all races, but especially those from black and Latino families, are less likely to go to college than their wealthy peers. When they do go to college, they rarely attend schools like Amherst. Although half of all undergraduates in the United States are the first in their family to go to college—with most

of those coming from poor backgrounds—first-generation college students are disproportionately relegated to community colleges, for-profit colleges, and less-selective four-year colleges. Those institutions share some troubling traits: resources are few, aid for students is scarce, and retention is low.²

That same disproportion, of course, works in reverse. The more selective the college, the fewer the number of students from disadvantaged backgrounds, in terms of both class and race. In their examination of college demographics between 1982 and 2006, Anthony Carnevale and Jeff Strohl of the Georgetown University Center on Education and the Workforce clearly documented this phenomenon. At the most competitive tier of colleges—think Columbia, Princeton, Stanford—just 14 percent of undergraduates came from the bottom half of the country’s income distribution. At the second-most competitive tier—the likes of Dickinson, Furman, and Skidmore—just 16 percent did. This paucity of lower-income students at the most selective colleges and universities, which comprised 193 institutions at the time of their study, stands in stark contrast to the fact that in these same two tiers, 63 and 70 percent of students, respectively, came from the top quartile of the income distribution. Put another way, children from well-to-do families, as measured in terms of earnings, took up two-thirds of the seats at the best schools.³

New data provide a more detailed, and even more discouraging, snapshot of where Americans from families of different income levels go to college. In 2017, the economist Raj Chetty and his colleagues found that students from families in the top 1 percent—those with incomes of more than \$630,000 a year—are 77 times more likely to attend an Ivy League college than are students from families that make \$30,000 or less a year. The study showed that a startling number of elite colleges—38, by their count, including places like Colby College and Bucknell University—have more students from families in the top 1 percent than from families in the bottom 60 percent (the growing group of families that make less than \$65,000). At Colorado College, the ratio is greater than 2 to 1. At Washington University in St. Louis, it is just over 3.5 to 1.⁴

Another comparison, this time looking at the college destinations of the super-rich, puts this inequality into even sharper perspective. Chetty’s report showed that the percentage of students from families in the top 0.1 percent who attended elite universities (40 percent) was the same as the percentage of students from poor families who attended any college at all, either two-year or four-year.

We might have better data now, but the situation itself is not new. Indeed, for more than two decades, colleges have faced significant pressure to do more to combat inequality, and in particular, to use their considerable wealth to address the affordability problem of higher education. In 2008, just before the financial crisis, the Senate Finance Committee admonished colleges for not spending more of their growing endowments on financial aid and access. The public has chimed in as well, lamenting the rising tuition costs that have priced out a growing segment of the American population. Colleges were (and still are) missing out on students from humble means who have a powerful drive to succeed. To address this inequality in access, which was keeping poor youth from reaping the benefits of an elite education—as well as to respond to public outcries against skyrocketing costs—a few colleges introduced no-loan financial aid policies in the late 1990s. Rather than the usual combination of scholarships and loans, which was still prohibitively expensive for many poor families, schools began to create financial aid packages that replaced loans with grants and other forms of aid intended to help recruit and then support academically gifted applicants from disadvantaged backgrounds.⁵

Princeton University began this movement in 1998. Then president Harold T. Shapiro noted of the policy, “Our aim is to do as much as we can to be sure that no student decides not to apply to Princeton solely for financial reasons.” A number of colleges followed Princeton’s lead. Amherst did so in 1999, which helped pave the way for my admission a few years later. By 2008, all the Ivies were on board. Stanford University, MIT, and Duke University adopted similar policies. Although enacted mostly by private colleges, no-loan financial aid was taken up by some flagship public universities as well. The University of North Carolina at Chapel Hill was the first public university to do so, in 2003. The University of Virginia and the University of Michigan followed suit soon thereafter. Donald Saleh, former dean of admissions and financial aid at Cornell University, expressed the general sentiment about this new approach to aid: “There’s an importance in having socioeconomic diversity, so that campuses reflect the country in general rather than a campus that is upper income.”⁶

These revolutionary policies increased access to many universities, especially elite ones. The effects were felt right away: student bodies began to look different. Vassar College, which in 2015 won the inaugural Cooke Prize for Equity in Educational Excellence, nearly doubled the percentage of Pell Grant-

eligible students—students from families in the bottom quarter of the income distribution—from 12 percent in 2008 to 23 percent in 2015. The University of North Carolina and Amherst reported that at least 20 percent of the students who enrolled between 2012 and 2014 were from lower-income families.⁷

Elite colleges may be few in number, but their influence—on the lives of individual students and on American society as a whole—is outsize. For students from disadvantaged backgrounds, attending an elite college or university serves as a mobility springboard. Graduating from any college provides benefits, especially to students belonging to groups that are the recipients of policy initiatives aimed to diversify universities along class and racial lines. But this difference is even more pronounced for elite colleges, where graduation rates are higher. The nation's most selective colleges boast graduation rates of 90 percent or more, while the average for community colleges is 57 percent. While some of this gap is due to differences in the preparation of the students who attend each type of institution, there is no doubt that more resources and support are available at elite colleges and universities. The economic payoff of attendance is also larger. A 1999 study found that graduates of elite private schools had incomes 39 percent higher than those of their peers who attended low-ranked public universities. Whether looking at Supreme Court justices or leaders of different industries, alumni from elite colleges and universities are the norm rather than the exception. The sociologist Lauren Rivera has shown that students from elite institutions have an advantage when trying to enter lucrative fields like management consulting, law, and investment banking; as a result, alumni of elite colleges dominate the ranks in those companies.⁸

The shift in the makeup of the undergraduate population at elite schools is remarkable. More and more colleges are enacting policies to promote the social mobility of those from humble means. They are being celebrated and rewarded for their efforts to diversify their campuses, and by extension, to expand the ranks of the future leaders of America. The doors to elite colleges are increasingly open to lower-income students. But just how wide open are they? Let us not forget that Princeton, despite introducing this change in financial aid policy, remains one of the thirty-eight universities that have more students from the top 1 percent than the bottom 60 percent. Lower-income students may be entering elite colleges in greater numbers now than they were fifty years ago, but these campuses are still bastions of wealth,

built on the customs, traditions, and policies that reflect the tastes and habits of the rich.

I believe we should congratulate these colleges and universities on their willingness to innovate. Yet we cannot stop there. We must inquire further. Who are the students admitted to college under these new financial aid regimes? And what happens to them when they arrive on campus? Now that they have gained access to an elite institution, how do they make a home in its hallowed halls?

That afternoon on the Amherst quad, after milling around and making small talk, I marched along with my classmates into Valentine dining hall. Imagine my surprise when I learned that the young black woman sitting next to me, who had just graduated from a snooty day school and had studied abroad in Spain the previous year, also came from a single-parent home and was the first in her family to attend college. After discovering our common past, we felt the flush of comfort that comes with shared impoverishment but also shared freedoms. We immediately started telling stories of life before Amherst. We both grew up in segregated neighborhoods where just about everybody was black. The white people we did see fell into three easily identifiable categories: police officers, crackheads, and people who had lost their way. Her family, too, struggled to make ends meet from time to time. Both of us had done homework by candlelight, not for atmosphere, but because the power was out.

She and I laughed and commiserated over that desperate search for end-of-the-month money. Soon, a few other students at our table joined in. We were not the only ones, it turned out, who had experienced poverty in our youth but had been exposed to a different world when we went to a prep school. The vacation homes I heard about from some of my new friends during those convocation conversations, I discovered, were not always their own. They often belonged to the families of their wealthy high school classmates, the ones that we all made nice with for a few glimpses at the good life. I was not alone. I was not the only poor black kid on campus. And I was not the only one who had already been granted access to experiences and places beyond what my family could afford or even knew about. My classmate and I were not as different as I had thought. We were both poor. And privileged.

College “viewbooks”—magazine-style recruiting tools that colleges put together to advertise themselves—contain glossy snapshots of campus life.

These days, such snapshots almost always highlight diversity: the black and brown faces are placed front and center, as are the statistics documenting the cosmopolitan nature of the student body. But appearances, as we know, can be deceiving. And statistics can lie or, at least, hide deeper truths. While it is doubtless true that colleges are more diverse now than they were a generation ago, this does not mean that these institutions reflect the full variety of American society.

Essentially, colleges hedge their admissions bets: they diversify their student bodies by drawing from old sources. We know that poor youth make up only a small fraction of the students who attend private high schools in the United States; we also know that poor black students are only a fraction of that small population. But it is this tiny slice of a slice, I discovered, who are primarily admitted to selective colleges. Over 50 percent of the lower-income black undergraduates who attend elite colleges get there from boarding, day, and preparatory high schools—well-endowed, highly selective schools that pride themselves on fostering independent thought and extending learning beyond the classroom through close contact with faculty. Chances are, at least half of the poor black kids I met that first day at Amherst had graduated from elite private high schools, like Phillips Academy Andover in Massachusetts and St. Paul's School in New Hampshire.

When you envision a wealthy private high school—with its topflight facilities and abundant resources—that image likely has a color attached to it: white. Thus, when most people see poor black students at an elite college, they simply don't think that those students might have come from an exclusive high school. These prep schools are full of students from affluent families—mostly white but not exclusively so—and offer academic and social opportunities usually reserved for the rich, from study abroad opportunities to language immersion programs to contact with faculty who have advanced degrees. Lower-income graduates from these high schools enter college already accustomed to navigating elite academic arenas, already familiar with the ways and customs of the rich. True, they are poor, but they have the privilege of an early introduction to the world they will enter in college. I call this group of students the *Privileged Poor*.⁹

Then there is the other half of lower-income black students at elite colleges. This group of students enters college from exactly where most people would expect: local, neighborhood schools that are often distressed, overcrowded, and under-resourced. The teachers are likely to be younger and

have less experience in the profession (and less support) than their counterparts in more affluent communities. Maintaining order often takes precedence over teaching, as neighborhood problems penetrate school boundaries. These schools are also likely to be segregated, both racially and socioeconomically. Undergraduates who enter college from these schools traverse troubled hallways and endure disordered classrooms before college. When they first set foot on an elite college campus, it looks, feels, and functions like nothing they have experienced before. I call these students, who are both poor and unfamiliar with this new world, the *Doubly Disadvantaged*.¹⁰

This situation of two distinct tracks to college is not limited to black students. Many lower-income white and Asian American students also travel an alternative route through private high schools, albeit at lower rates. Latinos, too. One-third of lower-income Latino students at elite colleges and universities hail from private high schools like the Brearley School in New York and the Thacher School in California. The other two-thirds stayed close to home for high school.¹¹

Before I arrived at Amherst all those years ago, like most eighteen-year-olds, I was blissfully ignorant of the complexity all around me. I knew that I had studied hard, and now I got to go to a great school and do something that no one in my family had ever done. But I had no idea that my detour through Gulliver was a well-established on-ramp that a great many students across the country traveled en route to college. Until I learned the stories of some of my classmates at Amherst, I thought I was the only one. It was only years later that I started to fully grasp these truths. It was also years later, as a graduate student in sociology, that I realized that I was far from the only one who was ignorant here. The very social scientists I was now eagerly reading, analyzing, and learning from had also ignored this distinction within disadvantaged youth, its origins, and how it manifests itself in college. ◆

Hattiesburg: An American City in Black and White

2019

WILLIAM STURKEY

William Sturkey tells the interlocking stories of the Black and White residents of Hattiesburg, Mississippi, from its founding in 1880 through the civil rights movement of the 1960s. Black men and women, many of whom had come to the city for economic opportunities in the sawmills and other businesses, built a vibrant community centered on the Mobile Street neighborhood. Using the strong organizations they had developed under segregation, they were able to work together to dismantle Jim Crow. Here Sturkey writes of the tragedies and triumphs of the civil rights era and discusses the struggles that remain.



BETWEEN 1962 AND 1968, the Hattiesburg civil rights movement revolutionized race in the Hub City. Through dozens of public demonstrations and countless acts of individual resistance, local African Americans excised Jim Crow from their society. By the end of the decade, the most visible signs of Jim Crow had been vanquished. Formal racial segregation in public spaces ended. Schools and hospitals desegregated. Black people gained the ability to register to vote, serve on juries, obtain jobs in previously segregated companies, and purchase homes outside traditionally black neighborhoods. The police force hired black men. In 1965, a white man was convicted of raping a black woman for the first time in Hattiesburg history. “Five years ago nothing would have been done about that case,” noted a bailiff who served at the trial. “The civil rights movement had something to do with it all right.” That same autumn, the University of Southern Mississippi admitted its first black

students. These changes by no means completely erased racial problems or reconciled historical racial advantages, but they did indeed signify the end of Jim Crow.¹

None of this was easy. Despite new federal legislation, especially the Civil Rights Act of 1964 and the Voting Rights Act of 1965, which barred racial discrimination in public places and empowered the Department of Justice to oversee local voter registration practices, the onus of extricating Southern society from the grip of Jim Crow fell upon the shoulders of everyday local black citizens. Many white segregationists refused to follow federal law unless compelled by overwhelming demonstrations or legal action. Black citizens, now armed with new legislative tools, committed themselves to the painstaking processes of eliminating Jim Crow from every corner of the South. These black citizens worked outside the purview of reporters and news cameras to demand equal opportunities.

There was never a time in Southern history when black people were not active. From organizing through churches and pouring resources into black schools, African Americans had always gotten together within their communities to help improve the lives and prospects of their fellow black citizens. But in Hattiesburg and elsewhere, the nature of black activism in the 1960s was inherently different from the activism of previous eras: the civil rights movement of the 1960s directly targeted and successfully overthrew Jim Crow. In this regard, although historians have argued for broader conceptualizations of the civil rights movement beyond the 1960s, local black activists engaged in 1960s-era protests typically consider the activism of that era distinct.

Consider the view of local people. Virtually all black Hattiesburgers who participated in the movement of the 1960s conceptualized precise points of origin. In later describing the movement, local activists such as Victoria Gray and Daisy Harris Wade used language such as “by the time the movement came” and “when this movement started in 1964,” respectively, definitively positioning the beginning of their movement in the 1960s. To Daisy Harris Wade, the movement began on a specific day—Hattiesburg Freedom Day on January 22, 1964. For Victoria Gray, the movement began when she started working with SNCC activists in the spring of 1962. To local participants, the wave of extraordinary activism of the 1960s constituted a distinct civil rights movement.²

This does not mean that they did not recognize the movement of the 1960s within the broader context of local black community organizing traditions.

Virtually all leaders in Hattiesburg's civil rights movement cited the importance of earlier institutions and communal values that predated the 1960s. Some cited Eureka High School; others pointed to the black business community. All noted the churches. When Victoria Gray was a high schooler in 1945, she wrote an essay about the influence of the local black business community in shaping, as she wrote, "My decision of what I wanted to do in life." In a 2002 interview, Gray continued to credit lessons passed down by her grandfather and neighbors that helped shape her worldview. In interviews conducted as late as 2011, Daisy Harris Wade, a graduate of the Eureka High School class of 1949, similarly cited her experiences as a student at Eureka in the 1940s and the importance of the old black churches in shaping her life before the movement. But those experiences were part of another era. The civil rights movement, however similar or deeply entwined it was with the efforts of the past, represented something entirely different: the rapid expulsion of Jim Crow from their society.³

Local movements were also largely shaped by black people's changing view of the potential of federal action. In the 1960s, African Americans more than ever came to believe in the possibility of circumnavigating oppressive local and state governments to gain access to federal protections, both old and new, that they had never enjoyed. As Hattiesburg reverend John M. Barnes stressed to the Senate Judiciary Subcommittee on Constitutional Rights in 1959, "We need the Federal Government on this matter. The officials of Forrest County will continue to deny colored people the right to register and vote unless they are required to do so." With the Department of Justice pursuing its case against Theron Lynd and the explosion of civil rights activism across the American South, black Hattiesburgers became increasingly active in their fight against Jim Crow. Reporters, cameras, and dozens of outside volunteers undergirded the potential effectiveness of local activism. As local African Americans gained increasing confidence in federal authority, the Hattiesburg movement flourished.⁴

It is also important to understand that black people were essential in pushing the federal government toward a greater commitment to protecting black civil rights. This increasing commitment was not only the result of growing black political constituencies and their allies in the North, but also from black Southern activists. The events in Selma, Alabama, on March 7, 1965, often receive credit for the passage of the 1965 Voting Rights Act. But that legislation was, in reality, a consequence of over a decade of black Southern political activism that documented blatant violations of the Fifteenth

Amendment. When United States Attorney General Herbert Brownell testified in 1956 to the Senate Judiciary Committee considering civil rights legislation, he read a 1952 affidavit completed by a black Hattiesburg voter registration applicant and cited the case of *Peay et al. v. Cox* as “one illustration” of black Southerners being denied the right to vote. In Hattiesburg and elsewhere, thousands of black activists spent years laying the groundwork to prove the necessity of additional enforcement mechanisms to help guarantee basic constitutional rights. After more than seventy years of racially based voter discrimination, the federal government finally provided these mechanisms with the Voting Rights Act of 1965.⁵

In the years after the Civil Rights Act of 1964 and Voting Rights Act of 1965, everyday African Americans shouldered the burden of desegregating Southern society. When racially segregated public schools were formally outlawed by the 1964 Civil Rights Act, it was black children and their parents who weathered the difficult processes of desegregating previously all-white schools. During that fall, Mississippi enacted a plan known as “freedom-of-choice” desegregation that for the first time in Hattiesburg history allowed students of any color to attend any public school in the municipal school district.⁶

In Hattiesburg, only black students crossed the old racial boundaries by desegregating previously all-white schools. This was a risky and challenging maneuver for black families, who faced job loss, social ostracism, violence, and any number of informal economic sanctions. For the students themselves, this was at times “a harrowing experience,” noted Daisy Harris Wade’s son Anthony, who desegregated one of Hattiesburg’s public schools as an eighth-grader in 1966. Black youths experienced daily harassment from both peers and teachers.⁷

Glenda Funchess, a former Hattiesburg Freedom School student who entered a previously all-white school in 1967 at the age of thirteen, remembered regular chants of “nigger, nigger, nigger” and white children who refused to sit at lunch tables with black students. There were countless acts of racially based harassment and humiliation. Funchess recalled one such incident in which her white peers destroyed an essay she wrote for class because the paper focused on Martin Luther King Jr. In another episode, a white girl who sang in the school choir one day broke into tears because, as she explained to the choir director, “My parents are coming, and they’re gonna see me standing next to Glenda.” Tormented, attacked, and isolated, young black children en-

dured the difficult process of pioneering school desegregation. Because of these challenges, at the beginning of the 1966–67 academic year, fewer than 3 percent of black Mississippi public school students were attending previously segregated white schools.⁸

Freedom-of-choice remained until 1969, when the United States Supreme Court decided in *Alexander v. Holmes County* to order Mississippi to develop alternative plans for desegregation. Many white families responded to school desegregation by moving to suburbs or enrolling their children in predominantly white private academies or parochial schools that were supported by state-funded tuition grants. In Hattiesburg, the Citizens' Council first announced its plan to form an all-white private school in the summer of 1965.⁹

Although formal public school segregation ended in 1964, Mississippi's schools as a whole have never truly integrated. As late as 2015, Mississippi had forty-four active school desegregation cases pending with the Department of Justice. In the thirty years after the *Alexander v. Holmes County* decision, white enrollment in Hattiesburg public schools declined from 55 percent to 11 percent. White families either relocated to the outskirts or sent their kids to more racially homogenous private schools. As of the 2017–18 school year, African Americans comprised approximately 91 percent of students enrolled in the public schools of Hattiesburg, a metropolitan area that is roughly 68 percent white. There is no reason to expect that Hattiesburg-area public schools will ever represent the racial demographics of the local population, but they are at least desegregated and provide black students with an opportunity to finish high school. Despite the lingering problems of educational inequality that affect thousands of public school districts across the nation, African American political participation helps give black residents a voice in electing representatives to the school board. The biggest difference between Jim Crow and now is that so many more black students have a chance to learn and succeed before their society systematically crushes their dreams.¹⁰

During the same autumn of 1964 that Hattiesburg schools desegregated, local civil rights activist Victoria Gray became the first black woman in Mississippi history to run for the United States Senate. Backed by an integrated independent political party known as the Mississippi Freedom Democratic Party (MFDP), Gray ran against incumbent John Stennis in the 1964 Democratic Primary and lost by a large margin of 153,572 to 4,249.¹¹

The year 1964 marked the beginning of immense changes in black political participation in Mississippi. Gray was one of an unprecedented number

of African American candidates who ran for state or local office in that year. As nationally syndicated columnist Robert G. Spivack observed, the 1964 Mississippi Democratic primaries featured “the largest number of Negro candidates for major office in Mississippi since Reconstruction.” Black voters have played a major role in the state Democratic Party ever since, especially because so many white segregationist Democrats left the party after the passage of the 1964 Civil Rights Act. During that autumn’s presidential election, Republican candidate Barry Goldwater, an Arizona senator whose vote against the 1964 Civil Rights Act earned him the endorsement of the Mississippi Citizens’ Council, became the first Republican to win the state of Mississippi since Ulysses S. Grant in 1868 during Reconstruction.¹²

Over the ensuing years, black Hattiesburgers continued to expand local black political participation. Daisy Harris Wade remembered “stages” of growth, estimating 10 percent involvement of the black community “when the ministers were here” in January of 1964. By Freedom Summer, Wade estimated “about fifty percent.” And then “about seventy-five or eighty percent of the people were involved one way or the other” by the early spring of 1966. These rough estimates provided by an activist reflect the growing numbers of registered black voters in Hattiesburg during the mid-1960s.¹³

On June 16, 1965, the United States Court of Appeals finally ruled in the Theron Lynd case. The federal court enacted specific limitations on Lynd’s ability to deny voter applications and required an immediate review of 350 “application forms of those rejected Negro applicants who applied during his tenure in office and who are not now registered.” Less than two months later, on August 6, 1965, President Johnson signed into law the Voting Rights Act of 1965, which provided the federal government with unprecedented authority to oversee voter registration in places like Forrest County, where African Americans had for decades been systematically disfranchised. Nearly a century after the ratification of the Fifteenth Amendment, black people in Forrest County could finally register to vote. In March of 1964, there were 196 black residents of Forrest County registered to vote. Roughly three years later, that figure soared to 5,467.¹⁴

Local movement activists led a charge to inform the newly enfranchised black electorate. Through community newspapers such *The Voice of the Movement* and the Forrest County NAACP’s *Freedom Flashes*—both of which were produced in black-owned businesses in the Mobile Street District—black political leaders encouraged their neighbors to register to vote and provided

updates on local political activities. In 1966, movement leaders compiled a “political handbook for the black people of Forrest County,” a sixteen-page pamphlet explaining the duties of various city and state elected officials and encouraging local black voters to consider whether the current elected officials truly represented their best interests.¹⁵

Ever since African Americans regained the right to vote, white conservative Mississippi politicians have taken steps to limit their political power. In 1966—the year after the passage of the Voting Rights Act—white Mississippi legislators redrew the state’s five congressional districts to split potential black voting blocs. In addition to recurrent gerrymandering, white Mississippi legislators since 1966 have employed a range of tactics to curtail the influence of the black vote. They have diluted black political power by expanding at-large voting across districts, changed the process of electing supervisors in county-wide elections, altered nominating procedures for school district trustees, reformed primary elections, and switched some positions from elected to appointed. As former Mississippi civil rights attorney Frank Parker observed in 1990, “Outright denial to black Mississippians of the right to vote, now prohibited by federal law, was replaced with these more subtle strategies to dilute and cancel out the black vote.” Conservative white Mississippians, who have now fully switched to the Republican Party, continue to work to weaken the power of black votes. Jim Crow ended, but black people have had to fight relentlessly to maintain access to the ballot box. Most recently, white conservatives have used new voter identification laws to target black voters. Even in post-Jim Crow Mississippi, there is no indication that they will ever cease their continual assaults on black voting rights.¹⁶

Nonetheless, black people embraced and defended new political activities. They fought virtually every plan designed to limit their political power, a battle that included two victorious cases involving Hattiesburg civil rights leaders—*Connor v. Johnson* and *Fairley v. Patterson*—that reached the United States Supreme Court. As early as 1967, black Mississippians elected twenty-two African Americans to local offices. By the late 1980s, Mississippi led the United States of America in the number of elected black officials with 646.¹⁷

Hattiesburg activists attacked all components of Jim Crow. Soon after the passage of the Civil Rights Act of 1964, local activists launched a series of demonstrations to desegregate public facilities. When thirty-five-year-old Dorothea Jackson was removed from a bus that August for refusing to give up her seat, the remaining twenty black passengers stood up and walked off the bus,

spurring a boycott that ended segregated seating on city busses. Two days later, a half dozen Freedom School students and their teacher strolled through town during an impromptu desegregation tour. In a single afternoon, the group targeted the local public library and the local Kress Stores. The library closed to avoid having to allow black kids to borrow books, and a waitress at the Kress Store refused to serve the interracial group. Shortly thereafter, a police officer arrested the Freedom School teacher. But the library demonstration helped spur a larger response that later desegregated the library. The arrested teacher later won a lawsuit against the Kress Corporation.¹⁸

Most places, especially national chain stores, desegregated relatively peacefully as white onlookers silently watched racial segregation crumble. Other venues desegregated only after the threat of a lawsuit based on the new Civil Rights Act of 1964. Protestors were regularly beaten and arrested, but they nonetheless continued to mount desegregation campaigns throughout the duration of the local movement. Through the persistence of local activists and the support of new laws, Hattiesburg institutions desegregated.¹⁹

Hattiesburg's white leaders, deeply concerned about the optics of violent resistance, objected to the protests but advocated peace. Most local white citizens heeded the *Hattiesburg American's* warning that "violence would only play into the hands of the leaders of these extremist groups," but some white citizens just could not bring themselves to operate peacefully. When a group of thirty-five local African Americans and four Northern civil rights activists launched a sit-in at Lea's Restaurant in January of 1965, a group of unidentified local white terrorists burned a cross in front of a school in one of the black neighborhoods. When protests continued over the ensuing days, several local white men attacked the demonstrators. All told, local movement leaders reported twelve beatings during the last two weeks of January in 1965.²⁰

But the freedom fighters persevered. Backed by the support of a branch of the Delta Ministry, which operated an office out of Lenon Woods's guest-house on Mobile Street, civil rights workers who had been attacked pressed charges, completed affidavits, and publicized the violence to hundreds of supporters across the country. Ultimately, these reports helped lead to the arrest of several perpetrators.²¹

The aid of outside activists was crucial to carrying this fight forward, but it was primarily local African Americans who led efforts to expel Jim Crow. By August of 1965, a visiting white Presbyterian minister from Minnesota

reported, “We feel so good about the progress here that we are beginning to look toward the time when our presence in Hattiesburg will no longer be needed.”²²

At about 2:30 in the morning on January 10, 1966, Klansmen laid siege to the home of voting rights activist Vernon Dahmer and his family. Two of the attackers ran toward the house under the cover of gunfire and tossed gasoline-filled containers through the windows followed by a flaming cloth that ignited the containers. As the fire spread, the Klansmen fired a continuous stream of bullets into the home. Vernon Dahmer leaned against his front door, returning fire as he could while his wife Ellie, ten-year-old daughter, and two sons, aged twelve and twenty, scrambled to escape the burning house. After Ellie managed to pop out a back window, the family fled into a barn located behind the house. Vernon Dahmer saved his family that night, but later succumbed to severe burns to his head, upper body, and arms. He was fifty-seven years old when he died on the afternoon of January 10, 1966.²³

Local white leaders condemned the crime. The Chamber of Commerce issued a statement “condemning the tragic acts of violence against the Vernon Dahmer family” and urging “all of the law enforcement agencies to pursue with diligence their efforts to bring all of the perpetrators of this unconscionable crime to their justice.” The Forrest County Board of Supervisors and Hattiesburg City Council issued a similar statement, calling for the “prosecution of the person or persons guilty of this tragic and deplorable crime” and creating a Dahmer Family Fund of Forrest County to help the family rebuild their home and pay for additional expenses. The *Hattiesburg American* rebuked the “revolting, cowardly crime” committed by “terrorists,” editorializing that “the crime against them must be punished.”²⁴

Despite such sentiments, it is worth remembering that Vernon Dahmer had long been fighting these very same institutions—local white government officials, business leaders, and the press—for basic voting rights for African Americans. Although these groups expressed remorse for his death in 1966, white businessmen and city leaders had for years played key roles in fighting against black civil rights. The Hattiesburg Citizens’ Council had helped publicize the names of local civil rights activists and closely monitored their behavior. Led by the city’s elite white citizens, the local Citizens’ Council had been responsible for framing Dahmer’s friend and ally Clyde Kennard six years earlier and had for years been working to suppress black activism to

protect white supremacy. The longtime enemies of civil rights activists shared a level of complicity in all attacks against activists. It certainly did not help that the *Hattiesburg American* published Dahmer's home address in the newspaper after his son applied to register to vote. Local white leaders had not operated on the side of Vernon Dahmer and his allies; only after his death did they publicly demonstrate sympathy toward him and his causes. Black people always bore the burden of the sins of their oppressors.²⁵

Nonetheless, Vernon Dahmer's death signaled a sea change in the local movement. Just two days after Dahmer's murder, the *Hattiesburg American* published a fifteen-point list of requests submitted by local African American civil rights leaders. These included hiring more black police officers and fire-fighters, appointing African Americans to the school board, immediately desegregating all public facilities, fully complying with the 1965 Voting Rights Act, providing equal access to health services, adding paved curbs and new street signs to black neighborhoods, and using courtesy titles toward African Americans in the local press. There were no definitive deadlines for meeting these "requests," but the goals of black activists received unprecedented attention in the local media and from city officials. The Chamber of Commerce called a special meeting on January 12 to discuss the requests and formulate a plan to raise money for a reward leading to the apprehension of Dahmer's killers. Seventeen days after the Dahmer murder, the Chamber of Commerce actually held a meeting with local black leaders—including two of the original plaintiffs in *Peay et al. v. Cox*—to talk about grievances. Not all issues were resolved, but each attendee signed a statement declaring that the gathering was held in "an atmosphere of friendly mutual respect and understanding."²⁶

When white Hattiesburg leaders wavered on responding to these requests, African Americans mobilized to aggressively pursue their goals. Beginning with a march on the morning of Dahmer's funeral, more black people joined the movement than ever before. "At the death of Mr. Dahmer in '66, the numbers grew," remembered Daisy Harris Wade. "I would say about seventy-five or eighty percent of the people were involved one way or the other." As one of the last few remaining clergy from the Delta Ministry reported in March of 1966, "The work here in Hattiesburg has fallen mostly into the hands of the local people now."²⁷

In the months and years to follow, local African Americans expanded their voter registration campaigns and sit-ins to include protests designed to completely expel racial segregation from their society. In 1967, they executed

a widespread boycott that successfully pressured downtown stores to hire more African Americans. They also secured federal funding from the national Office of Economic Opportunity to run eight Head Start centers that provided local black women with good jobs teaching young African American students.²⁸

Black community activism did not operate entirely without conflict. In fact, the boycott of 1967 was supported by a militant group known as “The Spirit” that formed in the wake of Vernon Dahmer’s murder. The members protected local black churches and NAACP officials, but also helped enforce the boycott by issuing warnings to any black person who shopped in a white store. Additionally, the local NAACP experienced regular infighting that led to the expulsion of several of its leaders. Some local NAACP members believed that working-class activists had been excluded from the process of formulating the “requests” sent to white city officials. Even in their differences, however, black people overthrew Jim Crow, ending the systematic racial segregation and disfranchisement that had for so long limited black life in Hattiesburg.²⁹

In 1968, the state of Mississippi charged eleven Klansmen with murder and / or arson for their involvement in the death of Vernon Dahmer. The terrorists who murdered Dahmer belonged to a sect of nearby Klansmen led by a violent and deranged white supremacist named Samuel Holloway Bowers. Prior to the 1964 Freedom Summer, Bowers warned his followers, “The events which will occur in Mississippi this summer may well determine the fate of Christian civilization for centuries to come.” Members of this group were also involved in the famous Freedom Summer murder of civil rights activists Michael Schwerner, James Chaney, and Andrew Goodman in nearby Neshoba County. It was later discovered that Bowers ordered the murders of both Michael Schwerner and Vernon Dahmer as part of a campaign of guerrilla terror designed to stymie civil rights activism in Mississippi.³⁰

In 1967, Bowers was one of seven Klansmen convicted of federal charges for conspiring to violate the civil rights of Schwerner, Chaney, and Goodman. Several members of the group had also been indicted on federal charges related to the murder of Vernon Dahmer, but these charges were later dismissed. Nonetheless, these federal indictments represented the first time that Mississippi Klansmen had been charged or convicted for anti-civil rights violence. The federal government was finally working to do something to protect black people from racialized violence in Mississippi.³¹

The local indictments for murder and / or arson represented an unprecedented commitment by the State of Mississippi to prosecute Klansmen who attacked civil rights activists. As a Hattiesburg reporter noted in 1968, "A remarkable facet of the state indictments and subsequent developments is that generally speaking citizens of the area appear to feel that something was needed in the way of action more stringent than the federal conspiracy charges." "Yet only a few years ago," the reporter observed, "such a move would have meant political suicide for the prosecutors and public ostracism."³²

Hailing from a longtime Mississippi family, the Klansman Samuel Bowers carried with him a deep sense of family history that informed his violent actions. In interviews conducted in the early 1980s, Bowers sought to contextualize his role in maintaining the tradition of white supremacy in Mississippi. According to Bowers, his great-grandfather had been a Confederate soldier who engaged in "nightriding in order to recover Southern civilization" during Reconstruction. Representing the next generation was Bowers's grandfather, Eaton J. Bowers, the Gulf Coast lawyer who in the 1890s served as general counsel of the Gulf & Ship Island Railroad for the Pennsylvanian Joseph T. Jones. Labeling his grandfather "outstanding and brilliant," Bowers cited his role in helping establish the Gulf & Ship Island Railroad as part of "a pattern in American history" between a "responsible carpetbagger movement . . . which I say was represented by Captain Jones and the G. & S.I. Railroad" that allowed for Northern and federal economic involvement in the South as long as white Southerners were allowed to "hold the black people down." When Bowers became concerned that Northerners were no longer upholding their end of the bargain, he launched his violent crusade to maintain white supremacy, or, in his words, "to preserve Christian Civilization."³³

With the help of a Klan informant and the FBI, local prosecutors managed to secure the convictions of four men involved in the Dahmer murder. This did not include all the perpetrators. It is unknown exactly how many people were involved, but the original complaint filed by the FBI included fourteen names. Local prosecutors were constantly challenged by racially prejudiced jurors and witness and jury tampering by Klansmen. Moreover, it is fair to question their commitment to justice. None of the convicted men served more than ten years in prison. Each was released early.³⁴

Between 1967 and 1970, Samuel Holloway Bowers was tried four times without being convicted. During the May 1968 trial, a single juror blocked

conviction after twenty-two hours of deliberation, resulting in a mistrial. Bowers did serve time in federal prison for violating the civil rights of the other people he helped kill, but he remained free for some thirty-two years after the murder of Vernon Dahmer. After years of various efforts to reopen the Dahmer case, Bowers was finally tried and convicted in 1998 at the age of seventy-four. "It shows that Mississippi has changed," reflected former Freedom School student Glenda Funchess after the conviction in 1998. Today, Ms. Funchess is a civil rights attorney in downtown Hattiesburg.³⁵

The historic Mobile Street neighborhood still sits in the shadows of downtown Hattiesburg. On most days, the neighborhood is an empty shell of its former self. The ravages of natural disasters and neglect have taken down most of the buildings. The flood of 1974 inundated the entire neighborhood and displaced thousands of people. Subsequent rains, winds, and other adverse weather events have eroded much of the neighborhood. In 2013, a tornado tore through the Mobile Street District, taking down the neighborhood's tallest structure, a 107-year-old three-story building, and causing major damage to the now-abandoned Eureka High School and the old Sixth Street USO, which is now an African American Military History Museum. The rest of the neighborhood is filled with empty patches of grass where other buildings caught fire, flooded, or collapsed, and were never rebuilt.³⁶

Mt. Carmel Baptist Church still stands proudly on the corner of Seventh and Mobile, right across from where Gaither Hardaway ran his grocery store. Its congregation, however, has since moved. Mt. Carmel now meets in what used to be a white church. True Light Baptist has similarly moved into a former white church that was vacated when its congregation moved into a church farther from downtown. Ironically, the black congregations now meet in buildings left vacant by those who left to get away from them. St. Paul Methodist remains in place to this day, filled with a proud congregation that does much to remember the church's history. Not everyone knows the significance of the names etched in the church's stained-glass windows. The writing on one of those windows reads, "In Memory, Turner Roger Smith & Mamie Grove Smith, By Children."³⁷

Hammond Smith passed away in 1985 at the age of ninety. His brother Charles had passed years earlier, in 1971, at the age of seventy-nine. In today's South, Hammond and Charles Smith probably would not live in that black community. Nor would they even own their stores. Most likely, they would

work at the Hattiesburg Clinic or a local pharmacy and live in one of the town's more prominent areas. They almost certainly would not live near Mobile Street. In today's South, Hammond and Charles could live, shop, and eat wherever they wanted. The destruction of everyday Jim Crow is a major victory of the civil rights movement. But that very system of Jim Crow, which limited black opportunities and was so oppressive and so deadly, also gave birth to the very communities that brought into being the movement that eventually killed it.³⁸

Black people still own businesses and work throughout the city. But since the destruction of Jim Crow, the number of homegrown small black businesses has drastically declined. Hammond Smith's pharmacy probably couldn't survive today against the CVS stores and the Walgreens that dot the city and accept dollars from all races. Thousands of black Hattiesburgers now work and shop in two large Walmart stores on either end of the city. Black people are now free to spend their time and money as they please. That is no small thing. But decades ago, their time and dollars would have cycled through their own communities rather than into the bank accounts of multimillion-dollar corporations. Those dollars would have gone into the hands of the people who ran the groceries, cafes, and barbershops of that once vibrant community.

Since integration, Hattiesburg itself has sprawled miles away from its historic center. Thousands of residents, both white and black, have packed up their lives and moved away from the core. Commerce followed. Some of America's largest chain stores now dot Hardy Street for miles beyond the old city core. The migrants left a decaying downtown in their wake; there are still a few places to eat and drink, but downtown Hattiesburg is no longer the center of local commerce. A downtown association draws people back into the city center for concerts, plays, farmer's markets, and festivals. It is also leading an effort to reverse the outmigration by encouraging people to move downtown. But such efforts are merely the beginning stages of an effort to reverse outmigration processes underway since the end of Jim Crow. In the years after the 1960s, racial progress flipped the city inside out, leaving an old historic core for the black residents who cannot afford or choose not to move and some white residents who populate the older white neighborhoods.³⁹

So much has changed. But the legacy of a racially disputed past hangs above the Hub City. Hattiesburg celebrates its civil rights history and even has plans to refurbish Eureka High School into a local civil rights museum that could be added to the Hattiesburg Freedom Summer Trail. But on most

days, and in more subtle ways, the city also honors the white supremacists who worked most devotedly to tear the races apart. The county still bears the name Forrest, after the murderous Civil War general and Ku Klux Klan pioneer. And, of course, its Confederate monument stands tall next to the courthouse; never mind the fact that the city was founded more than ten years after the Civil War ended. The state flag contains the old Confederate battle flag in its upper left-hand corner. When the University of Southern Mississippi removed it from campus following the murder of nine black people in Charleston by a white supremacist in 2015, local white neo-Confederate boosters camped on the edge of campus waving Confederate flags in protest. One of them was a former member of the Citizens' Council in the 1960s; it is hard to take seriously his cries of "heritage not hate" when you know he belonged to an organization that sponsored racial terrorism. At the very least, Mississippians' refusal to remove Confederate flags and monuments represents the privileging of one people's heritage over that of others. It also signals the assurance that this seemingly eternal struggle over race will continue to pollute the lives of millions to come. Despite so much change, many Southerners today insist on passing down the sins of their ancestors to their offspring. But some do share a vision that one day this American cancer of racism might end.⁴⁰

African Americans in the South have more opportunities now than they ever had. But losses were embedded within those iconic victories. Hollowed-out neighborhoods now sit in the former sites of bustling black downtowns; the entire American South is filled with those once-rich spaces, and some African Americans still occupy them. Most of those residents are poor, and although they can now ride in the front of the bus, one cannot help but wonder how many opportunities are actually theirs. Few black communities are as capable of self-sustenance as they once had been. The decline of Jim Crow was a victory of the movement. But it ultimately led to the fall of hundreds, perhaps thousands, of extraordinarily resilient black communities where a people lived and grew together within the confines of Jim Crow. ◆

Marking Time: Art in the Age of Mass Incarceration

2020

NICOLE R. FLEETWOOD

*Incarceration separates imprisoned people from their families and communities, exposes them to shocking levels of deprivation and abuse, and subjects them to the arbitrary cruelties of the criminal justice system. Yet, as Nicole R. Fleetwood reveals in *Marking Time: Art in the Age of Mass Incarceration*, America's prisons are filled with artists who, working with meager supplies and in the harshest conditions, have found ways to resist brutality and assert their humanity. In this excerpt, she shows that prison art has long been a crucial part of the Black radical tradition.*



AS RELATIONAL PRACTICES that connect imprisoned people to larger worlds and possibilities, carceral aesthetics builds on the analysis and cultural production of racial capitalism, gender construction, captivity, and the contours of black freedom projects in the face of extreme violence and deprivation grounded in the black radical tradition. Geographer and prison abolitionist Ruth Wilson Gilmore writes, “The Black Radical Tradition is a constantly evolving accumulation of structures of feeling whose individual and collective narrative arcs persistently tend toward freedom” and that it is “shaped by energetically expectant consciousness of and direction toward unboundedness” as “movement away from partition and exclusion.”¹ Many imprisoned black radicals, especially during the 1970s, produced works of literary, theatrical, and visual art that became important writings and cultural pieces for incarcerated and nonincarcerated people for decades. These works

show that prison art is not simply influenced by but is *part of* the black radical tradition.² In fact, one could argue that carceral aesthetics extends the arcs described by Gilmore by demonstrating the significance of culture-making and aesthetic transgressions that explode the binary of victory or failure underpinning much political organizing and many social movements.³ Relatedly, carceral aesthetics offers conceptions of relationality that disavow the systems of value / worth, criminalization, and punitive governance of dominant Western art institutions and aesthetics.

Art critic and curator Nicolas Bourriaud writes that relational art takes “as its theoretical horizon the realm of human interactions and its social context, rather than the assertion of an independent and private symbolic space.” According to him, relational aesthetics emerge in the context of modernity and globalization, with particular focus on the art practices of the 1990s spurred by the internet and new modes of gathering, or what Bourriaud describes as “greater individual mobility” and “the gradual freeing-up of isolated places.”⁴ Art historian Grant Kester critiques Bourriaud’s theory of relational aesthetics as a model for collaborative engagement between artists and communities and between artists and the social world as material and site for the production of art. Instead, Kester posits a concept of “dialogical practice” to develop ways of collaborating and engaging directly with the political stakes of art and the communities impacted. Both Bourriaud and Kester are invested in transformations in the role of art in social life and community engagement, and in the role of the artist as an agent of change.⁵ Although they use the language of relationality, they speak to practices that are in conversation with, but not quite what I describe as, carceral aesthetics. Carceral aesthetics foregrounds relational modes that emerge inside prisons and are initiated by incarcerated people, and that often are devalued and ignored by art establishments. They are practices that project across carceral divides and that create meaningful engagement not bound by prison.

Black radical scholars and artists have examined how racialized penality shapes access to the public—public life, public knowledge, public good, and public services. They have also troubled the divide between the purported free and unfree in theories of the public and civil society. As scholar Marlon Ross notes, within black studies, activism, and communities there is a long, established consideration of “the unbreakable cultural bonds that exist across seemingly impenetrable prison walls. The voices, philosophies, stories, tunes, and visions of prisoners are too often the ordinary stuff of African American

life. African American literature, music, philosophy, fashion, visual art, grassroots politics, and social criticism are inseparable from the culture produced by, about, and for the imprisoned.”⁶ An example of what Ross notes is seen in the efforts of the Black Emergency Cultural Coalition to establish prison art and education exchanges in US prisons during the 1970s (discussed in Chapter 5).

Moreover, the black radical tradition offers a critique of the category of the criminal and a redeployment of it as a strategy of reorganizing marginalized, criminalized, and imprisoned people. The black radical tradition interrogates carceral logics of freedom and racial discourses and systems that produce black life as criminal. Moten theorizes that black artists and musicians are often involved in a “juris-generative process of law making and law breaking, okay, between sort of legality and criminality. They are not opposed to each other in some simple-ass way. We have been placed under historical conditions that require us to break the law, to disobey.”⁷ Moten’s theorization of the “criminal” practices of black artists and thinkers as necessary acts of creativity and freedom resonates with the furtive practices in which incarcerated artists must engage in the production of art, and resignifies the category of the criminal or the prisoner away from stigmatization and toward creativity and collective organizing.

Similarly, historian Sarah Haley examines the criminalization and imprisonment of black women and girls during the Jim Crow Era. Haley discusses how black girls and women were punished for violating white aesthetic projects. Focusing on the case of young black girls convicted of destroying flowerpots and taking flowers from the property of white homeowners, Haley documents and analyzes how they were punished harshly and sentenced to convict labor for “destroying the aesthetic pleasures of white property rights and in so doing creating a history of no décor.”⁸ Haley argues that these practices and other acts by criminalized and imprisoned black women were forms of sabotage, which she defines as “the practice of life, living, disruption, rupture, and imagined futures; it is about the development of epistemologies of justice and collectivity, contestations of the binaries produced through Western juridical doctrine and the individualizing ethos of criminal punishment.”⁹

Carceral aesthetics also challenges the isolated confinement enforced by penal architecture. Prison art practices foster an alternative formation of “the public,” in which the imprisoned, those under various forms of surveil-

lance, and the seemingly free are viewers and participants. And while it provides a way of seeing and engaging culture that might run counter to state narratives of criminality and imprisonment, aesthetics alone will not topple the carceral state. Yet such practices are fundamental to envisioning freedom and a world without cages. Ndume Olatushani was sentenced to death in Tennessee for a murder he did not commit. Olatushani was on death row for twenty years and in prison for twenty-seven before he was released. His journey to freedom involved becoming a student of black studies and marking art:

I understood the issues of race. Because I grew up in a town where busing started. So, coming out of the projects and being bused to white schools, and that stuff . . . I knew about it. I came up in it. I was always aware of what was going on. But yeah, once I found myself convicted of this stuff here, the first ten years that I was in prison, I chose not to have a TV in my cell. I didn't want to spend endless hours watching TV and not getting nothing done and doing nothing else. There were a lot of brothers around me who were putting books in my hands and so you know, I read a lot of history, and black history, and world history, . . . For me, it was kind of this, even more of a transformation. So, like I said, my art was always informed by knowledge.¹⁰

After the death of his mother, which happened a couple of years into his sentence, Olatushani fell into despair. Over time, he turned to art for survival, structuring his days around making art, first graphite drawings and eventually paintings. Olatushani's paintings, like *Winds of Change* (1993), depict black people who are unbounded. The works are bright and colorful. Color for him was a way of resisting the sensory deprivation and close confinement of death-row cells:

I just always wanted to use vibrant colors because color, for me, was always a form of resistance. You probably know that in most jails and prisons, if you can see the paint on a wall, they're all white, grey, or some dull color. You're in an environment devoid of color. . . . The one thing I knew and understood while I was sitting on death row, the one thing the people couldn't control was my mind and my thoughts. Even though, at some point, if they wanted to come in and take me and execute me, they certainly could have did that, but the thing they couldn't do was take my mind. I refused to give that up. . . . Even though you've got me in this colorless environment, you can't stop the color that was actually happening in my head.¹¹

Through Olatushani's use of color and depictions of free black people, he created imaginary worlds and communities that sustained him during his incarceration.

While Olatushani was on death row, his artwork was exhibited in a show arranged by an anti-capital punishment organization, and through that experience he met Anne-Marie Moyes, an activist against the death penalty. They developed a relationship and later married. Moyes, inspired partly by her commitment to bringing attention to Olatushani's case, earned a law degree from Vanderbilt University. She eventually got a large New York law firm to take on his case pro bono. Olatushani continued to make art and garner support. In 2012, at the age of fifty-four, he was released from prison. During a panel discussion of an exhibition in which his art was featured, Olatushani stated, "Art literally freed me." No one in the audience dismissed his words as an empty platitude. Since his release Olatushani continues to make art and works with advocacy groups to end capital punishment and mass incarceration more broadly. While wrongful conviction and innocence are not the focus of my research, Olatushani's experiences in prison for crimes he did not commit fuel his art and activism on behalf of others.

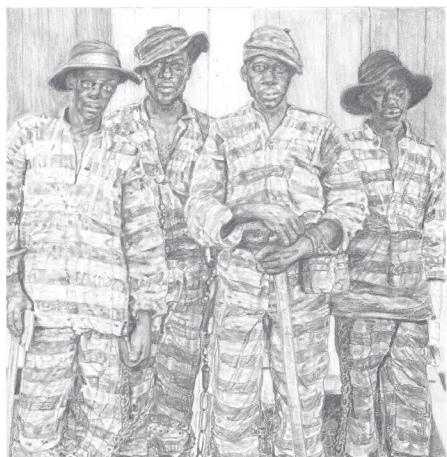
The relational possibilities of carceral aesthetics arose during an encounter that happened at a prison art panel and exhibition that I co-organized in the Bronx in 2017. At the end of the panel, which featured four formerly incarcerated artists and an art teacher who worked in prisons, a man named AJ raised his hand and said, "I'm here because my father has work in the exhibit. He asked me to come and check it out. I haven't seen his work. I didn't even know that he was an artist." AJ asked the panelists to speak about what making art in prison meant to them. He wanted to know what it meant for his father. Later, he toured the exhibit, smiling and sharing stories of his father. He asked several attendees to pose in front of his father's drawings so that he could send the photos to his father to let him know that he had an audience outside prison for his art.

Eddie Kates, AJ's father, was sent to prison in 1991, when AJ was seven. Kates's detailed graphite drawings are based on historical photographs of black Americans during the Jim Crow era; they depict people working on chain gangs, working as sharecroppers, and as victims of lynching. Kates draws cotton in a detailed, textured light, shaded by the institution of chattel slavery

and by shifting forms of racial capitalism postslavery. His drawing *Chain Gang* (2016) is a reinterpretation of an archival photograph of four black young men, perhaps teens, from the early 1900s. In his interpretation, Kates crops the image and focuses on the features of the incarcerated, in particular providing great detail of the eyes as they gaze out from under their hats.



Ndume Olatushani, *Winds of Change*, 1993.



"Chain Gang"

Eddie Kates 2016



Left: Eddie Kates, *Chain Gang*, 2016. Graphite on paper, 8.5 × 11 inches. *Right:* *A Southern Chain Gang*, Detroit Publishing Company photograph collection (Library of Congress), circa 1900–1906. 1 negative: glass, 8 × 10 inches.

AJ's presence was especially moving for one of the panelists, J. D. McGuire, an artist and professor who has taught in several prisons. A year earlier McGuire had taught Eddie Kates in a class at East Jersey State Prison in New Jersey through NJ-STEP, an association of higher-education institutions and state agencies that offer college courses in the state's prisons. McGuire used art to facilitate discussions about racial inequality, American history, and social justice. He created a curriculum called "Contraband Scholars," which brought incarcerated art students from two facilities into conversation and collaboration, although they remained physically separated. Lessons combined drawing exercises, writing prompts, and analysis of readings and images about social justice, the history of racial captivity, and mass incarceration. McGuire shared the works between the two prisons so that students in each facility were aware of what the other class was doing. Kates's drawings were assignments from that class; he used the assignments to connect with a history of black captivity, as well as with fellow incarcerated people who par-

ticipated in the courses; with teaching artists; with his family; and with a broader nonincarcerated public.

PENAL SPACE, TIME, AND MATTER

Prison art practices like those of Kates and Olatushani are largely shaped by the conditions of penal space, penal matter, and penal time, which govern the lives of incarcerated people and structure any attempt to communicate or collaborate with nonincarcerated allies. These conditions also produce the experiences, material, and themes of their contestation.

“Penal space” is the prison itself, the architecture of confinement, but the concept also refers to the disruption of family relations and domestic space, the imposition on movement and mobility, the restrictive and highly monitored experience of the geographic, material, social, and psychic environments in which the incarcerated are warehoused, punished, and surveilled. Gilmore writes, “Prison is not a building ‘over there’ but a set of relationships that undermine rather than stabilize everyday lives everywhere.”¹² Prisons regulate contact, intimacy, and access at every turn. In so doing, penal space extends beyond the built environment to encompass how carcerality structures relationships through an expansive power to determine life outcomes for populations most impacted by arrest and captivity. Scholar Anoop Mirpuri writes, “The ongoing construction of cages and cells, the constant monitoring of those on probation and parole, and the generalized extension of the U.S. surveillance state throughout the social body saturates the political economy of neoliberal capital to such an extent that it may not be possible to localize the prison as a discrete space.”¹³

In terms of art-making, “penal space” refers to sites in prisons where incarcerated people create, such as structured workshops, hobby and crafts rooms, recreational areas, and sometimes alone in isolation cells. It is a concept visualized in Ronnie Goodman’s painting *San Quentin Arts in Corrections Art Studio* (2008), which depicts a studio where Goodman created art during his imprisonment (see Introduction). Penal space can also include arenas where art-making and the production of culture challenge the restrictions and regulations of prison. Reflecting on her experience teaching and collaborating on a mural project inside a Mexican women’s prison, feminist theorist Marisa Belausteguiotia Ruis examines both how penal space impacts the logistics of collaborating with imprisoned women and also how art-making can potentially transform the very space of penality. Through the process of

making murals on prison walls, a collective involving incarcerated and non-incarcerated participants formed, one that constantly pushed at the restrictions and borders of the institution. Belausteguigotia Ruis writes, “We came to the conclusion that a story can be developed only by making visible the trespassing of limits and borders: a crossing. The mural text, our visual narration, performs an effect of crossing.”¹⁴ She asks, “How do captive spaces enable or resist signification?”¹⁵

“Penal time” encompasses the multiple temporalities that impact the lives of the incarcerated and their loved ones. It refers to sentencing guidelines but also significantly invokes how modern theories of penality turn time into a mode of punishment. Ferguson argues that punishment as time sentenced in prison is flawed, given that most legislators, prosecutors, judges, and others involved in the criminal legal system have no concept of what time feels like inside prison. He queries, “Can any person at liberty really comprehend what confinement does to time? . . . Can we know what the years actually mean to one serving them in prison?”¹⁶ Imprisonment fundamentally reconstitutes *being* in time, as a human subject who senses, observes, and experiences one’s environment. Many of the people I interviewed discussed how time moves and functions differently in prison. One formerly incarcerated artist said he kept track of the days by the food served. Prison reconfigures time not only for the imprisoned but also for the intimate relations and social network of the imprisoned. One artist who spent twenty years in prison, from age twenty-five to forty-five, commented that during the time he was stuck in a cell, his friends were having children, traveling, and building careers.

Penal time also refers to the afterlives of captivity, where many remain tethered by stringent parole, digital monitoring, mandatory drug testing, and other forms of carceral governance. In 2018, Emile DeWeaver was released after spending over two decades in California prisons under the condition of lifetime parole. Theorist Stephen Dillon suggests that in prison, time is experienced as a form of slow death: “The centrality of death to incarceration undoes normative modes of temporality so that the prisoner is subjected to a space that is timeless. Indeed, the carceral state’s dream of the prisoner’s future is one of incapacitation, slow death, and nothingness.”¹⁷ For the millions of blacks, Latinos, indigenous people, and other dispossessed groups imprisoned or under some form of penal surveillance, penal time exists within centuries-long practices of dispossession and captivity. Tameca Cole’s collages, which she made while at Tutwiler Prison and in Birmingham Work Release, link

penal time to other forms of racialized subjugation and precarity. During her imprisonment, Cole participated in Die Jim Crow, an arts initiative created by New York-based producer and activist Fury Young that addresses the historical links of racialized captivity through music and art. With titles like *Die Jim Crow—The Movement* (2016), *The Jim Crow Playbook: Money Games* (2016), and *Black Lives Splattered* (2016), Cole's collages combine composite images from newspapers and magazines of high-profile cases in the criminal legal system and antiblack violence, placing them alongside images of public figures and celebrities. In so doing, her art makes connections between the carceral state, penal spectatorship, and entertainment culture.

Cole's piece *Locked in a Dark Calm* (2016) is a composite portrait in which the face at the center of the work is only partially revealed; the figure is enveloped in a gray cloud. At the time that Cole made it, she was taking art classes through the Alabama Prison Arts + Education Project, connected with Auburn University. "I was constantly trying to reach out and find programs to remind myself that I had self-worth." On the day that she made *Locked in a Dark Calm*, she states, "I was so angry that I wanted to explode," because of mistreatment she had experienced from prison staff.¹⁸ She noted that any response from her to the staff would increase her sentence or lead to more discipline. Her only outlet was art. Through the act of creating, she was able to enshroud herself in a state of calm that manifested through the work itself as a visualization of the constraints of penal time and space, and the artist's strategies to survive them.

Reginald Dwayne Betts, in his coming-of-age memoir, *A Question of Freedom: A Memoir of Learning, Survival, and Coming of Age in Prison*, meditates on his experience as a black teenage boy incarcerated in an adult prison, and considers the long duration of black captivity and the intergenerational dynamics between black boys and men in prisons. Time from this perspective is experienced as a brutal reality of observing countless black men who entered as youths grow old in prison as newly arriving black boys continue to enter the system. Betts writes about his own struggle managing the nine years that he served in various prisons in Virginia: "I felt every second that I was behind the walls and bars of the prisons that held me. I felt it in the names that I would go months and months without saying. Names I only think of now as I try to tell this story."¹⁹ He discusses the unimaginably long sentences of many of his peers—teenage boys sentenced to twenty, thirty, forty years and more—and their various strategies to cope with the idea of living



Tameca Cole, *Locked in a Dark Calm*, 2016. Collage and graphite.

the rest of their lives behind bars. About a fellow prisoner who was sentenced as a teenager to ninety years without parole, Betts writes, “Isaac was holding a clock with no hands.”²⁰

Useless clocks also appear in Raymond Towler’s painting *Passing Time* (1984–1990), and they symbolize an unrelenting aspect of penal time: the waiting. Philosopher Lisa Guenther writes, “Waiting to do nothing—or waiting to avoid the punishment of further waiting so that one’s basic needs or desires can be addressed—is an overwhelming feature of prison temporality, even beyond the most obvious occasion for waiting: for eventual release from prison.”²¹ The painting was part of what Towler describes as a self-study of “the old masters as they are called” while incarcerated at Lucasville prison in Ohio.²² Towler was influenced by Salvador Dalí to use a surrealist technique to turn the clocks from objects for measuring time into devices that have no utilitarian value as they melt under the relenting sun:

Just my situation, and all this time that I could possibly have to do. I always had hope that I would get out, but I had to be a realist and just know that I had a lot of time. That’s the word that you hear. Twenty times a day, if not fifty. “I gotta do this time.” “How much time you got?” “What time

is it?" . . . You start keeping time with a calendar instead of a watch. . . . Everything was the same, so it kind of blends in, just like the painting. It all kind of melts together. Where, ya know, even the chow hall, spaghetti Sunday and fish on Friday and chili on Tuesday. . . . For months, and years, at a time. Fried chicken on Christmas Day, and turkey slices on Thanksgiving. The years just blend together. It's all one big blob.²³

Towler, a black man wrongfully convicted of raping, kidnapping, and assaulting a white girl, spent twenty-nine years in prison before being exonerated through the work of Ohio Innocence Project. He managed waiting by studying new artistic styles and experimenting with various media. He sold his art and used the proceeds to help fight his case. Similar to Olatushani, Towler states that he painted his way to freedom.

"Penal matter" refers to the material conditions of imprisonment, which include extreme restrictions on what incarcerated people can possess.²⁴ In most facilities, possessions are limited to what can fit inside a locked box, on a couple of shelves, or in a small set of drawers. Incarcerated people's access to material items is highly regulated and conditional; in most cases, they can only order goods through state-approved vendors at prices higher than they would be outside prison. In some states, they can receive care packages with supplies from people on their approved senders list. At any moment, however, a person's cell can be inspected and their possessions confiscated by prison staff. Art supplies are minimal in most prisons, and therefore incarcerated people repurpose existing items and experiment with found goods to create. Appropriating existing material and discarded items in the service of art connects the work of incarcerated artists with other groups of marginalized artists and cultural practitioners with limited means and who are excluded from traditional art institutions and markets. For example, art historian Kellie Jones writes of black artists like Noah Purifoy who transformed the "notion of lack into something useful, aesthetic, and in the service of good; altering trash and shoddiness into that from which beauty flowed."²⁵

"Penal matter" also alludes to the body trapped in punitive captivity. Dylan Rodríguez theorizes that "the captive is both the state's abstracted legal property / obligation and intimate bodily possession."²⁶ Artists like Russell Craig and James Hough use art to explore how incarcerated people are state property. Hough makes works that explore the dehumanization of prisoners as they are treated as objects and warehoused as commodities that fuel the



Raymond Towler, *Passing Time*, circa 1984–1990. Acrylic and oil on canvas, 18 × 24 inches.

business of incarceration: the various companies and entities that benefit from the carceral system (see the Introduction for two examples of Hough’s work).

Color, or what I call “penal hues,” is another crucial element in prison art related to penal matter. It holds enormous significance in US prisons. Certain colors demarcate boundaries that incarcerated people are not allowed to cross—for example, lines painted yellow or orange to designate areas for prison staff only. The color of clothing signals security level in some prisons: incarcerated people wear different colors based on how they are categorized (minimum, medium, or maximum). The color of clothing also distinguishes the imprisoned from prison staff. Colors can designate age categories in adult prisons, where people under eighteen might wear a different uniform than the general prison population. Most significantly, skin color determines who goes to prison, for how long, and the conditions once inside.

Although in most prisons people have restricted access to paints, markers, and other modes of color through the hobby and craft room, by purchasing them through the commissary, or through art classes, incarcerated artists are often limited by the options available. Certain colors, like vibrant reds and

blues, are not available because they contain chemical compounds like metals or flammable materials that are banned in most prisons. Because of these constraints, incarcerated artists innovate color. They create their own paints, dyes, and stains using existing penal matter. Their experimentations expand their aesthetic environment, given the muted and dull chromatic schemes that exist in most prisons. Incarcerated artists create dyes from hair products, print media, tea, coffee, candy, shoe polish, and Kool-Aid—anything that will dissolve in liquid and result in color. They use found material to transfer color onto other surfaces. They also use color to resist disciplinary control and sensory deprivation, as Olatushani described.

Penal space, time, and matter are conditions that continue to shape the art of many formerly imprisoned people, even years after their release. Mary Enoch Elizabeth Baxter's video triptych, *Ain't I a Woman* (2018), penned under her performance name, Isis tha Saviour, renders her experience before, during, and after incarceration as a carceral continuum, which she describes as "a prison to prison pipeline." The title of her video is taken from Sojourner Truth's famous speech denouncing the racial and gender oppression that black women endure, delivered at the Women's Convention, held in Akron, Ohio, in 1851.²⁷ Baxter links the experiences of contemporary black women in US prisons to the experiences of enslaved black women, especially regarding their



Mary Enoch Elizabeth Baxter, *Ain't I a Woman*, 2018. Video still.

reproductive labor and the disorganization of the black family by racial capitalism.

Demonstrating how the black body transforms into penal matter and how black women's reproduction is controlled under the carceral state, Baxter's video reimagines her harrowing experience of being pregnant in prison. She was forced to give birth while shackled for forty-three hours during labor. Shortly after she delivered her son, he was taken away from her and she was placed in administrative segregation, a type of isolation unit often framed as protective custody for ill, vulnerable, or abused people. Resisting how the regulation of penal space, time, and matter sever black family relations, Baxter raps, "Nothing can ever come between a mother's love and her offspring. . . . We can't be separated even through space and time." ◇

Being Property Once Myself: Blackness and the End of Man

2020

JOSHUA BENNETT

Throughout US history, Black people have been configured as sociolegal non-persons, a subgenre of the human. Being Property Once Myself delves into the literary imagination and ethical concerns that have emerged from this experience. Joshua Bennett argues that animal figures assert a theory of Black sociality and combat dominant claims about the limits of personhood. He turns to the Black radical tradition to challenge the pervasiveness of anti-Blackness in discourses surrounding the environment and animals. Here, Bennett discusses Toni Morrison's Song of Solomon and how birds and flight are used in the novel to portray Black masculinities.



HOW MIGHT WE CONFIGURE the limits and lacunae of the black masculine as a mode or means of thinking gender? What does it call into being or put under erasure the moment it arrives on the scene? What texts, both inside and outside the realm of literary criticism, are available to the contemporary reader interested in parsing out the ways in which black boys and men move through text at the level of representation and symbol, which is also to say, what lessons do we glean from the US American literary canon about *what black men are*, how they live, or whether their living is always already a spectacular kind of dying? Further, if one were to respond to such a claim or question of black male social life as a form of death in the negative, how might we theorize and historicize the ways in which death has come to serve as the dominant frame for thinking black male experience in the US and abroad?¹

For the purposes of this chapter, I am interested in working through and against discourses that imagine little else for black men beyond the grave and furthermore in gathering such materials to think toward a theory of the black masculine that shatters prevailing, pathological assumptions about what such lives can bear or bear forth and ultimately aims to build something fresh from the shards.

Toni Morrison's oeuvre is a singular resource for such an endeavor. There is already an extensive body of work on the ways in which her characters open up new worlds for thinking identity across lines of perceptible difference, alternate realities that avail to us more transgressive models for race, gender, and disability in particular.² Though much has been written about Morrison's work in this vein, few scholars have explored the role of nonhuman actors, and nonhuman animals in particular, in Morrison's ongoing argument against strict, bounded markers of identity that leave no room for growth or play. Such characters abound in Morrison's fiction—Here Boy, Sethe and Denver's dog in *Beloved*, the horses ridden by the tribe of blind warriors in *Tar Baby*, and the flock of birds that follows the titular character of *Sula* all come to mind—but rarely do such animal characters take center stage as a means through which a given character becomes an object of analysis. In one of Morrison's novels in particular, *Song of Solomon*, I will argue, Morrison's emphasis on the presence and, most importantly, the *properties* of animals is notably gendered and provides a fertile ground for imagining a theory of the black masculine grounded in literary analysis.

Put somewhat differently, I am interested in the ways in which Toni Morrison uses animals, and birds in particular, to make a certain argument about how it *feels* to be a black man, how she deploys them in order not only to critique the limiting, violent ways in which black masculinity is structured from the outside but also to describe the means through which black men and boys bear such weight, how they comport themselves under the duress of everyday life as a perceived threat. Following Afaa Weaver's suggestion that "black men are the summary of weight," I would like to track the way that black masculinity as heaviness, as excess, as adornment, as vanity, as *exorbitance* moves through *Song of Solomon* in the bodies of birds, how these animals, rather paradoxically, come to signal a certain boundedness to earth, an unwieldy abundance that limits all possibility of escape or futurity.³ Alongside Nahum Chandler and others, however, I would like to think imaginatively about what such exorbitance avails to us as a frame for imagining al-

ternative black masculinities and to begin with the premise of abundance rather than absence.⁴ Using some of Morrison's most well-known characters—Milkman Dead; his best friend, Guitar; and his father, Macon Dead II—as central examples, I will close read moments of interspecies interaction with birds in the text in an effort to elucidate the generous approach to thinking black masculinity, and black personhood in a broader sense, that Morrison's work provides.

By theorizing a Morrisonian vision of black masculinity as always already bound up with a certain heaviness, a haunting presence that doubles as a kind of beauty but also prevents something like flight or a legible form of social mobility, I intend both to contribute to an ongoing conversation around representations of black maleness and to trouble some of the arguments that have historically given coherence to that field. Following Morrison's lead, my aim is to make an argument for an unfamiliar, destabilizing constellation of masculinities, one that transcends and unmoors reductive ways of thinking the intersection of blackness and gender. Central to this argument will be an extended consideration of the social milieu into which Milkman Dead is thrown, a world that marks and mars him from birth as the carrier of numerous traits that differentiate him from other black men in the text. I am interested in exploring this distance, this discomfort, at the level of feeling and in examining what Milkman's experiences throughout *Song of Solomon* elucidate about the way real-world masculinities come to be formed and how they might be critically desedimented in the service of a fugitivity that might ease the weight of living while black and male and yet unburied, unfettered, unbowed.

The opening scene of *Song of Solomon* betrays the novel's obsession with failed flights, its persistent concern with what happens when a body misapprehends its own, unbearable heaviness. The first example of such failure in the text is deeply ironic, even to the point of tragedy, largely because of its object, a salesman by the name of Robert Smith:

The North Carolina Mutual Life Insurance agent promised to fly from Mercy to the other side of Lake Superior at three o'clock. Two days before the event was to take place he tacked a note on the door of his little yellow house:

At 3:00 p.m. on Wednesday the 18th of February, 1931, I will take off from Mercy and fly away on my own wings. Please forgive me. I loved you all.

(signed) Robert Smith,
Ins. Agent

Mr. Smith didn't draw as big a crowd as Lindbergh had four years earlier—not more than forty or fifty people showed up—because it was already eleven o'clock in the morning, on the very Wednesday he had chosen for his flight, before anybody read the note. At that time of day, during the middle of the week, word-of-mouth news just lumbered along.⁵

My primary interest in this scene lies in what is underemphasized or altogether unsaid. First, there is the matter of Robert Smith's profession. That Smith, a man who is well versed in the manifold dangers of everyday life by virtue of his work as a life insurance agent—and who also, it is worth mentioning, has a small, yellow house that registers metonymically as a reflection of his own persistent caution or fear—would choose to engage in a public act of such exceptional risk is bizarre. This is not to say that one need work in life insurance to comprehend the dangers of jumping off a building, but the extremity of contrast is generative here, as it conveys, rather vividly, the depth of Smith's conviction. The note he leaves strengthens such a reading. Its ambiguous ending initially reads, perhaps, as a suicide note but also as a good-bye letter, and it is a reflection of the depth of thought that serves as prelude to his grand escape.

This is the second sort of jarring contrast we see at work in this primal scene: the clash between the morose, deeply personal nature of Smith's note, on the one hand, and the bombastic, rather colorful character of the act itself, on the other: an act that is publicized, ostensibly, for the sake of attendance and features unexpected flourishes, the most stark of which are the "blue silk wings" he dons in order to facilitate takeoff.⁶ If Smith is going to fly, he will do so in style. Note also the contrast Morrison draws between Smith's declaration of his plans to fly and the slow, lumbering manner in which the news of his experiment travels. Dreams, the argument follows, take on a kind of weight when they are put into the world. To dream aloud is to invite critique or, worse perhaps, indifference. From the first scene, Morrison places this nexus before us: the conflict between a man's desire to fly, *his desire to be seen doing so*, and a social world that can opt in or out of bearing the burden of that spectacle. Smith's willingness to attempt this dangerous feat, one complicated by his aforementioned career choices, is inextricable from a certain refusal of invisibility, his silken wings, as well as the note he

plasters to the front of his home, both operating as embodiments of his yearning for engagement, both objects working in different ways to ensure that his plan is successful both as a mode of egress and as a means of entertainment. An aesthete, Smith wants even his leaving to be beautiful. Such flair or flash appears to be a rather recent development for Smith and is largely out of step with how he is characterized not too long after the text's opening scene:

They kidded him, abused him, told their children to tell him they were out or sick or gone to Pittsburgh. But they held on to those little yellow cards as though they meant something—laid them gently in the shoe box along with the rent receipts, marriage licenses, and expired factory identification badges. Mr. Smith smiled through it all, managing to keep his eyes focused almost the whole time on his customers' feet. He wore a business suit for his work, but his house was no better than theirs. He never had a woman that any of them knew about and said nothing in church but an occasional "Amen." He never beat anybody up and he wasn't seen after dark, so they thought he was probably a nice man. But he was heavily associated with illness and death, neither of which was indistinguishable from the brown picture of the North Carolina Mutual Life Building in the back of their yellow cards. Jumping from the roof of Mercy was the most interesting thing he had done. None of them had suspected he had it in him. Just goes to show, they murmured to each other, you never really do know about people.⁷

What does it cost to be unknown or unloved? For Smith, such semianonymity was experienced alongside persistent abuse from his customers and fellow townspeople, an ire that is in some ways understandable given the regularity with which he asked them for money ("more regular than the reaper," according to one source).⁸ This constant levying of funds, combined with Smith's relative quietude in other avenues of town social life—public romance, performances of exuberance in church, and so on—served to create a rift between Smith and the rest of the social world, a dehiscence that he sought to mend in this moment of audience engagement, this final request. Over and against a reading that might lead us to understand Smith's attempt at flight as the long-awaited break of a repressed figure in search of release, Morrison's robust characterization also leaves space for a vision of Robert Smith as a man dedicated to certain forms of order and restraint, one who did not break as much as he decided to break out, break free. It is not life as such that Smith

wants to escape but rather the kind and caliber of life that is possible in the small Michigan town he wishes to be rid of. The townspeople are, ultimately, correct. One cannot “know about” another in any totalizing sense. Following Morrison’s characterization of Smith as someone who never did anything more “interesting” than jump from the roof of Mercy Hospital, who never had a public relationship of any sort or bothered anyone beyond what was required by his job, a flock of critical questions rises to the fore.⁹ Who or what convinced Smith that he could fly in the first place? And, once such a conviction had taken hold, what would this sort of a man feel the need to take flight from? At the textual level, no tenable answer to the first question appears. To the second question, however, his letter replies, albeit in muted tones: the love that Robert Smith describes, the love that is largely missing from the descriptions of Smith given by the townspeople—that is, that he is either bewilderingly dull or downright annoying—and can thus be described as an unrequited love, a love that pushed Smith to beg forgiveness not only for his leaving but also for his dull, dogged affection. In this way, Morrison provides the reader with an entrée into the affective economy of the text, one that will feature a web of relations marked by unreciprocated affection, by burden without release.

Robert Smith’s desire to fly is in many ways singular as it pertains to the ensemble of black male characters in *Song of Solomon*. The exorbitance he strains against is not rooted in vanity, a desire for revenge, or commitment to the accrual of material possessions—to be sure, these vices are primary sources of frustration for almost every other male character in the novel—but rather in his banality, the boredom and outright indifference he inspires in his neighbors and clients. In a sense, this popular perception of Smith as a forgettable figure seems almost preordained. Morrison is renowned for her flair when it comes to naming characters.¹⁰ What are we to make of a figure so plainly plumed, one that walks with a common name in a textual universe full of color? Consider the following passage from later in the novel, long after Smith’s demise:

He closed his eyes and thought of the black men in Shalimar, Roanoke, Petersburg, Newport News, Danville, in the Blood Bank, on Darling Street, in the pool halls, the barbershops. Their names. Names they got from yearnings, gestures, flaws, events, mistakes, weaknesses. Names that bore witness. Macon Dead, Sing Byrd, Crowell Byrd, Pilate, Reba, Hagar, Magdalene, First Corinthians, Milkman, Guitar, Railroad Tommy, Hospital Tommy, Empire

State (he just stood around and swayed), Small Boy, Sweet, Circe, Moon, Nero, Humpty, Dumpty, Blue Boy, Scandinavia, Quack-Quack, Jericho, Spoonbread, Ice Man, Dough Belly, Rocky River, Gray Eye, Cock-a-Doodle-Doo, Cool Breeze, Muddy Waters, Pinetop, Jelly Roll, Fats, Lead Belly, Bo Did-dley, Cat-Iron, Peg-Leg, Son, Shortstuff, Smoky Babe, Funny Papa, Bukka, Pink, Bull Moose, B. B., T-Bone, Black Ace, Lemon, Washboard, Gate-mouth, Cleanhead, Tampa Red, Juke Boy, Shine, Staggerlee, Jim The Devil, Fuck-Up and *Dat Nigger*.¹¹

What does the name Robert Smith bear witness to? What mistake or weakness, what flaw or yearning? If we are to read the preceding passage as a theory of naming for Morrison, then it becomes difficult not to see Robert Smith's very name as a gesture toward either blandness—that is, that Smith has never done anything that would make him worthy of a nickname—or a long-standing distance from the sorts of social spaces, and caring, playful relationships, that would serve as the condition of possibility for such naming, such proximity rendered in language. Both readings dovetail in a fashion that supports the earliest descriptions of Smith. This was a man of duty with little to distract him from it, not even the love he writes about in the note he leaves behind as a final farewell. Smith was loved without return and, in the process, disinvested in more than just the town and its capacity for a certain vision of social life but also, it would appear, in scientific law. He never frames his flight as anything other than just such an escape. All the reader is made privy to in the way of description is Smith's claim that the wings he will use as instruments of egress are "all his own."¹² Like so much else in his life, his wings are shared with no one.

Robert Smith's death looms large over the novel and serves as the connecting thread through which one can trace the critical role of animal presence, and animal symbolism, in *Song of Solomon*. Like so many of the characters that appear in the novel once his death becomes mere memory, Smith's very person was indelibly marked not only by his *inability to fly* but also by his steadfast desire to do so, even against conventional wisdom or scientific discourse. It is his yearning in the face of such facts, this exorbitant will over and against systemic boundaries that would ostensibly foreclose such dreams long before one could engage in the sort of behavior for which the townspeople most vividly remember him, that is of central concern. How does such yearning take hold? How do this novel's black men in particular—ones who live with constant reminders of their own limitations, physical, financial, and

otherwise, and indeed the truth that their everyday lives are impinged upon by sociolegal restraints that function as persistent, undeniable limits—make up in their minds that this sort of *groundedness*, this exorbitant weight, is all they will ever know? It is in this sense, that is, as an event that opens a series of questions about how the novel's central, metonymic ensemble functions as a proxy for real-world experiences of antiblack violence, that Robert Smith's failed flight becomes an instructional moment not only for the reader but also for other characters in the text, none more so than Milkman Dead:

The next day a colored baby was born inside Mercy for the first time. Mr. Smith's blue silk wings must have left their mark, because when the little boy discovered, at four, the same thing Mr. Smith had learned earlier, that only birds and airplanes could fly—he lost all interest in himself. To have to live without that single gift saddened him and left his imagination so bereft that he appeared dull even to the women who did not hate his mother. The ones who did, who accepted her invitations to tea and envied the doctor's big dark house of twelve rooms and the green sedan, called him "peculiar."¹³

This origin story—both that of Milkman Dead as the first black baby born inside Mercy (which, I think, Morrison intends as a kind of double entendre, a moment meant to index a geographical space of particular historical import within the narrative but also to have us consider the various forms of mercy that Milkman is shown throughout the text and how said mercy informs the way he comports himself) and that of Milkman's ongoing disappointment in the weight of his own body, that is, the unshakeable realization that he, not unlike Robert Smith, is built for pursuits other than flight—sets up the novel's central conflict.

First, the opening presents us with the question of what Milkman is to make of his own heaviness, how he is to manage a body that does not move the way he wants it to or is read in ways that run counter to his expectations and desires. Second, the reader is made privy here to the first time that Milkman must navigate the gaze of others, in particular, the women he encounters who find him to be "peculiar," a term that swings in its register between the negative and the affirmative throughout the text. Robert Smith, now dead as the name that sutures Milkman to his kin, is not especially helpful in either regard. He does not provide Milkman with the tools needed to navigate either the reality of his body or the social world that unwieldy

body is forced to enter. From the outset, the first encounter that Milkman has with a man who might serve as the embodiment of his own future, Robert Smith, is one marked by catastrophe, by a public failure that ultimately ends in tragedy. The event leaves Milkman's imagination "bereft," robbing him of the joy that would naturally attend watching a man fly, as well as the possibility of such flight, such freedom, for his future self. Morrison's characterization of the Smith crash as an event that not only captures the attention of the community but also, in a slightly different register, captures any sense of potential or possibility, stealing it from Milkman before he is old enough to glean that sort of disappointment from personal experience, is critical. As presented, this is the first lesson Milkman ever learns about what it means to move through the world, the first time he projects his own experiences onto another and dares to see himself where he is not. In this sense, Robert Smith's death is not only a mirror for Milkman but also a kind of mirror stage:

It suffices to understand the mirror stage in this context as *an identification*, in the full sense analysis gives to the term: namely, the transformation that takes place in the subject when he assumes [assume] an image—an image that is seemingly predestined to have an effect at this phase, as witnessed by the use in analytic theory of antiquity's term, "imago."

The jubilant assumption [*assumption*] of his specular image by the kind of being—still trapped in his motor impotence and nursling dependence—the little man is at the *infans* stage thus seems to me to manifest in an exemplary situation the symbolic matrix in which the *I* is precipitated in a primordial form, prior to being objectified in the dialectic of identification with the other, and before language restores to it, in the universal, its function as a subject.

This form would, moreover, have to be called the "ideal-I"—if we wanted to translate it into a familiar register—in the sense that it will also be the root-stock of secondary identifications, this latter term subsuming the libidinal normalization functions. But the important point is that this form situates the agency known as the ego, prior to its social determination, in a fictional direction that will forever remain irreducible for any single individual or, rather, that will only asymptotically approach the subject's becoming, no matter how successful the dialectical syntheses by which he must resolve, as *I*, his discordance with his own reality.¹⁴

This passage from Jacques Lacan's "The Mirror Stage as Formative of the *I* Function" avails to us a peculiar sort of second insight into the initial

encounter between Robert Smith's legacy—his "mark," as Morrison terms it—and Milkman Dead, a protocol for imagining, at the level of trauma and psychological development, what transpires when an infant's birth is inextricably linked to a man crashing to his demise right in front of him. Though Lacan's analysis is useful for its metaphorical breadth, I would like to read against the grain of it here so as to honor the particularity of the mirroring that passes between Milkman and Robert Smith, as I think it contains elements of the Lacanian mirror stage but ultimately drives the subject of the stage, the child glaring into the mirror, in a slightly divergent direction than Lacan's theory, as presented here, can account for. Though there is undoubtedly a certain identification that takes place between Milkman and Robert Smith, I would argue that Milkman spends much of *Song of Solomon* actively disinvesting in the illogical, seemingly spontaneous activity we see from Smith in the book's earliest scenes.

Milkman, like his father, Macon Dead II, is exceedingly practical. His emotions are primarily invested in what can be held or owned. Milkman does not see an "ideal-I" in Smith but rather an *anti-ideal-I*, a portent, a warning of what happens when one seeks to elide or evade the law. The image of Smith's beautiful, crashing body haunts Milkman. It stands in as a representative of all that he seeks to avoid, the risk of loving anything too much, even one's own freedom, and the various kinds of leaping or leaving that might attend such love. Milkman's unceasing practicality, which could also be read as willful avoidance, though certainly not a lack, of something like creativity or daring, is a result of this origin steeped in blood, this cracked mirror image staring back at him from when he first entered the world. *Song of Solomon* is full of this sort of troublesome mirroring, replete with figures that look to elders and see versions of themselves they desperately seek to evade. Thus, the disappointment inherent to this version of the mirror stage lies not in the asymptotic approach of an ideal that never arrives but in the disappointment of a reflection that is inescapable, a model that is marked by failure, the *anti-ideal-I* that is always already a haunting presence that is nonetheless enfleshed. It is, to use Lacan's language, "a fictional direction that will forever remain irreducible for any single individual or, rather, that will only asymptotically approach the subject's becoming" primarily in the sense that these images, these living reflections, are fixtures from which characters like Milkman are always on the run. The images approach asymptotically, without ever reaching the body of the onlooker, because that is as close as Milkman and others will

allow them. Robert Smith is indeed a mirror, the kind that Milkman has no interest in confronting. Given the persistence of Milkman's desire to fly, a desire that manifests itself in a number of palpable ways toward the conclusion of the novel, this rejection—that is, of Robert Smith as origin narrative, as the chaos from which Milkman's world emerges—is a reasonable strategy, one that allows Milkman to conduct a relatively safe, bourgeois lifestyle without the threat of reckless dreaming. In *Song of Solomon*, the figure of the anti-ideal-I is, from the outset, inextricably linked to images that are not mere extensions of psyche but living persons that Morrison's characters must contend with. For Milkman, the image of Robert Smith failing to fly—which is also, it should be noted, a failure to keep a promise he made in the note pasted to the front of his home—is just such a point of contention, as well as of fraught identification, throughout the novel.

The weight of Smith's failure lingers and ultimately manifests itself in ways that mark Milkman even beyond the supposed peculiarity that is often remarked on during his childhood. Beyond what the narrator refers to as a certain dullness—which registers here not just as the absence or suppression of intelligence but also as a lack of color or vibrancy, a doubling that is especially important given the splendor of Robert Smith's sartorial performance the day of his failed flight and only gains more traction as the novel picks up speed, its color palette widening all the while—there remains the issue of Milkman's wounded imagination, the ways in which the Smith crash serves as a swift, irrefutable education on the relationship between black men and the limits of law. As Milkman soon learns, the algorithm is relatively simple: bucking the law courts a quick death and ultimately makes one's life ungrievable.¹⁵ ◆

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NOTES

Playing in the Dark: Whiteness and the Literary Imagination

1. Killis Campbell, "Poe's Treatment of the Negro and of the Negro Dialect," *Studies in English*, 16 (1936), p. 106.

Soul by Soul: Life Inside the Antebellum Slave Market

1. For the evolution of the market from a place to a power see Jean-Christophe Agnew, *Worlds Apart: The Market and the Theater in Anglo-American Thought, 1550–1750* (Cambridge: Cambridge University Press, 1986).
2. *Coulter v. Cresswell*, #2734, 7 La. Ann. 367 (1852), testimony of J. M. Wilson and David Wise, UNO; *Peyton v. Richards*, #3523, 11 La. Ann. 63 (1856), testimony of J. W. Boazman, UNO.
3. John Brown, *Slave Life in Georgia: A Narrative of the Life, Sufferings, and Escapes of John Brown, a Fugitive Slave Now in England*, L. A. Chamerovzow, ed. (London, 1855; Savannah, GA: The Beehive Press, 1991), 112; William Wells Brown, *Narrative of William Wells Brown, A Fugitive Slave, Written by Himself* (1847), in Gilbert Osofsky, ed., *Puttin' on Ole Massa* (New York, 1969), 193. For "blacking" see *Ledger of Accounts*, Tyre Glen Papers, RASP, and John White, *Day Book*, April 19, 1845, UMC; for tallow see White, *Day Book*, January 4, 1845, UMC.
4. For fattening diet see John White, *Day Book*, January 5, 29, April 12, 13, May 2, 1845, June 12, 1846, *passim*, UMC; for the quotation see A. J. McElveen to Ziba Oakes, September 8, 1856, reproduced in Edmund Drago, ed., *Broke by the War: Letters of a Slave Trader* (Columbia, S.C., 1991).
5. John Brown, *Slave Life in Georgia*, 95–96; William Wells Brown, *Narrative*, in Osofsky, ed., *Puttin' on Ole Massa*, 194; Moses Roper, *A Narrative of the Escape and Adventure of Moses Roper* (London, 1838), 62; Henry Bibb, *Narrative of the Life and*

- Adventures of Henry Bibb, An American Slave, Written by Himself* (New York, 1845), in Osofsky, ed., *Puttin' on Ole Massa*, 115.
6. *Dohan v. Wilson*, #5368, 14 La. Ann. 353 (1859), testimony of Dr. J. H. Lewis, UNO; *Stillwell v. Slatter*, unreported Louisiana Supreme Court case #4845 (1843), testimony of Dr. John J. Carr, UNO; *Murphy v. Mutual Benefit & Fire Insurance Company of Louisiana* #2244, 6 La. Ann. 518 (1851), testimony of Dr. John J. Carr, UNO. See also *Mulholland v. Huie*, #3200, 12 La. 241 (1838), testimony of Abraham R. Jones, UNO; *Peterson v. Burn*, #912, 3 La. Ann. 655 (1848), testimony of William B. Williams, UNO; *Kock v. Slatter*, #1748, 5 La. Ann. 734 (1850), testimony of Dr. M. Mackie, UNO.
7. *Succession of Cresswell*, #2423, 8 La. Ann. 122 (1853), UNO; John White, *Day Book*, 1846, *passim*, UMC; *Perkins v. Shelton*, unreported Louisiana Supreme Court case #5654 (1859), testimony of E. F. Harrot, UNO; *Lynch and Wiesman v. McRae*, unreported Louisiana Supreme Court case #270 (1859), UNO; Solomon Northup, *Twelve Years a Slave*, Joseph Logsdon and Sue Eakin, eds. (Baton Rouge: Louisiana State University Press, 1968), 55; ordinance XLVII, articles 2 and 3 (passed June 8, 1841), in *Digest of the Ordinances and Resolutions of the General Council of the City of New Orleans* (New Orleans, 1845), 28.
8. John White, *Day Book*, February 3, 5, 14, 16, 19, 21, 1846, UMC.
9. N. C. Folger to John White, bill for clothing purchased in New Orleans, dated October 1, 1857 (and totaling \$585.25), Chinn Collection, MHS; John White, *Day Book*, *passim*, UMC; Tyre Glen account with Bragg and Stewart, 1833, Tyre Glen Papers, RASP; Whitehead and Loftus Account Book, 1835–1837, Floyd Whitehead Papers, DU; *Succession of Cresswell*, unreported Louisiana Supreme Court case #3521 (1954), UNO. See also Charles Ball, *Fifty Years in Chains: Or the Life of an American Slave* (New York, 1859), 70–81; Roper, *Narrative*, 63; Bibb, *Narrative*, in Osofsky, ed., *Puttin' on Ole Massa*, 116, 136.
10. Eyre Crowe, “The Slave Market in New Orleans,” *Harper’s Weekly Magazine*, January 24, 1863, 197; Joseph Holt Ingraham, *The Southwest by a Yankee* (New York: Harper & Brothers, 1835), II, 193, 197; Robert Chambers “Journal,” October 1853, in Frederick Law Olmsted, *The Cotton Kingdom: A Traveler’s Observations on Cotton and Slavery in the American Slave States* (New York, 1862), II, 597.
11. Whitehead and Loftus Account Book, 1835–1837, Floyd Whitehead Papers, DU; N. C. Folger to John White, bill for clothing purchased in New Orleans, November 1, 1857, Chinn Collection, MHS; John White, *Day Book*, December 17, 1844, February 28, 1844, UMC; A and A. J. Walker, *Account Book*, 69 (March 14, 1852), Walker Papers, UNC.
12. John Brown, *Slave Life in Georgia*, 100; see also Northup, *Twelve Years a Slave*, 51.
13. John White, *Slave Record*, 1846, UMC; *Gourjon v. Cucullu*, #2324, 4 La. 115 (1852), list of Negroes on board brig *Seraphim*, Compte de Vente du 94 esclaves reçu par le brick *Seraphim*, and testimony of Charles Tremot, UNO.

14. *Code Noire*, sections 8 and 9, quoted in Judith Kelleher Schafer, *Slavery, the Civil Law, and the Supreme Court of Louisiana* (Baton Rouge: Louisiana State University Press, 1994), 165; *Laws of Louisiana, 1829, 1st Session, 9th Legislature*, reproduced in Henry J. Levoy, ed., *The Laws and General Ordinances of New Orleans* (New Orleans, 1857), 269.
15. Michael Tadman, *Speculators and Slaves: Masters, Traders, and Slaves in the Old South* (Madison: University of Wisconsin Press, 1989), 153–154.
16. Brenda Stevenson, *Life in Black and White: Family and Community in the Slave South* (New York: Oxford University Press, 1996), 182–183, 224.
17. John White, *Slave Record*, 1846, UMC; *Coulter v. Cresswell*, #2734, 7 La. Ann. 367 (1852), testimony of J. W. Boazman and David Wise, UNO.
18. Robert Fogel and Stanley Engerman, eds., *The New Orleans Slave Sample, 1804–1862*, database available from the Inter-University Consortium for Political and Social Research.
19. Northup, *Twelve Years a Slave*, 51. See also John Brown, *Slave Life in Georgia*, 96–100.
20. For the traders' reputation see Tadman, *Speculators and Slaves*, 179–189.
21. Slave Sale Broadside, May 13, 1835, LSU; *Wright, Allen & Co. v. Railley*, #5731, 13 La. Ann. 536 (1858), testimony of Edward Sparrow, UNO. Washington, Jackson & Co. to Daniel Turnbull, October 13, 1859, Turnbull-Bowman Family Papers, LSU (thanks to Sally Prosek for this reference); *Smith v. Taylor*, #5755, 10 Rob. 133 (La. 1845), testimony of H. Cobbs; *Perkins v. Shelton*, unreported Louisiana Supreme Court case #5654 (1859), testimony of R. W. Levy, UNO.
22. "Sale of valuable Servants," 1838, mss 44 f. 86, HNO; *Hewes v. Baron*, #1641, 7 Mart. (N.S.) 134 (1828), testimony of Edward Durin, UNO.
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27. For these insults see D. R. Hundley, *Social Relations in Our Southern States* (New York, 1860; reprinted Baton Rouge, 1960), 139–149; and Tadman, *Speculators and Slaves*, 179–192.
28. *Dixon v. Chadwick*, #4388, 11 La. Ann. 215 (1856), John W. Cole, UNO; *Hepp v. Parker*, #1788, 8 Mart. (N.S.) 473 (1830), testimony of L. A. Gaiennie, UNO; Douglas to William Hamilton, March 3, 1857, William Hamilton Papers, LSU; William D. Hennen, ed., *Digest of the Reported Decisions of the Superior Court of the Late Territory of*

- Orleans; the Late Court of Errors and Appeals; and the Supreme Court of Louisiana* (Boston, 1852), 1409. *Hitchcock v. Hewes*, #1935, 1 La. 311 (1830), testimony of James Ervin, UNO; *Nixon v. Boazman and Bushy*, #3485, 11 La. Ann. 750 (1856), testimony of A. Celoi and T. Reddington, UNO; *White v. Hill*, #3958, 10 La. Ann. 189 (1855), testimony of G. W. Munday, UNO; *Hewes v. Baron*, #1641, 7 Mart (N.S.) 134 (1828), plaintiff's petition and testimony of J. Dupin; *Lemos v. Daubert*, #4198, 8 Rob. 224 (La. 1844), testimony of Maurice Barnett, UNO.
29. James Redpath, *The Roving Editor, or Talks with Slaves in the Southern States* (New York, 1859), 252. On race and slavishness as imitation see Ariela Gross, "Pandora's Box: Slave Character on Trial in the Antebellum Deep South," *Yale Journal of Law and the Humanities*, 7 (1995), 283–288.
30. Anton Reiff, *Journal*, 42 (February 18, 1856), LSU.
31. *Eulalie, f.w.c. and her Children v. Long and Mabry*, #3237, 9 La. Ann. 9 (1854), testimony of Pierre Pouche, L. M. Foster, and the decision of the Supreme Court, UNO; *Euphemié, f.w.c. v. Juliet and Jourdan*, unreported Louisiana Supreme Court case #6740 (1865), plaintiff's petition, testimony of Juliette Maran, decision of the Supreme Court, UNO; see also *Eulalie, f.w.c. v. Long and Mabry*, #3979, 11 La. Ann. 463 (1856), and *Andrinette, f.w.c. and her Children v. Maran*, f.w.c., unreported Louisiana Supreme Court case #6741 (1865), UNO. The acronym "f.w.c." stands for "free woman of color" and indicates the presumption of freedom which was granted under Louisiana law to anyone who appeared to be "mulatto" and sued for their freedom. For "f.w.c." (and "f.m.c."), these cases, and those of others whose suits for freedom were heard by the Louisiana Supreme Court see Schafer, *Slavery, the Civil Law, and the Supreme Court of Louisiana*, 220–249.
32. *Merry, f.m.c. v. Chexnaider*, #1877, 8 Mart. (N.S.) 699 (1830), plaintiff's petition and decision of the Supreme Court, UNO; Northup, *Twelve Years a Slave*, 12–20; *Young, f.m.c. v. Egan*, #4075, 10 La. Ann. 415 (1855); John Wesley Dunn to Charles Dunn, January 3, 1845, John Wesley Dunn Letter, 81-73-L, HNO. See also Schafer, *Slavery, the Civil Law, and the Supreme Court of Louisiana*, 250–288.

Violence over the Land: Indians and Empires in the Early American West

1. Janet Lecompte, *Pueblo, Hardscrabble, Greenhorn: The Upper Arkansas, 1832–1856* (Norman: University of Oklahoma Press, 1978), 237; Virginia McConnell Simmons, *The Ute Indians of Utah, Colorado, and New Mexico* (Boulder: University of Colorado Press, 2000), 83–84.
2. For overviews of the many Indian conflicts after the U.S.–Mexican War, see Robert M. Utley, *The Indian Frontier of the American West, 1846–1890* (Albuquerque: University of New Mexico Press, 1984).
3. Lecompte, 238; Robert V. Hine, *In the Shadow of Frémont: Edward Kern and the Art of American Exploration, 1845–1860* (1962; reprint, Norman: University of Oklahoma

- Press, 1982), 65; Alpheus H. Favour, *Old Bill Williams, Mountain Man* (Chapel Hill: University of North Carolina Press, 1936), 179. See also “James S. Calhoun to Commissioner of Indian Affairs Orlando Brown,” November 15, 1849, in *The Official Correspondence of James S. Calhoun, While Indian Agent in Santa Fe and Superintendent of Indian Affairs in New Mexico*, ed. Annie Heloise Abel (Washington, D.C.: Government Printing Office, 1915), 77; and “Carson, Christopher, Bounty Land Papers,” MSS P-E 64, box 3, folders 1–3, KCP.
4. For changing ecologies and herds in the San Luis Valley, see Hafen, *Ruxton of the Rockies*, 200, 210; and Andrews, “Tata Atanasio Trujillo’s Unlikely Tale.”
5. See note 8 below for evidence of Ute leaders’ diplomatic reactions to Whittlesey’s “murders.”
6. In October 1849 Jicarilla Apaches and possibly Muache Ute allies attacked James White’s caravan, capturing Ann White, her daughter, and an African American servant, all of whom were killed. As with Kern’s and Williams’ murders, such Ute involvement may have been a response to Whittlesey’s spring raid. See Simmons, *Ute Indians*, 86; and Veronica E. Velarde Tiller, *The Jicarilla Apache Tribe: A History, 1846–1970* (Lincoln: University of Nebraska Press, 1983), 34–36. Carson participated in the subsequent cavalry pursuit and made no mention of Utes. See Carter, “Dear Old Kit,” 124–126. See also Dunlay, *Kit Carson and the Indians*, 138–140.
7. “Calhoun to Brown,” January 1, 1850, in Abel, *Official Correspondence of James Calhoun*, 96.
8. Ibid., 96–97. See also “Calhoun to the Utah Chiefs,” December 3, 1849; and “Calhoun to the Prefect of Abiqui[u],” December 20, 1849, *ibid.*, 90, 92. For earlier signs of Ute “disposition” to enter treaty negotiations, see “Calhoun to Commander of Indian Affairs W. Medill,” October 15, 1849, *ibid.*, 55.
9. “Treaty between the United States of America and the Utah Indians,” *ibid.*, 127–132; “Calhoun to Brown,” January 1, 1850, 97. See also “Treaty with the Utah, 1849,” in *IA, 2: 585–587*. For subsequent attempts by Ute leaders to attach themselves to the treaty, see “Alcalde Mariano Valdez to the Prefect of Taos,” January 26, 1850; and “Calhoun to Brown,” June 12, 1850, in Abel, *Official Correspondence of James Calhoun*, 126–127, 208.
10. “Report of Agent J. S. Calhoun, Oct. 12, 1850—Santa Fé,” *ARCIA*, 1850, 110; “John Greiner, Acting Superintendent of Indian Affairs, New Mexico, to Commissioner of Indian Affairs Luke Lea,” April 30, 1852; and “Report of Auguste Lacome to Colonel J. S. Calhoun U.S. Agent for the Territory New Mexico,” March 16, 1850, in Abel, *Official Correspondence of James Calhoun*, 530, 169–170. For Chico Velasquez’s amity with New Mexican officials, see also David Meriwether, *My Life in the Mountains and on the Plains: The Newly Discovered Autobiography*, ed. Robert A. Griffen (Norman: University of Oklahoma Press, 1965), 195–202.

11. "Calhoun to Lea," December 28, 1850, in Abel, *Official Correspondence of James Calhoun*, 281; "Calhoun to Lea," July 25, 1851, *ibid.*, 389; and "Greiner to Calhoun," October 20, 1851, *ibid.*, 438. See also "Letter of Agent J. S. Calhoun, July 25, 1851," *ARCIA*, 1851, 462. For Ute resistance to Mexican settlement, see "Calhoun to Secretary of State Daniel Webster," October 29, 1851; and "Grenier to Lea," April 30, 1852, in Abel, *Official Correspondence of James Calhoun*, 441, 530.
12. "To the President of the United States," February 27, 1850, in Abel, *Official Correspondence of James Calhoun*, 158.
13. For references to Calhoun's aversion to gift-giving, see "Calhoun to Brown," January 1, 1850; and "Calhoun to Indian Agent Cyrus Choice," May 10, 1850, *ibid.*, 97, 201. For select Ute depredations against Arkansas River settlements after 1850, see "Calhoun to Lea," February 2, 1851, *ibid.*, 288. An earlier dispute between Utes and residents at Abiquiu had left seven dead as Utes also stole 2,425 sheep, 518 goats, 43 cows, 29 oxen, 4 burros, and 3 horses. See "Choice to Calhoun," February 5, 1850, *ibid.*, 142–144. For contrasts between Ute and Arapaho, Cheyenne, and Kiowa treaty provisions, see Lecompte, 239; and "Report of Supt. Mitchell, Transmitting Treaty with Prairie and Mountain Tribes at Fort Laramie," *ARCIA*, 1851, 288–290.
14. Carter, "Dear Old Kit," 143; "Report of Governor David Meriwether," *ARCIA*, 1855, 187. See also Meriwether, *My Life in the Mountains and on the Plains*, 201–202.
15. For the "Pueblo Massacre," see Lecompte, 248–252, 270–274. For U.S. Army reprisals, see Morris F. Taylor, "Action at Fort Massachusetts: The Indian Campaign of 1855," *Colorado Magazine* 42 (1965): 292–310. See also Carter, "Dear Old Kit," 144–146; Meriwether, *My Life in the Mountains and on the Plains*, 201–202; LeRoy R. Hafen, "The Fort Pueblo Massacre and the Punitive Expedition against the Utes," *Colorado Magazine* 4 (1927): 49–58; Rafael Chacon, "Campaign against Utes and Apaches in Southern Colorado, 1855," *ibid.*, 11 (1934): 108–112; and "Mexican Colorado by P. R. Thombs," 2–3, MSS P-L 64, H. H. Bancroft Collection, Bancroft Library, University of California, Berkeley. For other Ute raids, see *RES*, 2: 35; "Carson, Christopher, Outgoing Letters, 1849–1865," box 1, folder 1, KCP. In a February 28, 1855, letter, Carson reports more than 4,000 sheep and goats taken from northern New Mexico.
16. See "Articles of Agreement and Convention made . . . by David Meriwether . . . U.S. Commissioner, and Chiefs of the Capote Band of the Ute Nation" and "Articles of Agreement and Convention Made . . . by David Meriwether . . . U.S. Commissioner, and Chiefs of the Moache band of the Ute Nation," MSS P-E 239, Bancroft Library. See also "Report of Governor David Meriwether," *ARCIA*, 1855, 188–189; "Report of Agent Christopher Carson," *ibid.*, 191–192; Prucha, *American Indian Treaties*, 258–259; Simmons, *Ute Indians*, 102–103; and Carter, "Dear Old Kit," 146–147.

Southern Horrors: Women and the Politics of Rape and Lynching

1. Vernon Lane Wharton, *The Negro in Mississippi, 1865–1890* (repr.; Westport, Conn.: Greenwood Press, 1984), 140.
2. Tera Hunter, *To 'Joy My Freedom: Southern Black Women's Lives and Labors after the Civil War* (Cambridge, Mass.: Harvard University Press, 1997), 75–76.
3. Leslie A. Schwalm, *A Hard Fight for We: Women's Transition from Slavery to Freedom in South Carolina* (Urbana: University of Illinois Press, 1997); and Julie Saville, *The Work of Reconstruction: From Slave to Wage Laborer in South Carolina, 1860–1870* (New York: Cambridge University Press, 1994).
4. George Rable, *But There Was No Peace: The Role of Violence in the Politics of Reconstruction* (Athens: University of Georgia Press, 1984); and Dorothy Sterling, ed., *The Trouble They Seen: The Story of Reconstruction in the Words of African Americans* (New York: Da Capo Press, 1994).
5. Col. Samuel Thomas, Assistant Commissioner, Bureau of Refugees, Freedmen and Abandoned Lands, 39th Cong., 1st Sess., Senate Exec., 2 December 1865.
6. William Cohen, *At Freedom's Edge: Black Mobility and the Southern White Quest for Racial Control, 1861–1915* (Baton Rouge: Louisiana State University Press, 1991); Sally E. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Cambridge, Mass.: Harvard University Press, 2001); and James L. Roark, *Masters without Slaves: Southern Planters in the Civil War and Reconstruction* (New York: W. W. Norton, 1977).
7. Henry Adams, "'Testimony' Senate Report 693, 46th Congress, 2nd Session (1880)," reprinted in Sterling, *The Trouble They Seen*. See also Steven Hahn, "The Education of Henry Adams," in *A Nation under Our Feet*, 317–363.
8. Hannah Rosen, "'Not That Sort of Women': Race, Gender, and Sexual Violence during the Memphis Riot of 1866," in *Sex, Love, Race: Crossing Boundaries in North American History*, ed. Martha Hodes (New York: New York University Press, 1999), 267–293; Rosen, *Terror in the Heart of Freedom: Citizenship, Sexual Violence, and the Meaning of Race in the Postemancipation South* (Chapel Hill: University of North Carolina, 2008); Kenneth W. Goings, "Unhidden" Transcripts: Memphis and African American Agency, 1862–1920 (Thousand Oaks, Calif.: Sage, 1995); Kevin R. Hardwick, "'Your Old Father Abe Lincoln Is Dead and Damned': Black Soldiers and the Memphis Race Riot of 1866," *Journal of Social History* 27 (1993): 109–128; Altina L. Waller, "Community, Class and Race in the Memphis Riot of 1866," *Journal of Social History* 18 (1984): 223–246; and James Gilbert Ryan, "The Memphis Riots of 1866: Terror in a Black Community during Reconstruction," *Journal of Negro History* 62, 3 (1977): 243–257.
9. Rosen, "'Not That Sort of Women'" and Rosen, *Terror in the Heart of Freedom*.
10. *Memphis Riots and Massacres*, 39th Cong., 1st sess., 1865–66, H. Rept. 101, 13.

11. Testimony of Lucy Smith, *Memphis Riots and Massacres*, 39th Cong., 1st sess., 1865–66, H. Rept. 101, 197.
12. *Memphis Riots and Massacres*, 39th Cong., 1st sess., 1865–66, H. Rept. 101, 5.
13. James Hollandsworth, *An Absolute Massacre: The New Orleans Race Riot of July 30, 1866* (Baton Rouge: Louisiana State University Press, 2001).
14. Paul A. Cimbala, *Under the Guardianship of the Nation: The Freedmen's Bureau and the Reconstruction of Georgia, 1865–1870* (Athens: University of Georgia Press, 1997); and Barry A. Crouch, *The Freedmen's Bureau and Black Texans* (Austin: University of Texas Press, 1992).
15. Civil Rights Act of 1866.
16. Fourteenth Amendment to the U.S. Constitution.
17. James E. Sefton, *The United States Army and Reconstruction, 1865–1877* (Baton Rouge: Louisiana State University Press, 1967).
18. Wharton, *The Negro in Mississippi*, 151.
19. Wells, *Crusade for Justice*, 8–9.
20. Julius Eric Thompson, *Hiram R. Revels, 1827–1901: A Biography* (New York: Arno Press, 1982).
21. Willard B. Gatewood, *Aristocrats of Color: The Black Elite, 1880–1920* (Bloomington: Indiana University Press, 1990); Howard N. Rabinowitz, "Three Reconstruction Leaders: Blanche K. Bruce, Robert Brown Elliott, and Holland Thompson," in *Black Leaders of the Nineteenth Century*, ed. Leon Litwack and August Meier (Urbana: University of Illinois Press, 1988), 191–217; and Samuel Shapiro, "A Black Senator from Mississippi: Blanche K. Bruce (1841–1898)," *Review of Politics* 44 (January 1982): 83–109.
22. Allen W. Trelease, *White Terror: The Ku Klux Klan Conspiracy and Southern Reconstruction* (Baton Rouge: Louisiana State University Press, 1971); Hahn, *A Nation under Our Feet*, 217–265; Scott Reynolds Nelson, *Iron Confederacies: Southern Railways, Klan Violence and Reconstruction* (Chapel Hill: University of North Carolina Press, 1999); George Rable, *But There Was No Peace*; and Joel Williamson, *A Rage for Order: Black–White Relations in the American South since Emancipation* (New York: Oxford University Press, 1986).
23. Well, *Crusade for Justice*, 9–10.
24. Hannah Rosen, "Sexual Violence as Political Fantasy" (paper presented at 65th Annual Meeting of the Southern Historical Association, November 3–6, 1999, in author's possession).
25. Trelease, *White Terror*, 275.
26. *Testimony Taken by the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States* (Mississippi), vol. 12, 1149–1150.
27. *Testimony*, Mississippi, vol. 12, 1155.
28. Foner, *Reconstruction*, 429.

29. Rosen, *Terror in the Heart of Freedom*; Martha Hodes, *White Women, Black Men: Illicit Sex in the Nineteenth-Century South* (New Haven: Yale University Press, 1999), 144; and Hodes, “The Sexualization of Reconstruction Politics: White Women and Black Men in the South after the Civil War,” *Journal of the History of Sexuality* 3 (January 1993): 402–417.
30. *Testimony*, Mississippi, vol. 12, 888–890.
31. Martha Hodes, “Wartime Dialogues on Illicit Sex: White Women and Black Men,” in *Divided Houses: Gender and the Civil War*, ed. Catherine Clinton and Nina Silber (New York: Oxford University Press, 1992); Hodes, ed., *Sex, Love, Race: Crossing Boundaries in North American History* (New York: New York University Press, 1999); and Holder, “Making the Body Politic,” 154–168.
32. *Testimony*, Mississippi, vol. 12, 1085.
33. Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (London: Oxford University Press, 2009); Pascoe, “Race, Gender, and the Privileges of Property: On the Significance of Miscegenation Law in United States History,” in *New Viewpoints in Women’s History: Working Papers from the Schlesinger Library Fiftieth Anniversary Conference, March 4–5, 1994*, ed. Susan Ware (Cambridge, Mass.: Arthur and Elizabeth Schlesinger Library on the History of Women in America, 1994), 99–122; James Hugo Johnson, *Race Relations in Virginia and Miscegenation in the South, 1776–1860* (Amherst: University of Massachusetts Press, 1970); Joel Williamson, *New People: Miscegenation and Mulattoes in the United States* (Baton Rouge: Louisiana State University Press, 1995); and Hannah Rosen, “The Rhetoric of Miscegenation and the Reconstruction of Race: Debating Marriage, Sex, and Citizenship in Postemancipation Arkansas,” in *Gender and Slave Emancipation in the Atlantic World*, ed. Diana Paton and Pamela Scully (Duke University Press, 2005), 289–309.
34. *Testimony*, Mississippi, vol. 11, 76.
35. Ibid., 310.
36. Ibid., 672.
37. Holder, “Making the Body Politic.”
38. Rosen, *Terror in the Heart of Freedom*; Hodes, “Sexualization of Reconstruction Politics.”

Freedom Struggles: African Americans and World War I

1. “Negro Soldier Kills Conductor and Badly Injures Motorman of Anniston Street Car Sunday,” *Anniston Star*, December 16, 1918, 1, in *Caldwell Case*, Vertical File, Alabama Room, Anniston Public Library, Anniston, Alabama. The witness testimony comes from the trial excerpt in the same vertical file.
2. Wellington G. Dixon, “A Letter to the Mustered Out Soldiers of the One Hundred and Fifty-Seventh,” *Emancipator*, December 28, 1918, 1.
3. Abbé Siéyès quoted in Immanuel Wallerstein, “Citizens All? Citizens Some! The

- Making of the Citizen," *Comparative Studies in Society and History* 45 (October 2003): 651.
4. Charles H. Williams to Captain J. E. Cutler, Military Morality Staff, November 16, 1918, enclosure: "A Survey of the Social and Religious Conditions among Colored Soldiers at Camp McClellan and Anniston, Alabama," Charles H. Williams, November 7, 1918, FSAA.
 5. Sergeant Bernard O. Henderson to W. E. B. Du Bois, December 18, 1918, Part 9A, NAACP Papers.
 6. W. F. D. Bardeleben to Archibald Grimke, December 11, 1918, Archibald Grimke Papers, Moorland-Spingarn Research Center, Howard University; Mrs. E. H. Jefferson to Emmett J. Scott, December 19, 1918, Casefile 10218-27, RG 165, NARA II.
 7. "Negro Prisoner Dies of Pneumonia," *Atlanta Constitution*, February 16, 1919, B3; Robert Gilbert to W. E. B. Du Bois, December 12, 1918, Part 9A, NAACP Papers.
 8. Williams, "A Survey of the Social and Religious Conditions among Colored Soldiers at Camp McClellan and Anniston, Alabama."
 9. The flu affected 25 percent of the U.S. population and an estimated 20 percent of the world's population. Tallies of flu-related deaths range from 20 to 100 million, or roughly 2.5 percent of those who caught the virus. On the influenza epidemic of 1918, see Alfred W. Crosby, *America's Forgotten Pandemic: The Influenza Virus of 1918* (Cambridge, Mass.: Cambridge University Press, 1991). Ely Green lost a number of his white sponsors in Waxahachie and most of his black family in Sewanee to the flu. See Elisha Green, *Ely: Too Black, Too White* (Amherst: The University of Massachusetts Press, 1970), 444, 446.
 10. Williams, "A Survey of the Social and Religious Conditions Among Colored Soldiers at Camp McClellan and Anniston, Alabama."
 11. Writing about Birmingham in the 1930s and 1940s, Robin D. G. Kelley has characterized streetcars in Alabama and across the south as "moving theaters," martial sites and venues of performance. He sees them as crucial venues for enacting dramas of white supremacy and black resistance and notes that white conductors and white working-class passengers often turned to violence against black men and women to enforce Jim Crow. See Kelley, "Congested Terrain: Resistance on Public Transportation," *Race Rebels: Culture, Politics and the Black Working Class* (New York: The Free Press, 1994).
 12. Caldwell's place and year of birth are recorded in *Registers of Enlistments in the U.S. Army, 1798–1914*, vol. 127, microcopy held at NARA. Although the Register lists September 7, 1889, as his birth year, it also gives his age as 21 in early 1913.
 13. J. William Harris writes of WWI tensions that "A black man in uniform was a walking contradiction of the idea that only whites could enjoy full honor." See Harris, *Deep Souths: Delta, Piedmont, and Sea Island Society in the Age of Segregation* (Baltimore: The Johns Hopkins University Press, 2001), 235.

14. "Negro Soldier Shoots Anniston Conductor and Injures Motorman," *Birmingham Age-Herald*, December 16, 1918, 1; "Negro Soldier Kills Conductor, Wounds Motorman," *Atlanta Constitution*, December 16, 1918, 1. The *Cleveland Advocate*, an African American paper, exulted in Caldwell's behavior but initially carried the same explanation: "Soldier Defies Jim-Crowism, Shoots Two Men in a Row," *Cleveland Advocate*, December 21, 1918, 1. W. E. B. Du Bois claimed that the fight stemmed from a fare dispute: "The Caldwell Case," *Crisis* 19 (January 1920): 131.
15. "The Caldwell Case," 131. A violent response to African Americans in uniform was not uncommon. A year earlier, the black papers ran a story about a black lieutenant who was forced to flee his hometown in disguise. Some white citizens in his town had declared that they would permit "no nigger to wear a uniform that a white man was bound to honor." See "Negro Officer Driven from Home by Southern Crackers," *Cleveland Advocate*, Saturday, November 17, 1917, 1; and "Negro U.S. Officer is Run Out of Mississippi," *New York Age*, November 15, 1917, 2.
16. Witness Testimony, Caldwell Case Vertical File.
17. "Sergeant Caldwell to Die on the Gallows," *Chicago Defender*, June 19, 1920, 1.
18. "Negro Soldier Kills Conductor," *Anniston Star*. Accounts of the altercation are given in *Caldwell v. State*, 84 So. 272; "Negro Soldier Shoots Anniston Conductor and Injures Motorman"; and "Alabama Colored Soldier's Death Sentence Affirmed by State's Highest Court," *Houston Informer*, July 26, 1919, 1.
19. *Fort McClellan, A Cultural Resources Overview*, 118.
20. "Rule Record Finished," *Birmingham Age*, January 18, 1919, 11; "Caught Four Times after Deserting from Army Service," *Atlanta Constitution*, January 6, 1919, 3.
21. The most famous antiwar Southerners were demagogues such as Vardaman, Tom Watson, and Hoke Smith, who objected to the war because they feared either the increased centralization of federal power or the enhanced civic status of African Americans. Harris, *Deep Souths*, 227–228. Yet, as Jeannette Keith points out, rural and semirural whites demonstrated their own hostility to the war effort through draft evasion and organized political protest. Keith, "The Politics of Southern Draft Resistance, 1917–1918: Class, Race, and Conscription in the Rural South," *Journal of American History* 87 (March 2001): 1335–1361. In Oklahoma, black and white people came together to protest the draft in the Green Corn Rebellion of August 1917. Jack D. Foner, *Blacks and the Military in American History* (New York: Praeger Publishers, 1974), 112.
22. Different rules applied in France, where semisanctioned lynchings of African American soldiers as well as summary executions of white and black soldiers without court martial enforced a different sort of order and reflected a different unease with the civilian population. The investigation came to no definite conclusions. See U.S. Congress, Senate, *Alleged Executions without Trial in France* (Washington, D.C.: Government Printing Office, 1923).

23. "Linten Funeral Held Tuesday at Lineville," *Anniston Star*, December 17, 1918, 1.
24. "Caldwell Writes to Officer of His Arrest," *Anniston Star*, December 19, 1918, 5.
25. "Negro Soldier Kills Conductor and Badly Injures Motorman," *Anniston Star*.
26. "Caldwell Writes to Officer of His Arrest," *Anniston Star*.
27. "Calhoun Judge Has Called Grand Jury," *Montgomery Advertiser*, December 17, 1918, 1.
28. Ibid.; "Grand Jury Will Convene Thursday to Probe Killing," *Birmingham Age-Herald*, December 17, 1918, 3.
29. "Grand Jury Will Convene Thursday to Probe Killing," *Birmingham Age-Herald*, December 17, 1918.
30. "Caldwell Is Held Without Bail for Murder," *Anniston Star*, December 19, 1918, 5.
31. Ibid.
32. "Witnesses Tell of Shooting of Car Men," *Anniston Star*, December 18, 1918, 1.
33. "Negro Soldier Kills Conductor and Badly Injures Motorman," *Anniston Star*.
34. "Niel P. Sterne Praised," n.d., Sterne Family File, Alabama Room, Anniston Public Library, Aniston, Alabama.
35. Anniston was founded in 1872 as a closed, private town connected to the Woodstock Iron Company. It opened to the public in 1883. Grace Hooten Gates, *The Model City of the New South: Anniston, Alabama, 1872–1900* (Huntsville, Ala.: Strode Publishers, 1978), 32–55.
36. "Sterne Family Meant Much to Anniston," *Anniston Star*, 1957, 16.
37. On Southern Jews' struggles for acculturation and inclusion, see Leah Elizabeth Hagedorn, "Jews and the American South, 1858–1909" (Ph.D. diss., University of North Carolina, 1999).
38. "Sterne Rites Wednesday at Home on Drive," *Anniston Star*, February 14, 1939, 1. *Official Proceedings of the Constitutional Convention of the State of Alabama, May 21, 1901—September 3, 1901* (Montgomery, Ala.: Brown Printing Company, 1901), 8.
39. *Official Proceedings of the Constitutional Convention*, 8.
40. Ibid., 10.
41. Ibid., 8, 10.
42. Ibid., 10.
43. On the cultural and political work that led to regional reconciliation and Northern acceptance of Southern white supremacy, see David Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge, Mass.: Harvard University Press, 2001).
44. *Obituary Record of Graduates of Yale University Deceased during the Year 1938–1939*, in Mervyn Sterne Files, Department of Archives and Manuscripts, Birmingham Public Library, Birmingham, Alabama.
45. "Tribute Paid to Sterne by Many of his Friends," *Anniston Star*, February 14, 1939, 1.

46. Ibid.
47. Biographical data on Hugh Merrill comes from the Merrill Family File, Alabama Room, Anniston Public Library, Anniston, Alabama. See also Alabama Department of Archives and History, *Official and Statistical Register, 1931*, 33.
48. Ibid.
49. R. R. Williams to Mr. John Shillady, January 17, 1919, NAACP / LOC.
50. "Negro Indicted for Murder in 90 Minutes," *Anniston Star*, December 20, 1918, 1.
51. Williams to John Shillady, January 10, 1919.
52. R. R. Williams to Oswald Garrison Villard, December 24, 1918, NAACP / LOC.
53. Williams, "A Survey of the Social and Religious Conditions among Colored Soldiers at Camp McClellan and Anniston, Alabama."
54. Reverend James Brown et al. to Mr. John R. Shillady, June 12, 1919, NAACP / LOC. Biographical information about Roland Robert Williams and the other legal committee members comes from their WWI Draft Registration Cards, held at NARA, Southeast Division, East Point, Georgia; copies also available on microfilm at NARA, Washington, D.C.
55. R. R. Williams to John Shillady, January 10, 1919, NAACP / LOC. In addition to the pastors who signed various letters to the NAACP about the Caldwell case, barber E. Julius Williams also wrote to the NAACP, as did merchant Thomas Jackson and undertaker James Ballard. For biographical data, see World War I Draft Registration cards as well as *Polk's Anniston City Directory, 1917–1918*.
56. *Tenth Annual Report of the National Association for the Advancement of Colored People for the Year 1919: A Summary of Work and Accounting*, January 1920, and Jonathan Rosenberg, *How Far the Promised Land: World Affairs and the American Civil Rights Movement from the First World War to Vietnam* (Princeton, N.J.: Princeton University Press, 2006), 71.
57. Emmett J. Scott, *Scott's Official History of the American Negro in the World War* (1919), 355–364. Williams wrote to the NAACP on Liberty Loan stationery with Sterne's name listed on the masthead. R. R. Williams to NAACP, n.d., NAACP / LOC.
58. R. R. Williams to Oswald Garrison Villard, December 24, 1918, NAACP / LOC.
59. Ibid.
60. R. R. Williams to John Shillady, January 10, 1919, NAACP / LOC. As with Ely Green and other voices, I am leaving the writer's spelling unmarked and uncorrected.
61. Supreme Court of Alabama, October Term, 1918–1919, 7 Div. 20, Appeal from Calhoun Circuit Court, Edgar C. Caldwell vs. State of Alabama, in *Supreme Court Records and Transcripts*, October Term, 1919, no. 636.
62. Williams to Shillady, January 10, 1919, NAACP / LOC.
63. "Caldwell Trial to Have Night Session," *Anniston Star*, January 18, 1919, 2.
64. R. R. Williams to John R. Shillady, January 17, 1919, NAACP / LOC.

65. Violations continued in spite of Supreme Court rulings. See Michael J. Klarman, "Is the Supreme Court Sometimes Irrelevant, Race and the Southern Criminal Justice System in the 1940s," *Journal of American History*, 89 (June 2002): 119–153.
66. Thomas Jackson et al. to John R. Shillady, July 12, 1919, NAACP / LOC.
67. R. R. Williams to John R. Shillady, January 17, 1919, NAACP / LOC.

The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America

1. Frederick L. Hoffman, "Vital Statistics of the Negro," *The Arena*, April 1892, 539–542. N. S. Shaler, "The Economic Future of the New South," *The Arena*, August 1890, 257–268; "The African Element in America," *The Arena*, November 1890, 660–673; "The Nature of the Negro," *The Arena*, December 1890, 23–35.
2. Hoffman claimed that he could not "secure reliable [birth] data from a single State or city." Mortuary reports, on the other hand, were abundant and reliable, yielding "considerable statistical material of great value"; see Hoffman, "Vital Statistics of the Negro," 532–533.
3. *Ibid.*, 537.
4. M. V. Ball, "Correspondence: Vital Statistics of the Negro," *The Medical News*, October 1894, 392–393; "Correspondence: The Mortality of the Negro," *The Medical News*, April 1894, 389–390.
5. Hoffman, "Vital Statistics of the Negro," 534, 537, 538–540.
6. Frederick L. Hoffman, "Suicide and Modern Civilization," *The Arena* 7 (1893): 680–695. To Hoffman's credit, Émile Durkheim's pathbreaking study of suicide in Europe did not appear until 1897, even after *Race Traits*. Hoffman went on to have a long publication record, spanning decades, on American suicides.
7. *Ibid.*, 687. The rising trend coincided with the Second Industrial Revolution. In most cases the suicide rate increase outstripped the rise in the general mortality rate and the overall population rate.
8. *Ibid.*, 683, 686–691, 694.
9. The term "emergency measures" comes from *The Arena* editor, B. W. Flower, in an editorial that appeared a few months after Hoffman's suicide article, "Emergency Measures Which Would Have Maintained Self Respecting Manhood," *The Arena* 3 (1894): 822–826. Flower's editorial was a response to the 1893 economic depression, as well as a critique of the nation's growing military budget alongside massive unemployment. "The unheeded cry for work . . . has resulted in driving numbers of men, women and children to drink, crime, suicide, and immorality. And these irreparable calamities might have been averted had our nation appreciated the importance of maintaining the manhood of her citizens and holding their loyalty by bands woven of love and wisdom" (823). Hoffman's article and Flower's editorial were linked by a shared reformist agenda on behalf of the white "masses" to correct

the imbalances of laissez-faire capitalism at the end of the Gilded Age and the dawn of the Progressive era.

10. Lundy Braun, "Spirometry, Measurement, and Race in the Nineteenth Century," *Journal of the History of Medicine and Allied Sciences* 60:2 (2005): 167. According to some scholars, Hoffman was a social Darwinist rather than a progressive in his views of the government's role in assisting the struggling white masses. Paul Finkelman writes that Hoffman "was no progressive, at least in the modern sense of the word." Finkelman argues that Hoffman rejected government regulation of health care for American workers, believing instead that "Americans should rely on private enterprises"; see Finkelman, "Introduction: On Reading and Understanding Scientific Racism: A Brief Introduction of the Work and World of Frederick L. Hoffman," in Frederick L. Hoffman, *Race Traits and Tendencies of the American Negro* (1896, reprinted Clark, New Jersey: The Lawbook Exchange, 2003), iii. In his early writings such a view is not clearly supported and was probably not yet set in stone. Hoffman's biographer writes that Hoffman "campaigned ardently for governmental regulation of health conditions," though his mature ideas "oscillated" between "self-reliance" and regulation; see Sypher, *Frederick L. Hoffman, His Life and Works*, 72. Both Sypher and Finkelman seem to agree that Hoffman "believed in the fundamental inferiority" of blacks (Sypher, *Frederick L. Hoffman, His Life and Works*, 72; Finkelman, "Introduction"). On Hoffman as a racial Darwinist, see, Fredrickson, *The Black Image in the White Mind*, 251; Joel Williamson, *A Rage for Order: Black-White Relations in the American South since Emancipation* (New York: Oxford University Press, 1986), 86–90; Vernon J. Williams, *Rethinking Race: Franz Boas and His Contemporaries* (Louisville: University of Kentucky Press, 1996), 37–38. Haller writes that his work "reflected a summation of the century's medical and anthropological accumulations concerning racial relations in America"; John S. Haller, Jr., *Outcasts from Evolution: Scientific Attitudes of Racial Inferiority, 1859–1900* (Urbana: University of Illinois Press, 1971), 62. Though I agree with Haller's statement I think he and others miss the innovative dimensions of Hoffman's work. Its broadest dimensions were most certainly grounded in the standards of racial Darwinist thought; his evocation of the Negro Problem and his focus on mortality certainly attest to this. But his emphatic use of his foreign identity to transcend the sectionalism of the period, his amazing ability to compile statistical data from far-ranging sources (comparable to Durkheim's accomplishment the following year), his coupling of northern statistics with southern ones, a real first among race-relations experts, and finally his attention to black crime statistics in particular, when all put together, were a show of real genius and innovation for someone who truly wanted northerners to be sympathetic to southerners' racial worldview.
11. Frederick L. Hoffman, "Correspondence: Vital Statistics of Negro," *The Medical News* 65:12 (1894): 323.
12. Megan J. Wolff, "The Myth of the Actuary: Life Insurance and Frederick L. Hoffman's

- Race Traits and Tendencies of the American Negro," Public Health Reports* 121 (January–February 2006): 91.
13. William Darity, Jr., "Many Roads to Extinction: Early AEA Economists and the Black Disappearance Hypothesis," *History of Economics Review* 21 (1994): 50–54.
14. R. M. Cunningham, "The Morbidity and Mortality of Negro Convicts," *The Medical News* 64:5 (1894): 113.
15. Ibid., 115. For a comparison of Cunningham's claim of Alabama's race-neutral prisons to a recent historian's assessment, see Mary Ellen Curtin, *Black Prisoners and Their World, Alabama, 1865–1900* (Charlottesville: University Press of Virginia, 2000), 113, 116.
16. Ball, "The Mortality of the Negro," 389, 390.
17. Hoffman, "Vital Statistics of Negro," 320, 321.
18. Ibid., 321. For the third straight time, Hoffman claimed to present original data on mortality, first with black health statistics in 1892, then with white suicide in 1893, and now with the "first attempt to present in tabular form the mortality for a number of West Indian colonies."
19. Ibid., 322–323. Hoffman came closest to directly engaging Ball's analysis when he showed that native and foreign whites in Boston, Massachusetts, Providence, Rhode Island, and Washington, D.C., lived on average ten years longer than Boston's blacks. The data were limited, uneven, and awkwardly presented, since he had no "Colored" data for Providence and Washington, and no "Foreign" data for Boston. He also admitted that "the Irish population shows some similarity in its mortality to the negro population," but not enough data were available, so "a consideration of this point would be inadvisable."
20. Wolff, "The Myth of the Actuary," 6.
21. Mark Aldrich, "Progressive Economists and Scientific Racism: Walter Willcox and Black Americans, 1895–1910," *Phylon* 40:1 (1979): 1–14; Thomas Gossett, *Race: The History of an Idea in America* (1963, reprinted New York: Oxford University Press, 1997); Fredrickson, *The Black Image in the White Mind*; Baker, *From Savage to Negro*; Rayford Logan, *Betrayal of the Negro* (1954, reprinted London: Collier, 1969).
22. Dorothy Ross, *The Origins of American Social Science* (New York: Cambridge University Press, 1991); Theodore M. Porter, *The Rise of Statistical Thinking, 1820–1900* (Princeton: Princeton University Press, 1986).
23. Author's italics, Dr. A. Corre, "Le Crime en Pays Creoles," (Paris, 1889), quoted in Hoffman, "Vital Statistics of Negro," 323.
24. Ibid.
25. Prior to the late 1860s, the vast majority of black people, as enslaved men, women, and children, were generally subjected to plantation punishment for their real or perceived transgressions rather than being punished according to the policies and practices of criminal justice agencies. As David Oshinsky observes for antebellum Mississ-

sippi, criminal justice “was meant for white folk alone. Slaves ‘had no rights to respect,’ wrote one authority, ‘no civic virtue or character to restore, no freedom to abridge.’ Slaves were the property of their master, and the state did not normally intervene. In the words of one Natchez slaveholder, ‘Each plantation was a law unto itself’”; Oshinsky, “Worse Than Slavery”: *Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Free Press, 1996), 6. For more evidence on the absence of blacks in prisons of the antebellum South, see Curtin, *Black Prisoners and Their World*, 6; Edward L. Ayers, *Crime and Punishment in the 19th Century American South* (New York: Oxford University Press, 1984), 61.

26. Kali N. Gross, *Colored Amazons: Crime, Violence, and the Black Women in the City of Brotherly Love, 1880–1910* (Durham: Duke University Press, 2006).
27. Leslie Patrick-Stamp, “Numbers That Are Not New: African Americans in the Country’s First Prison, 1790–1835,” *Pennsylvania Magazine of History and Biography* 119 (1995): 95–128; Mary Frances Berry, *The Pig Farmer’s Daughter and Other Tales of American Justice: Episodes of Racism and Sexism in the Courts from 1865 to the Present* (New York: Vintage Books, 1999).
28. H. H. Powers’s AAAPSS review noted that a textbook of this nature anticipated a large audience that did not yet exist. Yet he expected one was “certain to develop rapidly in the near future”; see H. H. Powers, “Review of *An Introduction to the Study of the Dependent, Defective and Delinquent Classes* by Charles R. Henderson,” AAAPSS 4 (January 1894): 174. Powers’s prediction was right; a reviewer of the second edition (1901) referred to the first edition as a “pioneer work”; see Samuel W. Dike, “Review of *An Introduction to the Study of the Dependent, Defective and Delinquent Classes*, by Charles R. Henderson,” *American Journal of Theology* 6:3 (1902): 640. Another reviewer of the second edition called the text “comprehensive” and “the only work in English covering the entire field”; see J. E. Hagerty, “Review of *An Introduction to the Study of the Dependent, Defective and Delinquent Classes* by Charles R. Henderson,” AAAPSS 19 (January 1902): 136–137. Slavery had, of course, minimized the need for thinking criminologically about the vast majority of blacks, even though free blacks in the colonial and antebellum eras were often defined as a race of dangerous criminals. The real need arrived with emancipation, and the tools to statistically track black criminality arrived with the 1890 census, the first clear picture of blacks born outside of slavery.
29. To Henderson’s credit, he did not take Hoffman’s 1896 interpretation as the last word on the matter, though like Hoffman he did emphasize that the primary causes of black criminality were “racial inheritance, physical and mental inferiority, barbarian and slave ancestry and culture”; Charles R. Henderson, *An Introduction to the Study of the Dependent, Defective and Delinquent Classes*, 2nd ed. (Boston: D.C. Heath and Co, 1901), 247. Henderson added that social factors had contributed to black criminality, especially in the North, noting economic discrimination, trade union exclusion, and racial

- prejudice. Henderson credited the earliest work of two pioneering black social scientists, W. E. B. Du Bois and Monroe N. Work, whose statistical research on northern black criminality had been published in 1899 and 1900 respectively, following the path blazed by Hoffman's *Race Traits*; W. E. B. Du Bois, *The Philadelphia Negro* (1899, reprinted Millwood, New York: Kraus-Thomson Organization Ltd, 1973); Monroe N. Work, "Crime among the Negroes of Chicago: A Social Study," *AJS* 6 (September 1900): 204–212.
30. Hoffman continued to consult Wright for unpublished census data, which he used in *Race Traits*, 43.
31. Carroll D. Wright, "The Relation of Economic Conditions to the Causes of Crime," *AAAPSS* 3 (May 1893): 100.
32. Cesare Lombroso, *Criminal Man*, ed. and trans. Mary Gibson and Nicole Hahn Rafter (1876, reprinted with a new introduction, Durham: Duke University Press, 2006); Stephen J. Gould, *The Mismeasure of Man*, rev. ed. (New York: Norton, 1996), 151–175; Nicole Hahn Rafter, *Creating Born Criminals* (Urbana and Chicago: University of Illinois Press, 1997); Gross, *Colored Amazons*.
33. Wright "kindly furnished" Hoffman with data again as he wrote *Race Traits*. By then, Wright had become acting U.S. census superintendent; see Hoffman, *Race Traits*, 43.
34. Harry Vrooman, "Crime and the Enforcement of Law," *The Arena* 65 (April 1895): 263–274. On Vrooman, see Ross E. Paulson, *Radicalism and Reform: The Vrooman Family and American Social Thought, 1837–1937* (Lexington: University of Kentucky Press, 1968).
35. Ball, "Vital Statistics of the Negro," 392.
36. *Ibid.*
37. *Ibid.* So did the fact that small white ethnic enclaves of poor people lived in a variety of housing from dilapidated buildings to tenements "conducted on sanitary principles." In Philadelphia, Ball observed that a model tenement occupied by blacks returned mortality rates of 10 per 1,000 compared to rates of 40 per 1,000 among blacks and whites who resided in a "court" behind the same tenement. Italians on a nearby street in the "rag-pickers district" died at a rate of 45 per 1,000.
38. *Ibid.*, 393.
39. Marilyn S. Johnson, *Street Justice, A History of Police Violence in New York City* (Boston: Beacon Press, 2003), 52, 55.
40. Ball, "Vital Statistics of the Negro," 393.
41. Hoffman, *Race Traits*, 37, 49, 50, 59, 60, 85, 310.
42. For a pioneering gendered analysis of the crimes of violence committed by black women, see Gross, *Colored Amazons*. For a seminal discussion of violence among blacks during the late nineteenth century, see Roger Lane's *Roots of Violence in Black Philadelphia* (Cambridge: Harvard University Press, 1986). Although Gross pays far greater attention to the interplay between real and imagined crimes committed by

black women (particularly in press accounts), both she and Lane are primarily interested in describing and analyzing real crime and its consequences. Gross states, “Ultimately, this book seeks to understand how black female crime functioned in the lives of the perpetrators as well as in that of the society” (3).

43. Hoffman, *Race Traits*, 221. For more on the actuarial implications of Hoffman’s book and the ways in which Prudential “and other insurers” used statistical explanations as a cover for excluding black clients because “to sell insurance policies at equal rates or for equal benefits across racial lines would offend” whites, not because they were too great a financial risk, see Wolff, “The Myth of the Actuary,” 3.
44. Hoffman, *Race Traits*, 229.
45. Philip A. Bruce, *The Plantation Negro as a Freeman, Observations on His Character, Condition, and Prospects in Virginia* (1889, reprinted Williamstown, Mass.: Corner House Publishers, 1970), 84; Hoffman, *Race Traits*, 231.
46. Bruce, v, vi, 77–92.
47. Hoffman, *Race Traits*, 228, 234.
48. Ibid., 140–141. The evidence amounted to eighteen cases of black suicide about which Hoffman claimed to have personally “collected the facts.”

Seeing Patients: Unconscious Bias in Health Care

1. Brian Smedley, Adrienne Stith, and Alan Nelson, eds., *Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care* (Washington, DC: Institute of Medicine, The National Academies Press, 2003), pp. 38–79, 82. For infant mortality, see, e.g., Willie J. Parker, “Black-White Infant Mortality Disparity in the U.S.: A Social Litmus Test,” *Public Health Reports* 118 (July-August 2003), pp. 336–337. For Harlem / Bangladesh comparison see C. McCord and H. P. Freeman, “Excess Mortality on Harlem,” *New England Journal of Medicine* 332, no. 3 (January 18, 1990), pp. 173–177.
2. Alexander R. Green et al., “Implicit Bias among Physicians and Its Prediction of Thrombolysis Decisions for Black and White Patients,” *Journal of Internal Medicine* 22, no. 9 (2007), pp. 1231–1238.
3. Lawrence D. Egbert and Irene L. Rothman, “Relation between the Race and Economic Status of Patients and Who Performs Their Surgery,” *New England Journal of Medicine* 297, no. 2 (1971), pp. 90–91.
4. Knox H. Todd et al., “Ethnicity and Analgesic Practice,” *Annals of Emergency Medicine* 35, no. 1 (January 2000), pp. 11–16.
5. In order to avoid using the cumbersome “he or she,” we have alternated between the two throughout the book.
6. Knox H. Todd et al., “Ethnicity as a Risk Factor for Inadequate Emergency Department Analgesia,” *Journal of the American Medical Association* 269, no. 12 (1993), pp. 1537–1539.
7. Vence L. Bonham, “Race, Ethnicity, and Pain Treatments: Striving to Understand the

- Causes and Solutions to the Disparities in Pain Treatments," *Journal of Law, Medicine, and Ethics* 29 (2001), pp. 52–68. Also see R. Sean Morrison et al., "'We Don't Carry That'—Failure of Pharmacies in Predominantly Nonwhite Neighborhoods to Stock Opioid Analgesics," *New England Journal of Medicine* 342, no. 14 (April 6, 2000), pp. 1023–1026.
8. H. Jack Geiger, "Racial and Ethnic Disparities in Diagnosis and Treatment: A Review of the Evidence and a Consideration of Causes," in Smedley et al., *Unequal Treatment*, p. 425.
 9. Alvin Poussaint, personal interview, February 18, 2009. Unless otherwise noted, all quotations from Poussaint are from this interview.
 10. Mary-Jo Delvecchio Good et al., "The Culture of Medicine and Racial, Ethnic, and Class Disparities in Healthcare," in Smedley et al., *Unequal Treatment*, p. 603.
 11. *Focus*, March 21, 2003.
 12. Good et al., "Culture of Medicine," p. 595.
 13. Joseph Betancourt, "Not Me! Doctors, Decisions, and Disparities in Health Care," *Cardiovascular Reviews and Reports*, May–June 2004, p. 106.
 14. Good et al., "Culture of Medicine," p. 599.
 15. Van Ryn and Burke, "Effect of Patient Race."

Bengali Harlem and the Lost Histories of South Asian America

1. Dada Amir Haider Khan, *Chains to Lose: Life and Struggles of a Revolutionary*, ed. Hasan Gardezi (New Delhi: Patriot Publishers, 1989), 130–32.
2. Ibid., 148.
3. Ibid., 140.
4. Ibid., 140–41.
5. Ibid., 140.
6. Ibid., 313–14.
7. "I wanted to get away from the waterfront and everything associated with it," he writes. Ibid., 314.
8. Ibid., 322–23.
9. Ibid., 327–29.
10. Michael A. Gomez, *Black Crescent: The Experience and Legacy of African Muslims in the Americas* (Cambridge: Cambridge University Press, 2005), 259–60. See also: Richard Brent Turner, *Islam in the African American Experience* (Bloomington: University of Indiana Press, 2003), 83–90. While Duse Mohammed Ali is often credited with having founded the Universal Islamic Society in 1926, both Dada Khan's account and records of incorporation suggest that the organization dates to the fall of 1925. Khan, *Chains to Lose*, 422–24. Duse Mohammed Ali's own account, that he was invited to Detroit by "some Indian Muslims . . . in New York" to help them in "establishing a prayer room with a regular system of weekly prayers," suggests that members of the

ex-maritime community may have had a hand in the beginnings of Duse Mohammed's Detroit activities. Khambiz GhaneaBassiri, *A History of Islam in America* (Cambridge: Cambridge University Press, 2010), 206.

11. For a detailed account of the Ossian Sweet case, see Kevin Boyle, *Arc of Justice: A Saga of Race, Civil Rights, and Murder in the Jazz Age* (New York: Henry Holt, 2004).
12. UK / FOC: Dispatch from British Consul, Detroit, MI to the Rt. Hon. Austen Chamberlain, M. P., His Majesty's Principal Secretary for Foreign Affairs, Foreign Office, London, England, Dec 2, 1925, FO 371 / 10639 (A6330). See also: UK / FOC, Dispatch from British Consulate, Detroit, MI to the British Embassy, Washington, D.C., September 25, 1929, FO 371 / 13534 (A6872).
13. Khan, *Chains to Lose*, 415–16.
14. Turner, *Islam in the African American Experience*, 83.
15. Khan, *Chains to Lose*, 417.
16. Ibid., 420–21.

Lines of Descent: W. E. B. Du Bois and the Emergence of Identity

1. W. E. B. Du Bois, *The Souls of Black Folk* (New York: Oxford University Press, 2007; originally published in 1903), 24–25 (hereafter *Souls*).
2. Du Bois, "The Superior Race," *Smart Set* 70, no. 4 (April 1923): 60 (hereafter "Superior Race"); and see *Dusk of Dawn* (New York: Oxford University Press, 2007; originally published in 1940), p. 77 (hereafter *Dusk of Dawn*).
3. *Souls*, p. 1.
4. W. E. B. Du Bois, *Worlds of Color* (New York: Oxford University Press, 2007; originally published in 1961), p. 240.
5. We find Du Bois here in a rare moment of modesty. W. E. B. Du Bois, "The Souls of Black Folk," *The Independent* 57, no. 2920 (November 17, 1904): 1152, <http://www.webdubois.org/dbSouls-1904Essay.html>, accessed July 10, 2013. *Souls* had many distinguished admirers. William James dispatched a copy to his brother Henry on June 6, 1903, very soon after it first appeared. "I am sending you a decidedly moving book by a mulatto ex-student of mine, Dubois, professor [of] history at Atlanta (Georgia) negro College. Read Chapters VII to XI for local color, etc." William James and Henry James, *William and Henry James Selected Letters*, ed. Ignas K. Skrupskelis and Elizabeth M. Berkeley (Charlottesville: University of Virginia Press, 1997), p. 431. Henry James commended *Souls*, somewhat backhandedly, in *The American Scene* (1907), as "the only 'Southern' book of any distinction published in many a year" in the course of a complaint about what he called the "vacancy" of Southern culture. With slavery gone, James thought, it was as if there was nothing else left to reflect upon. "Had the *only* focus of life then been Slavery? . . . To say 'yes' seems the only way to account for the degree of the vacancy, and yet even as I form that word I meet as a reproach the face of the beautiful old house I just mentioned, whose ample spaces had so

- unmistakably echoed to the higher amenities that one seemed to feel the accumulated traces and tokens gradually come out of their corners like blest objects taken one by one from a reliquary worn with much handling.” Henry James, *The American Scene* (New York: Harper and Brothers, 1907), p. 402.
6. W. E. B. Du Bois, *Black Reconstruction in America: An Essay toward History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860–1880* (New York: Oxford University Press, 2007; originally published in 1935), p. 580.
7. See August Meier’s classic study *Negro Thought in America: 1880–1915* (Ann Arbor: University of Michigan Press, 1964), pp. 19–25; and C. Vann Woodward, *Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction* (New York: Oxford University Press, 1991), pp. 214–215; for emigrationism, see David Brion Davis “Exiles, Exodus and Promised Lands” (The Tanner Lecture on Human Values, Stanford University, Stanford, CA, February 22–23, 2006), http://tannerlectures.utah.edu/_documents/a-to-z/d/Davis_2007.pdf, accessed July 10, 2013.
8. *Dusk of Dawn*, p. 16.
9. See W. E. B. Du Bois, *The Correspondence of W. E. B. Du Bois*, vol. 1: *Selections, 1877–1934*, ed. Herbert Aptheker (Amherst: University of Massachusetts Press, 1973), p. 17 (hereafter *Correspondence*).
10. W. E. B. Du Bois, *The Autobiography of W. E. B. Du Bois* (New York: Oxford University Press, 2007; originally published in 1968), p. 96 (hereafter *Autobiography*).
11. Hamilton Beck, “W. E. B. Du Bois as a Study Abroad Student in Germany, 1892–1894,” *Frontiers: The Interdisciplinary Journal of Study Abroad* 2, no. 1 (Fall 1996): 45–63, http://www.frontiersjournal.com/issues/vol2/vol2-03_Beck.htm, accessed July 10, 2013 (hereafter “Study Abroad Student”).
12. *Correspondence*, 1:28.
13. Recounted in W. E. B. Du Bois, *Darkwater: Voices from within the Veil* (New York: Oxford University Press, 2007; originally published in 1920), p. 8 (hereafter *Darkwater*)—an earlier version of the essay appeared in *The Crisis* 15, no. 4 (February 1918): 167–171—and *Autobiography*, p. 115. Du Bois frequently spoke of his Lehrjahre, his Wanderjahre, and his Meisterjahre, perhaps echoing the titles of Goethe’s *Wilhelm Meisters Lehrjahre* [Wilhelm Meister’s apprenticeship] (1795–1796)—often said to be the first Bildungsroman—his *Wilhelm Meisters Wanderjahre* (1821) [Wilhelm Meister’s journeyman years] and Johannes Pustkuchen’s parodic *Wilhelm Meisters Meisterjahre* (1824) [Wilhelm Meister’s master years], whose titles mark the traditional stages—from apprentice to journeyman to master—in the medieval European craft guild.
14. W. E. B. Du Bois, *The Suppression of the African Slave Trade* (New York: Oxford University Press, 2007; originally published in 1896), p. xxxi.
15. *Darkwater*, p. 9.

16. W. E. B. Du Bois, "My Evolving Program for Negro Freedom," in Rayford W. Logan, ed., *What the Negro Wants* (Chapel Hill: University of North Carolina Press, 1944), p. 60 (hereafter "Evolving Program").
17. Eulogizing Stalin, in 1953, Du Bois wrote, "His judgment of men was profound." Du Bois's was erratic. "He early saw through the flamboyance and exhibitionism of Trotsky, who fooled the world, and especially America," Du Bois went on. "The whole ill-bred and insulting attitude of Liberals in the U.S. today began with our naive acceptance of Trotsky's magnificent lying propaganda, which he carried around the world. Against it, Stalin stood like a rock and moved neither right nor left, as he continued to advance toward a real socialism instead of the sham Trotsky offered." Du Bois, "On Stalin," *National Guardian*, March 16, 1953, reprinted in W. E. B. Du Bois, *Newspaper Columns by Du Bois*, ed. Herbert Aptheker (White Plains, NY: Kraus-Thomson, 1986), vol. 2, p. 910. Du Bois emerged from his seventies a rather doctrinaire Communist, refusing even to criticize the Soviet invasion of Hungary in 1956. David Levering Lewis notes that Du Bois had fervid praise for Mao at a time when tens of millions of Chinese were dying of starvation: "As they moved about Beijing in their ceremonial cocoon, Du Bois and [his wife] Graham Du Bois knew absolutely nothing of the catastrophe inflicted upon the Chinese people by their omnipotent ruler." David Levering Lewis, *W. E. B. Du Bois, 1919–1963: The Fight for Equality and the American Century* (New York: Henry Holt, 2000), p. 563 (hereafter *W. E. B. Du Bois, 1919–1963*).
18. Gerald Horne, *Black and Red: W. E. B. Du Bois and the Afro-American Response to the Cold War* (Albany, NY: SUNY Press, 1985), p. 337.
19. W. E. B. Du Bois, "The Talented Tenth," in Booker T. Washington et al., *The Negro Problem* (New York: James Pott & Co., 1903), p. 33.
20. *Dusk of Dawn*, p. 74. The passage continues: "Such is the soul of the Negro."
21. "Criteria of Negro Art," *The Crisis* (1926), in *Writings*, ed. Nathan Irving Huggins (New York: Library of America, 1986), p. 1000 (hereafter *Writings*).
22. David Levering Lewis, *W. E. B. Du Bois, 1868–1919: Biography of a Race* (New York: Henry Holt, 1993), p. 10 (hereafter *Biography of a Race*); and see Edward J. Blum, *W. E. B. Du Bois: American Prophet* (Philadelphia: University of Pennsylvania Press, 2007), p. 213.
23. *Autobiography*, p. 106.
24. *National Guardian*, May 31, 1954, cited in Lewis, *W. E. B. Du Bois, 1919–1963*, p. 557.

From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America

1. Isabel Wilkerson provides a gripping account of the mass movement of African Americans between World War I and Vietnam, urging us to view the millions who fled the mob violence and sharecropping regimes of the southern states as refugees in Wilkerson, *The Warmth of Other Suns: The Epic Story of America's Great Migration*

- (New York: Vintage, 2011). For a comprehensive account of the development of the black freedom movement at midcentury and beyond, see Robin D. G. Kelley, *Race Rebels: Culture, Politics and the Black Working Class* (New York: Free Press, 1996); Manning Marable, *Race, Reform, Rebellion: The Second Reconstruction and Beyond in Black America*, 3rd ed. (Jackson: University of Mississippi Press, 2007); and Nikhil Pal Singh, *Black Is a Country: Race and the Unfinished Struggle for Democracy* (Cambridge, MA: Harvard University Press, 2005).
2. On the exclusion of African Americans from the New Deal, see Steve Fraser and Gary Gerstle, eds., *The Rise and Fall of the New Deal Order* (Princeton, NJ: Princeton University Press, 1989); Linda Gordon, *Pitied but Not Entitled: Single Mothers and the History of Welfare, 1890–1935* (New York: Free Press, 1994); Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America* (New York: W. W. Norton, 2005); George Lipsitz, *The Possessive Investment in Whiteness: How White People Profit from Identity Politics* (Philadelphia: Temple University Press, 1998); Harvard Sitkoff, *A New Deal for Blacks: The Emergence of Civil Rights as a National Issue, Volume 1: The Depression Decade* (New York: Oxford University Press, 1978). As Mason Williams has shown, prior to the federal intervention in the 1960s, urban coalitions had worked to implement various social reforms. See *City of Ambition: FDR, LaGuardia, and the Making of Modern New York* (New York: W. W. Norton, 2014). On the Economic Opportunity Act and the War on Poverty from a federal viewpoint, see Marisa Chappell, *The War on Welfare: Family, Poverty, and Politics in Modern America* (Philadelphia: University of Pennsylvania Press, 2009); Michael L. Gillette, *Launching the War on Poverty: An Oral History* (New York: Oxford University Press, 2010); Michael B. Katz, *The Undeserving Poor: From the War on Poverty to the War on Welfare* (New York, 1990); James T. Patterson, *America's Struggle against Poverty, 1900–1994* (Cambridge, MA: Harvard University Press, 1994); Michael B. Katz, ed., *The "Underclass Debate": Views from History* (Princeton, NJ: Princeton University Press, 1992); Jennifer Mittelstadt, *From Welfare to Workfare: The Unintended Consequences of Liberal Reform, 1945–1965* (Chapel Hill: University of North Carolina Press, 2005); Quadagno, *The Color of Welfare*. For grassroots perspectives on the War on Poverty, see Premilla Nadasen, *Welfare Warriors: The Welfare Rights Movement in the United States* (New York: Routledge, 2004); Annelise Orleck, *Storming Caesar's Palace: How Black Mothers Fought Their Own War on Poverty* (New York: Beacon, 2006); Annelise Orleck and Lisa Gayle Hazirjan, eds., *The War on Poverty: A New Grassroots History* (Athens: University of Georgia Press, 2011); Rhonda Williams, *The Politics of Public Housing: Black Women's Struggles against Urban Inequality* (New York: Oxford University Press, 2005).
3. Others have also pointed out the limitations of liberal support for racial equality in the 1960s and the ways in which social welfare programs were inseparable from social control desires, with the effect of preserving the racial hierarchies that have

plagued the country historically. See Francis T. Cullen and Cheryl Leo Jonson, “Rehabilitation and Treatment Programs,” in *Crime and Public Policy*, ed. James Q. Wilson and Joan Petersilia (New York: Oxford University Press, 2011); David Theo Goldberg, *The Racial State* (Malden, MA: Blackwell, 2002); Charles Mills, “Liberalism and the Racial State,” in *State of White Supremacy: Racism, Governance, and the United States*, ed. Moon-Kie Jung, Joao H. Costa Vargas, and Eduardo Bonilla-Silva (Palo Alto, CA: Stanford University Press, 2011), 27–46; Mical Raz, *What’s Wrong with the Poor? Psychiatry, Race, and the War on Poverty* (Chapel Hill: University of North Carolina Press, 2013); Daryl Scott, *Contempt and Pity: Social Policy and the Image of the Damaged Black Psyche* (Chapel Hill: University of North Carolina Press, 1997); Robert Self, *All in the Family: The Realignment of American Democracy since the 1960s* (New York: Hill and Wang, 2012).

4. See Murakawa, *First Civil Right*; Naomi Murakawa, “The Origins of the Carceral Crisis: Racial Order as ‘Law and Order’ in Postwar American Politics,” in *Race and American Political Development*, ed. Joseph Lowndes, Julie Novkov, and Dorian T. Warren (New York: Routledge, 2008), 234–255; and Weaver, “Race and Crime Policy,” and Weaver, “Race and Politics,” for further discussion on the criminalization of civil rights activists and urban civil disorder. On the direct relationship between punitive policies and “social threat” see Bruce Western, Meredith Kleykamp, and Jake Rosenfeld, “Crime, Punishment, and American Inequality,” in *Social Inequality*, ed. Katherine Neckerman (New York: Russell Sage, 2004), 782–785. A few scholars have considered the ways in which uprisings in the 1960s shaped subsequent urban living conditions and policy at the federal, state, and local levels. See Sidney Fine, *Violence in the Model City: The Cavanaugh Administration, Race Relations, and the Detroit Riot of 1967* (East Lansing: Michigan State University Press, 2007); Robert M. Fogelson, *Violence as Protest: A Study of Riots and Ghettos* (Garden City, NY: Doubleday, 1971); Gerald Horne, *Fire This Time: The Watts Uprising and the 1960s* (New York: Da Capo, 1997); Michael B. Katz, *Why Don’t American Cities Burn?* (Philadelphia: University of Pennsylvania Press, 2011); Kevin Mumford, *Newark: A History of Race, Rights, and Riots in America* (New York: NYU Press, 2008).
5. The specific targeting of black men between the ages of fifteen and twenty-four for national law enforcement programs runs through the memoranda and internal reports examined in this book. Within the Johnson administration, Nicholas deB. Katzenbach et al., *The Challenge of Crime in a Free Society: A Report by the President’s Commission on Law Enforcement and Administration of Justice* (Washington, DC: U.S. Government Printing Office, 1967), 5, 35, 44; and Otto Kerner et al., *Report of the National Advisory Commission on Civil Disorders* (New York: Bantam Books, 1968) contain the most clearly articulated public expressions of this agenda.
6. Johnson’s merger of welfare and crime control functions was not entirely unique. The two systems had worked in tandem since the birth of the American republic, sharing

similar goals and attitudes about poor people and treating socioeconomically isolated and racially marginalized Americans as a criminal class. Beginning in the nineteenth century, social welfare programs imposed varying degrees of supervision on targeted immigrant and poor communities with reformatories, settlement houses, orphanages, training schools, and community chests. In order to advocate on behalf of the urban European ethnic groups of immigrants they sought to rehabilitate, social welfare reformers often embraced scientific racism and aggressive policing strategies. A number of scholars have demonstrated the ways in which reformers have used punitive measures, often focused on low-income youth, in order to achieve their social welfare and rehabilitative goals. See Miroslava Chávez-García, *States of Delinquency: Race and Science in the Making of California's Juvenile Justice System* (Berkeley: University of California Press, 2012); Julilly Kohler-Hausmann, "Guns and Butter: The Welfare State, the Carceral State, and the Politics of Exclusion in the Postwar United States," *Journal of American History* 102 (June 2015): 87–99; Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge, MA: Harvard University Press, 2010); Anthony M. Platt, "Saving and Controlling Delinquent Youth: A Critique," *Issues in Criminology* 5, no. 1 (Winter 1970): 1–25; Anthony M. Platt, *The Child Savers: The Invention of Delinquency* (New Brunswick, NJ: Rutgers University Press, 2009); Geoff Ward, *The Black Child Savers: Racial Democracy and Juvenile Justice* (Chicago: University of Chicago Press, 2012); and Michael Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago* (New York: Cambridge University Press, 2003).

7. Although the Partnership for Health Act of 1966 was the first legislation to include block grant provision, this law consolidated health care programs to award \$23 million to states directly. The Omnibus Safe Streets and Crime Control Act of 1968 was the first major instance of block grant funding, with an allocation of \$300 million in federal funding to the states.
8. Many others have similarly directed our attention to the bipartisan dimensions of crime control policy in their considerations of mass incarceration. They emphasize the crucial role of Democrats, including Edward Kennedy, Joe Biden, Al Gore, and Charles Rangel, who co-partnered with the Reagan administration in the drug war era. At the executive level, much attention has been given to Bill Clinton's 1994 Crime Bill, a policy on which he reflected during a speech at the 106th Convention of the NAACP in July 2015: "I signed a bill that made the problem worse, and I want to admit it." See Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York, 2011); Gottschalk, *Caught*; Murakawa, *First Civil Right*; Simon, *Governing through Crime*; Weaver, "Race and Crime Policy," and Weaver, "Race and Politics." On more recent bipartisan partnerships, see David Dagan and Steven M. Teles, "The Conservative War on Prisons," *Washington Monthly*, November–December 2012, 25–31; Newt Gingrich and Pat Nolan, "Prison Reform: A Smart Way

- for States to Save Money and Lives," *Washington Post*, January 7, 2011; Kara Gotsch, "Bipartisan Justice: Fixing America's Punitive and Penal System Has Politicians Crossing Party Lines," *American Prospect*, December 6, 2010, A22. Video of Clinton's address to the NAACP can be found at <http://www.naacp.org/news/entry/president-bill-clinton-speech-at-naacp-106th-convention>.
9. Garland, *Culture of Control*; Garland, *Punishment and Welfare: A History of Penal Strategies* (Surrey, UK: Ashgate, 1987); Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York, 1977); Kohler-Hausmann, "Guns and Butter"; Loïc Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity* (Raleigh: Duke University Press, 2009) similarly understand the carceral state as a network of programs strongly tied to the welfare state. The political scientist Joe Soss has also written extensively on the criminalization of welfare and its ties to the carceral state in the late twentieth century. See especially Soss, "The New Politics of Inequality: A Policy-Centered Perspective," with Jacob S. Hacker and Suzanne Mettler in *Remaking America: Democracy and Public Policy in an Age of Inequality*, ed. Joe Soss, Jacob S. Hacker, and Suzanne Mettler (New York: Russell Sage Foundation, 2007), 3–24; Joe Soss, Richard C. Fording, and Sanford F. Schram, *Disciplining the Poor: Neoliberal Paternalism and the Persistent Power of Race* (Chicago: University of Chicago Press, 2011), as well as a number of Soss's coauthored articles. See also Marie Gottschalk, "Democracy and the Carceral State in America," *Annals of the American Academy of Political and Social Science* 651 (January 2014): 288–295; Bernard Harcourt, *Against Prediction: Punishing and Policing in an Actuarial Age* (Chicago: University of Chicago Press, 2007); William J. Novak, "Police Power and the Hidden Transformation of the American State," in *Police and the Liberal State*, ed. Markus D. Dubber and Mariana Valverde (Stanford, CA: Stanford Law Books, 2008); Carla Shedd, "Countering the Carceral Continuum: The Legacy of Mass Incarceration," *Criminology and Public Policy* 10, no. 3 (2011): 865–871; Thompson, "Why Mass Incarceration Matters," 706.
10. Juvenile Delinquency Prevention and Control Act of 1968, Pub L. No. 90-445, 82 stat. 462 (1968); House Committee on Education and Labor, *Juvenile Delinquency Prevention Act of 1967: Hearings before the Subcommittee on Education*, 90th Cong., 1st sess., May 10, 1967, 301 (Statement of Attorney General Ramsey Clark).
11. In *The Condemnation of Blackness*, Muhammad powerfully demonstrates the ways in which white social scientists such as Nathaniel Southgate Shaler and Frederick Hoffman relied on new statistics on black crime in the post-Emancipation era to produce, in Shaler's words, "a new understanding of black people's true racial capacity" (33). Hoffman's *Race Traits and Tendencies of the American Negro* (New York: Macmillan Co., 1896) remained the standing authority on race and crime until the Depression. In contrast to Hoffman's view that cultural and behavioral traits made black Americans particularly susceptible to crime and criminal activity, W. E. B. Du Bois emphasized the socioeconomic factors that shaped African American crime patterns

and questioned statistical measures of crime rates in the *The Philadelphia Negro: A Social Study* (Philadelphia: University of Pennsylvania Press, 1899). Policymakers in the North did not legally target black Americans as explicitly as their southern counterparts, but various infractions on the books against “suspicious characters,” disorderly conduct, keeping and visiting disorderly houses, drunkenness, and violations of city ordinances made possible new forms of everyday surveillance and punishment in the lives of African Americans in the Northeast, Midwest, and West. See also Jeffrey S. Adler, “Less Crime, More Punishment: Violence, Race, and Criminal Justice in Early Twentieth-Century America,” *Journal of American History* 102 (June 2015): 34–46.

12. For discussions on the influence of eugenics in the development of criminal justice policies, see Muhammad, *The Condemnation of Blackness*; Chávez-García, *States of Delinquency*; Amy LaPan and Tony Platt, “‘To Stem the Tide of Degeneracy’: The Eugenic Impulse in Social Work,” in *Mental Disorders in the Social Environment: Critical Perspectives*, ed. Stuart A. Kirk (New York: Columbia University Press, 2005), 139–164; and Steven Selden, *Inheriting Shame: The Story of Eugenics and Racism in America* (New York: Teachers College Press, 1999).

Dark Ghettos: Injustice, Dissent, and Reform

1. The “Ten Point Program” is reprinted in Huey Newton, *To Die for the People*, ed. Toni Morrison (San Francisco: City Lights Books, 2009), 3–6.
2. Newton, *To Die for the People*, 26–30.
3. “Ten Point Program,” 4.
4. In *The Philadelphia Negro*, Du Bois works largely within a liberal medical model of social reform. And it is striking how much his reflections on ghetto poverty (what he calls “black slums”) resemble contemporary social-scientific work on the subject. His principal aims were to understand the underlying causes of black urban poverty, joblessness, family disorganization, and crime and, on the basis of these scientific findings, to suggest ways that disadvantaged blacks (many of whom were only a generation out of slavery) could be integrated into modern industrial life on just terms. He emphasized the social class differences between blacks in these neighborhoods (distinguishing four strata: educated elite, stable working-class families, the poor who struggle to make ends meet, and the criminal class), and he complained that race prejudice led whites to judge the group as whole by the conduct of the worst elements within it (the “submerged tenth”). He argued that the white American elite should abandon this irrational prejudice and work with the black elite (the “aristocracy” of the race) to alleviate problems within the group (developing its potential and reforming bad habits acquired under slavery) and to prevent discrimination in employment, education, housing, and voting. Because race prejudice negatively affected black life chances and political power, blacks strongly resented it, and some, having become

bitter, choose to rebel against their society through crime and other vices. What explains much of this deviance, according to Du Bois, is unrecognized merit and thwarted ambition.

5. Kenneth B. Clark, *Dark Ghetto: Dilemmas of Social Power*, 2nd ed. (Hanover: Wesleyan University Press, 1989).
6. Kenneth B. Clark, *The Negro Protest: James Baldwin, Malcolm X, Martin Luther King talk with Kenneth B. Clark* (Boston: Beacon Press, 1963), 51–52.
7. Daniel Patrick Moynihan, “The Negro Family: The Case for National Action,” in *The Moynihan Report and the Politics of Controversy*, ed. Lee Rainwater and William L. Yancey (Cambridge, MA: MIT Press, 1967), 41–124.
8. Clark’s reflections on blacks’ distaste for (what they regard as) liberalism is instructive: “One of the dangers in the present white liberal ambivalence towards the Negro is that it has caused many Negroes to reject the ‘liberal’ label as a designation for themselves. For a number of Negroes ‘liberal’ has come to mean ‘white.’ They, too, are ambivalent, for they do not wish to feel alien to the liberal tradition with which they associate the concept of justice.” *Dark Ghetto*, 232.
9. *Ibid.*, 48.
10. Moynihan, “The Negro Family,” 48–51, 65–73, 93.
11. Clark, *Dark Ghetto*, 79.
12. *Ibid.*, 51, 54.
13. *Ibid.*, 66, 67, 200, 196–198, 127–129, 101.
14. *Ibid.*, 34–38, 77, 173–174.
15. *Ibid.*, 11, 28, 74–77, 154–168.
16. *Ibid.*, xxxix.
17. *Ibid.*, xxviii.

Bound in Wedlock: Slave and Free Black Marriage in the Nineteenth Century

1. *Seaborn C. Bryan (plaintiff in error) v. Hugh Walton, adm., defendant Supreme Court of Georgia*, 14 Ga. 185, 1853 Ga. LEXIS 210.
2. On interracial relationships, see Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2010); Joshua Rothman, *Notorious in the Neighborhood: Sex and Families across the Color Line in Virginia, 1787–1861* (Chapel Hill: University of North Carolina Press, 2003); Martha Hodes, *White Women, Black Men: Illicit Sex in the Nineteenth-Century South* (New Haven, Conn.: Yale University Press, 1997).
3. See Joanne Pope Melish, *Disowning Slavery: Gradual Emancipation and ‘Race’ in New England, 1780–1860* (Ithaca, N.Y.: Cornell University Press, 1998); Leslie M. Harris, *In the Shadow of Slavery: African Americans in New York City, 1626–1863* (Chicago, Ill.: University of Chicago Press, 2003); Erica Armstrong Dunbar, *A Fragile Freedom: African American Women and Emancipation in the Antebellum City* (New Haven,

- Conn.: Yale University Press, 2008); James O. Horton and Lois Horton, *In Hope of Liberty: Culture, Community and Protest among Northern Free Blacks, 1700–1860* (New York: Oxford University Press, 1997); Martha S. Jones, “Time, Space, and Jurisdiction in Atlantic World Slavery: The Volunbrun Household in Gradual Emancipation New York,” *Law and History Review*, 29 (November 2011): 1031–1060; Gary B. Nash and Jean R. Soderlund, *Freedom by Degrees: Emancipation in Pennsylvania and Its Aftermath* (New York: Oxford University Press, 1991), 179–180; Gary Nash, *Forging Freedom: The Formation of Philadelphia’s Black Community, 1720–1840* (Cambridge, Mass.: Harvard University Press, 1988), 163; Clare A. Lyons, *Sex among the Rabble: An Intimate History of Gender and Power in the Age of Revolution, Philadelphia, 1730–1830* (Chapel Hill: University of North Carolina Press, 2006), 217–218; Theodore Hershberg, “Free Blacks in Antebellum Philadelphia: A Study of Ex-Slaves, Freeborn, and Socioeconomic Decline,” *Journal of Social History*, 5 (Winter 1971–72): 183–209.
4. Ibid.
5. Brenda Stevenson, *Life in Black and White: Family and Community in the Slave South* (Oxford, England: Oxford University Press, 1997); Emily West, *Family or Freedom: People of Color in the Antebellum South* (Lexington: University Press of Kentucky, 2012); Wilma King, *The Essence of Liberty: Free Black Women during the Slave Era* (Columbia: University of Missouri Press, 2006); E. Franklin Frazier, *The Free Negro Family* (New York: Arno, 1968); David Barry Gaspar and Darlene Clark Hine, eds., *Beyond Bondage: Free Women of Color in the Americas* (Urbana: University of Illinois Press, 2004); Michael P. Johnson and James L. Roark, *Black Masters: A Free Family of Color in the Old South* (New York: W. W. Norton, 1984); Amrita Chakrabarti Myers, *Forging Freedom: Black Women and the Pursuit of Liberty in Antebellum Charleston* (Chapel Hill: The University of North Carolina Press, 2011); Suzanne Lebsock, *The Free Women of Petersburg: Status and Culture in a Southern Town, 1784–1860* (New York: W. W. Norton, 1984); Jane H. Pease and William H. Pease, *Ladies, Women, and Wenches: Choice and Constraint in Antebellum Charleston and Boston* (Chapel Hill: University of North Carolina Press, 1990); Michael P. Johnson and James L. Roark, “Strategies of Survival: Free Negro Families and the Problem of Slavery,” in *In Joy and in Sorrow: Women, Family, and Marriage in the Victorian South, 1830–1900*, ed. Carol Bleser (New York: Oxford University Press, 1991), 88–102; Whittington B. Johnson, “Free African American Women in Savannah, 1800–1860,” *Georgia Historical Quarterly*, 76 (Summer 1992): 260–283; Ira Berlin, *Slaves without Masters: The Free Negro in the Antebellum South* (New York: New Press, 1974); Carter G. Woodson, *Free Negro Heads of Families in the United States in 1830 together with a Brief Treatment of the Free Negro* (Washington, D.C.: The Association for the Study of Negro Life and History, 1925).
6. Ibid.; A. P. Upshur et al., Northampton County, to Virginia Legislature, 1831, Petitions Analysis Records [hereafter cited as PAR] #11683101, Loren Schweninger, ed.,

- The Southern Debate over Slavery*, vol. 1: *Petitions to Southern Legislatures, 1778–1864* (Urbana: University of Illinois Press, 2001), 128–131.
7. West, *Family or Freedom*; Stephenson, *Life in Black and White*; Charles S. Sydnor, “The Free Negro in Mississippi before the Civil War,” *American Historical Review*, 32 (July 1927): 769–788; Berlin, *Slaves without Masters*; Adele Logan Alexander, *Ambiguous Lives: Free Women of Color in Rural Georgia, 1789–1879* (Fayetteville: The University of Arkansas Press, 1991); Loren Schweninger, “The Fragile Nature of Freedom: Free Women of Color in the U.S. South,” in *Beyond Bondage: Free Women of Color in the Americas*, ed. David Barry Gaspar and Darlene Clark Hine (Urbana: University of Illinois Press, 2004), 106–124.
8. There is very little literature written specifically about mixed-status marriages. The exceptions are Terri L. Snyder, “Marriage on the Margins: Free Wives, Enslaved Husbands, and the Law in Early Virginia,” *Law and History Review*, 30 (February 2012): 141–171; and Michelle McKinley, “‘Such Unsightly Unions Could Never Result in Holy Matrimony’: Mixed-Status Marriages in Seventeenth-Century Colonial Lima,” *Yale Journal of Law and the Humanities*, 22 (Spring 2010): 217–255. Also see Paul Lokken, “Marriage as Slave Emancipation in Seventeenth-Century Rural Guatemala,” *Americas*, 58 (October 2001): 175–200. They are discussed briefly in the literature on free blacks. See, for example, Schweninger, “The Fragile Nature of Freedom,” 108; King, *The Essence of Liberty*, 56–57; West, *Family or Freedom*; Myers, *Forging Freedom*; Orville Vernon Burton, *In My Father’s House Are Many Mansions: Family and Community in Edgefield, South Carolina* (Chapel Hill: University of North Carolina Press, 1985), 217; Dunbar, *A Fragile Freedom*, 31–32. Also see how families were split apart by those who successfully ran away to the North, leaving behind enslaved family members. See Sydney Nathans, *To Free a Family: The Journey of Mary Walker* (Cambridge, Mass.: Harvard University Press, 2012).
9. Snyder, “Marriage on the Margins,” 141–171; see Criminal Actions Concerning Slaves and Free Persons of Color, Craven County Records, North Carolina State Archives; *North Carolina v. Zadock Roland*, 28 N.C. 241, 1846 N.C. LEXIS 39, 6 Ired. Law 241; John Hope Franklin, *The Free Negro in North Carolina, 1790–1830* (Chapel Hill: University of North Carolina Press, 1943; 1995); Guion Griffis Johnson, *Antebellum North Carolina: A Social History* (Chapel Hill: University of North Carolina Press, 1937); Louisiana Code Noir (1724), Article VI, <http://www.blackpast.org/primary/louisianas-code-noir-1724#sthash.46yN92L6.dpu>; *A Digest of the Civil Laws Now in Force in the Territory of Orleans* (New Orleans: Bradford and Anderson, 1808) (aka Louisiana Civil Code), Book 1, Title IV, Chapter II, Article 8, <http://digestof1808.law.ls.edu/?uid=11&tid=9&ver=en#11>; Emily Clark, *The Strange History of the American Quadroon: Free Women of Color in the Revolutionary Atlantic World* (Chapel Hill: University of North Carolina Press, 2013), 87–88; Diana Williams, “‘They Call It Marriage’: The

- Interracial Louisiana Family and the Making of American Legitimacy" (PhD diss., Harvard University, 2007), 1–88; and West, *Family or Freedom*, 33.
10. Snyder, "Marriage on the Margins," 141–171; Schweninger, "The Fragile Nature of Freedom," 108; King, *The Essence of Liberty*, 56–57; West, *Family or Freedom*; Myers, *Forging Freedom*; Burton, *In My Father's House Are Many Mansions*; Dunbar, *A Fragile Freedom*, 31–32.
11. Petition of William Lewis to the Senate and House of Representatives of Alabama, 1839, PAR #10183901, Schweninger, *The Southern Debate over Slavery*, 168–169. See, for example, *Overseers of Morris v. Overseers of Warren*, 26 N.J.L. 312, 1857 N.J. Sup. Ct. LEXIS 29.
12. Ibid.; Petition of John Winston to the Virginia General Assembly, December 11, 1820, PAR #11682001, Schweninger, *The Southern Debate over Slavery*, 63–64.
13. Petition of Stephen Lytle to the Tennessee General Assembly, ca. 1832, PAR #11483320, Schweninger, *The Southern Debate over Slavery*, 139–142.
14. Petition of Henry Ash, to the Honorable General Assembly of the State of North Carolina, 1894, PAR #11280404, The Race and Slavery Petitions Project, University of North Carolina at Greensboro, Proquest.com, *Race, Slavery and Free Blacks* [hereafter cited as *Slavery Petitions Project*], Series 1, *Petitions to Southern Legislatures*, 1777–1867.
15. Petition of Jeremiah Gill, to the Senate and House of Representative of the State of Mississippi in General Assembly convened, 1830, PAR #11083005, Schweninger, *The Southern Debate over Slavery*, 122–124. Bill was drafted but did not become law.
16. For example, see Petition of Lewis Evans, et al. To The Honorable, the Legislative Council and House of Representative of the Mississippi Territory in General Assembly convened, PAR #11801601, Proquest.com, *Slavery Petitions Project*, Series 1, *Petitions to Southern Legislatures*.
17. Petition of Sally Dabney to the General Assembly, December 20, 1834, Richmond City, PAR #11683414, Schweninger, *The Southern Debate over Slavery*, 151–152.
18. Petition of Samuel K. Jennings, To the honorable the Speaker and Members of the House of Delegates, of Commonwealth of Virginia [on behalf of Will, a Slave], PAR #11681518, Proquest.com, *Slavery Petitions Project*, Series 1, *Petitions to Southern Legislatures*.
19. Petition of Ned Hyman and Elizabeth Hagans to the North Carolina General Assembly, November 23, 1833, PAR #11283305, Schweninger, *The Southern Debate over Slavery*, 147–148.
20. Petition of Henry Lewis, To the General Assembly of Virginia, December 1833, PAR #11683309, Proquest.com, *Slavery Petitions Project*, Series 1, *Petitions to Southern Legislatures*. Also see related PAR #116833214.
21. See, for example, *Fambro v. Gantt*, 12 Ala. 298, 1847 Ala. LEXIS 278.
22. *William T. Lemmond & AL. v. Richard Peoples & Al.*, 41 N.C. 137, August 1849. See

- Luther Porter Jackson, *Free Negro Property Holders in Virginia, 1830–1860* (1942), 203, note 6 on a deed of loan made by a slave-owner to the free spouse of his slave woman.
23. See, for example, Anonymous, “A law case [*Miss Dunlap v. Peggy Thomas*],” *The New-York Magazine and General Repository of Useful Knowledge*, July 1814, 162–166; *Commonwealth, ex rel. Susan Stephens v. Clements*, 6 Binney 206, 1814 Pa. LEXIS 1.
24. *Kyler and wife v. Dunlap*, 57 Ky. 561, Ky. LEXIS 67, 18 B. Mon. 561.
25. *The Inhabitants of Hallowell v. the Inhabitants of Gardiner*, 1 Me. 93, 1820 Me. LEXIS 18.
26. *Ibid.*
27. *Ibid.*; *The Overseers of the Poor of the Town of Marbletown v. the Overseers of the Poor of the Town of Kingston*, 20 Johns. 1, 1822 N.Y. LEXIS 47. See John Wood Sweet, *Bodies Politic: Negotiating Race in the American North, 1730–1830* (Baltimore, Md.: Johns Hopkins University Press, 2003), 149, 154.

The Fateful Triangle: Race, Ethnicity, Nation

1. See Arjun Appadurai, “Disjuncture and Difference in the Global Cultural Economy,” *Public Culture* 2, no. 2 (1990): 1–24. See also Stuart Hall, “The Local and the Global: Globalization and Ethnicity,” in *Culture, Globalization, and the World-System: Contemporary Conditions for the Representation of Identity*, ed. Anthony King (London: Macmillan, 1991), 19–39.
2. David Harvey, *The Condition of Postmodernity: An Enquiry into the Origins of Cultural Change* (London: Blackwell, 1991).
3. Paul Gilroy, *The Black Atlantic: Modernity and Double Consciousness* (Cambridge, MA: Harvard University Press, 1993), 199.
4. Mikhail M. Bakhtin, *The Dialogic Imagination: Four Essays*, trans. Caryl Emerson and Michael Holquist (Austin: University of Texas Press, 1981), 425.
5. Homi Bhabha, “Of Mimicry and Man: The Ambivalence of Colonial Discourse,” in *The Location of Culture* (New York: Routledge, 1994), 85–101.
6. Toni Morrison, *Beloved* (New York: Knopf, 1987).
7. Jacques Lacan, “The Mirror Stage as Formative of the Function of the ‘I,’” in *Écrits: A Selection*, trans. Alan Sheridan (London: Tavistock, 1977), 1–7.
8. Edward Said, *Orientalism* (New York: Routledge, 1978), 49–73. On “landscaping” identity, see Stuart Hall, “New Cultures for Old,” in *A Place in the World? Places, Cultures and Globalization*, ed. Doreen Massey and Pat Jess (Milton Keynes: Open University, 1995), 175–213.
9. Anthony Giddens, *The Consequences of Modernity* (Cambridge: Polity, 1990), 18–19.
10. Doreen Massey, “The Conceptualization of Place,” in *A Place in the World? Places, Cultures and Globalization*, 58–59.
11. Doreen Massey, *Space, Place, and Gender* (Minneapolis: University of Minnesota Press, 1994), 168.

12. Stuart Hall, “The West and the Rest: Discourse and Power,” in *Formations of Modernity*, ed. Stuart Hall and Bram Gieben (Cambridge: Polity, 1992), 275–331. See also Stuart Hall, “Creolization, Diaspora and Hybridity in the Context of Globalization,” in *Créolité and Creolization: Documenta 11, Platform 3*, ed. Okwui Enwezor et al. (Ostfildern-Ruit: Hatje Cantz 2003), 185–198.
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15. Bill Ong Hing, *Making and Remaking Asian America through Immigration Policy, 1850–1990* (Stanford, CA: Stanford University Press, 1993), 17–42; Ngai, *Impossible Subjects*, 21–55. Salyer, *Laws Harsh as Tigers*, xiii–xvi.
16. Bosniak, *The Citizen and the Alien*, 4.
17. Ibid., 40–53; Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), 38–39; Parker, *Making Foreigners*, 119; Peter H. Schuck and Rogers M. Smith, *Citizenship without Consent: Illegal Aliens in the American Polity* (New Haven, CT: Yale University Press, 1985), 36. For critiques of this position, see Bas Schotet, *On the Right of Exclusion: Law, Ethics and Immigration Policy* (New York: Routledge, 2012); Bridget Anderson, Nandita Sharma, and Cynthia Wright, “Editorial: Why No Borders?” *Refuge* 26, no. 2 (2009): 5–18; Joseph H. Carens, “Aliens and Citizens: The Case for Open Borders,” *Review of Politics* 49, no. 2 (Spring 1987): 251–273.
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19. “An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes” (The Dawes Act; The Indian

General Allotment Act of 1887), chap. 119, 24 Stat. 388 (February 8, 1887). The act declared that Indians who had already “adopted the habits of civilized life” separate from a tribe or who accepted allotments could be granted citizenship. On federal wardship, see Cahill, *Federal Fathers and Mothers*, 32; Cleveland, “Powers Inherent in Sovereignty,” 54–81. On the decimation of Native Americans, see Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe* (New Haven, CT: Yale University Press, 2016).

20. Downs and Masur, *The World the Civil War Made*, 3–7; Foner, *Reconstruction*, 457–459, 528–529, 562–563, 582; George C. Rable, *But There Was No Peace: The Role of Violence in the Politics of Reconstruction* (Athens: University of Georgia Press, 2007), 191; Herbert Shapiro, *White Violence and Black Response: From Reconstruction to Montgomery* (Amherst: University of Massachusetts Press, 1988), 11. On “paramilitarism” and its effects, see Steven Hahn, *A Nation under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge, MA: The Belknap Press of Harvard University Press, 2003), 238, 288, 312.
21. Hahn, *A Nation under Our Feet*, 413–442; Rable, *But There Was No Peace*, 10, 61–2; Joel Williamson, *The Crucible of Race: Black-White Relations in the American South since Emancipation* (New York: Oxford University Press, 1984); Leon F. Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York: Vintage, 1999).
22. This is also the origins of “racial triangulation,” a phenomenon outlined by Claire Jean Kim, “The Racial Triangulation of Asian Americans,” *Politics and Society* 27, no. 1. (1999): 105–138.

The Injustice Never Leaves You: Anti-Mexican Violence in Texas

1. Oscar Dancy, testimony, “Proceedings of the Joint Committee of the Senate and the House in the Investigation of the Texas State Ranger Force,” Adjutant General Records, Texas State Archives, Austin, 543–544. The term “ethnic Mexican” is used in this book to refer to Mexican nationals and Mexican Americans living in the United States.
2. Dancy, testimony, “Proceedings,” 543–544; H. J. Kirk, testimony, “Proceedings,” 597. Kirk identified Florencio’s father as Miguel and his brother as Isadoro, but did not name his mother or wife.
3. Dancy, testimony, “Proceedings,” 543–544; H. N. Gray, testimony, “Proceedings,” 1059–1061.
4. *Ibid.*
5. Las Tranquilas Ranch was also known as the Piper Plantation. Reports noted that Chas Stark Jr., a US Army private, accompanied the Rangers as a guide along with two sons of Atenojenes Uribe. Report from Hon. Andres G. García, Inspector General Charge’d Affairs, El Paso, Texas, May 24, 1918, evidence, “Proceedings,” 807–809. Records show that Champion received permission from a local Judge Edwards.

6. Chas F. Stevens, testimony, "Proceedings," 1432; "Servicio Consular Mexico, Consulado General en El Paso, May 24, 1918," "Proceedings," 810; Dancy, testimony, "Proceedings," 543–544.
7. Dancy, testimony, "Proceedings," 557.
8. Florencio García, May 1918, certificate number 19810, State Registrar Office, Austin, FHL microfilm, 2,073,216. It appears that the number 189, a code for unidentified cause of death, was added in pencil or a different pen. The number looks to have been added after the certificate was filed on May 27, 1918.
9. "Rangers Are Charted with Man's Death," *Brownsville Herald*, May 28, 1919; "Accused Rangers Waive Hearings: Saddler and Lock Remanded to Custody of Their Captain—Bond Fixed at \$3,000," *Brownsville Herald*, June 1, 1918; "Dos Rangers Fueron Acusados de Homicidio," *La Prensa*, June 3, 1918; "Dos Rangers Fueron Consignados al Gran Jurado en Brownsville," *La Prensa*, June 6, 1918. The *Brownsville Herald* inaccurately identified Miguel as Florencio's brother. Articles in *La Prensa* list him as his parent. *La Prensa* made mention of the charges in a longer article about the demand for Mexican labor in Texas.
10. Dancy, testimony, "Proceedings," 543–544; David Montejano, *Anglos and Mexicans in the Making of Texas, 1836–1986* (Austin: University of Texas Press, 1987), 110–112. Examining the lives of people who lived in the borderlands, on the fringes of national powers, shows that they lived with relative autonomy from national governments and without giving much care to the societal and racial norms that governed the rest of the United States or Mexico. In his study of the annexation and incorporation of half of Mexico's territory through the Treaty of Guadalupe Hidalgo (1848), Montejano describes the nineteenth century as a period when the Anglo elite learned Spanish, adopted Mexican ideals of land use, intermarried with Mexican women, and became close family friends with landowning Mexican families.
11. Stevens, testimony, "Proceedings," 1432.
12. Historians William D. Carrigan and Clive Webb caution readers not to assume that the numbers tallied by historians equal the actual number of Mexicans killed by mobs in the United States. Instead, they hope their index will inspire new research while providing concrete evidence of the widespread horrors of lynching cultures in the United States. Carrigan and Webb, *Forgotten Dead: Mob Violence against Mexicans in the United States, 1848–1928* (Oxford: Oxford University Press, 2013), 5. For more about what numbers reveal or obscure, see Chapter 2 of this book.
13. Linda Gordon, *The Great Arizona Orphan Abduction* (Cambridge, MA: Harvard University Press, 1999), 256–259.
14. In his book *Lynching in the West*, art historian Ken Gonzalez-Day shows what he calls the "transracial" nature of lynchings in California. He demonstrates that mobs were guided by public anti-miscegenation and anti-immigrant sentiments as well as larger frustrations with the state judicial system. In California, African Americans, Native

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Marking Time: Art in the Age of Mass Incarceration

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24. Because acquiring material, through gifting, purchasing, bartering, or "procuring"—that is, taking from the state without permission—is such a central preoccupation of incarcerated artists, it is the focus of Chapter 2 of this book, titled "State Goods."
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Being Property Once Myself: Blackness and the End of Man

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4. Nahum D. Chandler, “Of Exorbitance: The Problem of the Negro as a Problem for Thought,” *Criticism* 50, no. 3 (2009): 345–410.
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10. A relatively small sampling of Morrison’s novels bears this out: Chicken Little, Son, Yardman, Baby Suggs, Eva Peace, Paul D, Denver, and Pecola Breedlove are just a few of the names that illustrate this point.
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CREDITS

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