

November 9, 2020

Dear Ellmann Workshop Attendees,

Thank you for reading my draft. This is an early draft of a chapter in a forthcoming book that uses the lyrics of hip-hop songs as a lens to analyze law and policy. The book will be published by Cambridge University Press in 2021. I was asked to write a chapter based on “Black Rage” by Lauryn Hill. I am looking forward to receiving your feedback and hearing your ideas on Friday!

Best,

Deborah

“BLACK RAGE” AND THE ARCHITECTURE OF RACIAL OPPRESSION  
DEBORAH N. ARCHER

*Three hundred years of humiliation, abuse, and deprivation cannot be expected to find voice in a whisper*

- Martin Luther King, Jr.

## INTRODUCTION

James Baldwin said that “to be a Negro in this country and to be relatively conscious is to be in a rage almost all the time.” For Black people in America, racial oppression is omnipresent—it is nearly impossible to evade the brutal force of white supremacy. Rage is a natural and justifiable reaction for people who have reached their breaking point after trying to survive under multiple layers of discrimination, violence, and indignity. Black rage

announces itself at the Women’s Convention in Akron, Ohio, and says, “Ain’t I a woman?” Black rage stands before hundreds of thousands at the Lincoln Memorial and says, “America has given the Negro people a bad check, a check which has come back marked ‘insufficient funds.’” Black rage says to the Democratic National Convention, “I’m sick and tired of being sick and tired.” Black rage says “Fuck tha Police” and “Fight the Power.”<sup>1</sup>

It is the outward expression of pain, uniting people who have often solitarily borne the burden of their anger and frustration. Rage is also polemical, giving voice to the demands of people living in a world that takes every opportunity to tell them that their lives do not matter; that they are disposable.

Rage is not only an expression of pain, but a call to action. Black rage, and the urgency, anger, and exhaustion that animate it, has driven demands for justice, helped to build and sustain movements, and led to meaningful progress. Black rage is a thread that runs consistently throughout American history—from slavery to the Civil Rights Movement and the Black Power era to today—and has helped to inspire uprisings and protests that have incentivized critical political action. This tradition includes rebellions by enslaved people who fought for their freedom. It includes Bloody Sunday when hundreds marched in Selma, Alabama demanding voting rights, and helped spur adoption of the Voting Rights Act of 1965. And it includes urban uprisings

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<sup>1</sup> Mychal Denzel Smith, *The Rebirth of Black Rage*, THE NATION (August 13, 2015)

in Watts, Newark, and Detroit that led to adoption of the Fair Housing Act of 1968. Following the killings of Trayvon Martin, Michael Brown, Freddie Gray, Breonna Taylor, and Rayshard Brooks, that rage spread across the country and animated the Black Lives Matter movement, with protests demanding an end to racialized police violence and calling for an acknowledgement of the full truth of anti-Black oppression.

Lauryn Hill is a singer, songwriter, rapper, and activist whose socially conscious music embraces descriptive realism and touches on themes of race and gender politics, reproductive freedom, and political empowerment. Her music has broken barriers for hip-hop and female artists. At the 1998 Grammy Awards she was nominated for ten awards, breaking records for female, Black, and hip-hop recording artists, and her album *The Miseducation of Lauryn Hill*—which she wrote and recorded after leaving Columbia University to pursue her music career—was the first hip-hop album to win the Grammy for Album of the Year. Hill is widely considered to be one of the greatest rappers of all time. Her lyrics not only display introspection as she chronicles life as she saw it—as a Black woman, mother, and a child of immigrants—but also examines the broader struggles of Black people and Black communities.

In 2014, following the killing of Michael Brown, Lauryn Hill dedicated her song “Black Rage” to the residents of Ferguson, Missouri. The song speaks to the endemic nature of racial oppression. Hill performs “Black Rage” to the melody of “My Favorite Things” from Rodgers and Hammerstein’s *The Sound of Music*. “My Favorite Things” is a quintessential part of the American songbook. It is a hopeful song that recounts how the little things in life that people take for granted can provide hope and comfort in the face of adversity. But Hill takes the iconic song and flips it. For example, instead of reminiscing about “brown paper packages tied up with strings,” she rails about “Black human packages tied up in strings,” both naming Black people as property to be bought and sold, and evoking the nation’s sordid history of lynching as a tool of white supremacy. In doing so, Hill sends the message that racist violence, and the Black rage it engenders, are as quintessentially American as *The Sound of Music*. Although Black people cannot take comfort from all of “the little things” at the heart of American racism, they can use their rage to motivate their fight for liberation. There is power in naming—in looking the Devil in the eye and facing its evil.

While “My Favorite Things” focuses on girls in white dresses, cream colored roses, and silver white winters, “Black Rage” is about white supremacy, white racism, and white violence. While Rogers and Hammerstein’s favorite things bring joy and comfort, the things Hill names incite the titular Black rage. Yet, rage too has the potential to heal and provide comfort. She sings about the violence against Black bodies and minds, economic racism,

environmental racism, mass incarceration, residential segregation, the repression of Black protest, and structural inequalities. She peels back the layers to reveal the architecture of racial oppression. Hill's lyrics are a powerful counter to the narrative that the conditions within Black communities and the disparities between Black and white outcomes are reflective of Black inferiority and criminality, displacing the shame that so often accompanies oppression. Instead, "Black Rage" lays bare the individual, systemic, and institutional racial discrimination and violence at the core of American life. "Black Rage" seeks to hold America accountable for its subjugation of Black America.

### THE POWER OF BLACK RAGE

It is natural for people who live under layers of unrelenting oppression to experience anger and despair. Racism inflicts trauma on Black people, and that trauma infiltrates every aspect of mind, body, and spirit. As a result, anger has been a constant presence in the lives of Black people since the first African men, women, and children were kidnapped and enslaved in the Americas. It is an anger born of the constant struggle to protect their bodies and minds. That anger is fed by the shame and frustration that come from being systematically devalued and making limited progress despite Black peoples' best efforts to thrive. That shame is exacerbated by an ethos that blames Black people for being so effectively oppressed. Unrelenting oppression can lead Black people to internalize and accept the narratives of Black inferiority and criminality that are used to justify white supremacy. This internalization eats away at individuals, families, and communities. In *NATIVE SON*, Richard Wright powerfully conveyed this building fury, and the exorbitant toll it takes on the health, relationships, and well-being of Black people. In describing the character Bigger's feelings about a life tragically shaped by racism and poverty, Wright writes:

He hated his family because he knew that they were suffering and that he was powerless to help them. He knew that the moment he allowed himself to feel to its fulness how they lived, the shame and misery of their lives, he would be swept out of himself with fear and despair. So he held toward them an attitude of iron reserve: he lived with them, but behind a wall, a curtain. And toward himself he was even more exacting. He knew that the moment he allowed what his life meant to enter fully into his consciousness, he would either kill himself or someone else.<sup>2</sup>

Black people have always fought back against both racial oppression and the resulting anger and despair. Yet, ultimately their fight may not always

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<sup>2</sup> Richard Wright, *NATIVE SON*,

be enough. In speaking of the particular anger felt by Black women, author Brittney Cooper writes:

Black women have the right to be mad as hell. We have been dreaming of freedom and carving out space for liberation since we arrived on these shores. There is no other group . . . that knows and understands more fully the soul of the American body politic than Black women, whose reproductive and social labor have made the world what it is. This is not mere propaganda. Black women know what it means to love ourselves in a world that hates us. We know what it means to do a whole lot with very little . . . We know what it means to snatch dignity from the jaws of power and come out standing. We know what it means to face horrific violence and trauma from both our communities and our nation-state and carry on anyway. But we also scream, and our feelings get stepped on, our dreams get crushed.<sup>3</sup>

Eventually, such profound anger and pain must find an outlet. Otherwise, it may destroy the individual and community from the inside out.

Black rage offers release from this pain, and in this form is a powerful force for change. It demands that America face its racism, making the invisible pain of Black people visible, and amplifying the voices of those silenced by oppression and white supremacy. The focused, collective, and organized rage of Black people can shift political consciousness and energize social movements. Indeed, Black rage has a unique potency that is often elided. During the Civil Rights Movement, widespread protests spurred the passage of the Civil Rights Act of 1964, the Voting Rights of 1965, and the Fair Housing Act of 1968. Education-focused protests during the 1970s and 1980s, including those opposing the elimination of affirmative action programs and the “integration” of historically Black colleges and universities, also achieved measured success. Today, the nation continues to see the concrete results of sustained protests against racialized police violence. Protests following the murder of Trayvon Martin in 2012 and the police killing of Michael Brown in 2014 helped to build the foundation for the historic Black Lives Matter movement that delivered rapid policy and legal change following the murder of George Floyd at the hands of Minneapolis police officers in May 2020. In the aftermath of Mr. Floyd’s murder, more than fifteen million people marched in big cities and small towns around the world, with more than a half million people in 550 cities across the United States protesting on a single day. These

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<sup>3</sup> Brittney Cooper, *ELOQUENT RAGE: A BLACK FEMINIST DISCOVERS HER SUPERPOWER* (2018) at 4.

protests created a powerful wave that led to local, state, and federal action against police brutality and racial injustice.

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Lauryn Hill dedicated “Black Rage” to those who labored under the pain of state-sanctioned violence and oppression, to those who were crying out for justice in a world that is sending every signal that their lives do not matter, and to those whose pain found voice through Black rage. In her song, Hill systematically breaks down the architecture of racial oppression and shines a piercing light on practices that are not only part of America’s racist past, but that remain central to America’s present de-humanization of Black bodies, Black communities, and Black identity. By calling out the breadth of America’s sins against Black people, beginning with its original sin, Hill locates the source of Black America’s problems not in Black people, but in the white supremacy woven into the fabric of America. She pulls on the thread that connects so much of America’s systems and structures—the need to control, regulate, and devalue Black people.

Part of the song’s power comes from its relentless cataloging of the myriad ways that racism burdens Black lives. By walking us through a rogue’s gallery of racism, with every line revealing a different pain, Hill is illuminating the painful and overwhelming truth: racism is everything and everywhere. It offers neither respite nor relief. That is what makes the burden so heavy and why Black people are enraged.

### *Verse 1*

*Black Rage is founded on two-thirds a person  
Rapings and beatings and suffering that worsens  
Black human packages tied up in strings  
Black rage can come from all these kinds of things*

The first verse centers the legal codification and brutality of chattel slavery in America. Slavery, America’s original sin, is the first and clearest manifestation of the dehumanization of Black people in the United States. Indeed, race is the story America’s colonizers created to justify the economic system that they needed, Slavery was a system of theft. It was theft of life as people were stolen, enslaved, and brutalized. Slavery was theft of property and product through forced labor. It was the theft of identity and home, as people were repeatedly ripped from the community and culture that are central to human experience. It was theft of happiness, dignity, and potential. Codified

into law, slavery became imprinted onto the DNA of the nation and serves as the foundation of the architecture of racial inequality. Long after the Emancipation Proclamation and the Thirteenth Amendment put a formal end to the institution, the vestiges of its brutality lived on through lynching, Jim Crow, mass incarceration, racial wealth gaps, and police brutality. Indeed, the legacy of slavery continues to reverberate today.

In asserting that “Black Rage is founded on two-thirds a person,” the lyric alludes to the three-fifths compromise, a Constitutional compromise under which enslaved Black people were counted as three-fifths a person for the purposes of Congressional apportionment, allowing Southern States increased power in Congress.<sup>4</sup> The three-fifths clause, and its legitimization of the dehumanization of Black people, was among the justifications used by the U.S. Supreme Court to support its decision that the “negro race” was “a separate class of persons,” who the founders had “not regarded as portion of the people or citizens of the Government.”<sup>5</sup> In *Dred Scott v. Sandford*, Chief Justice Roger B. Taney relied on the three-fifths compromise and other pro-slavery enactments to proclaim that Black people possessed “no rights or privileges” beyond what white men might “choose to grant them.”<sup>6</sup>

In addition to identifying the ways in which the notion of Black inferiority was inscribed into the foundation of this nation, the opening verse speaks to the brutality of slavery. For Black people enslaved in the United States, life was barbaric, bloody, and brutal—both physically and spiritually. Lauryn Hill sings of “beatings and suffering that worsens.” Cruelty was an indispensable aspect of slavery, a crucial means of enforcing control. Viewed by the law merely as property, Black people had no sanctuary from brutality and sexual violence.

The calling out of “Black human packages tied up with strings” on the heels of her mention of “beatings and suffering that worsens,” evokes not only an image of a gift or package from the butcher—signifying Black people as property—but also the boundless horrors of lynching. Lynching began as an extrajudicial means of defending slavery; a tool of racial terror calculated to reassert white supremacy. After the end of slavery and the federal government’s effective abandonment of Black southerners with the Compromise of 1876, lynching evolved as a critical tool to reinforce White hegemony in the South. As historian Leon F. Litwack detailed, “[t]he story of a lynching... is more than the simple fact of a Black man or woman hanged by the neck. It is the story of slow, methodical, sadistic, often highly inventive

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<sup>4</sup> *U.S. Constitution*. Art. I, Sec. 2.

<sup>5</sup> *Scott v. Sandford*, 60 U.S. 393, 411 (1857).

<sup>6</sup> *Id.* at 404-405.

forms of torture and mutilation.”<sup>7</sup> More than 4,000 lynchings were documented in the south between 1877 and 1950.<sup>8</sup> These barbaric displays of violence profoundly impacted all aspects of Black life. Fear was ubiquitous; both the perpetual terror of individual bodily harm as well as the accompanying destruction of Black families and communities. In addition to the horror it wreaked on its victims, lynching also had a profound impact on the psyche of Black Americans. Regardless of whether the victim was a loved one or a stranger, such unadulterated depravity was deeply traumatizing. Just as slavery served to dehumanize and subordinate Black people, lynching reflected “the degree to which so many whites by the early twentieth century had come to think of Black men and women as inherently and permanently inferior, as less than human, as little more than animals.”<sup>9</sup>

Much of American history can be understood through this lens. American institutions, laws, and cultural norms have developed as tools to subjugate, control, regulate, and devalue Black people. Shortly after Emancipation, a group of Black people from Mississippi wrote to that state’s governor pleading that they “do not want to be hunted ... All we ask, they said, is for justice and to be treated like human beings.”<sup>10</sup> Although formal slavery ended with the adoption of the Thirteenth Amendment in 1865, and lynchings continued until 1968, they were both replaced with new tools—often state-authorized or state-enabled—to enforce the racial order; tools that have continued to adapt and evolve. Slavery gave way to convict leasing, Jim Crow, racial segregation, and the theft of Black land and property. And the brutal physical abuse of Black bodies, often celebrated publicly, remains central to the maintenance of white supremacy.

At each stage in this evolution, police have played a critical role in protecting power and enforcing racial hierarchy. Modern policing has its roots in slave patrols that suppressed slave revolts and hunted down enslaved people who tried to escape to freedom. Following Emancipation, Black people were pulled back into forced labor with shocking brutality through the criminal legal system and what was called convict leasing systems. During Jim Crow, police brutally enforced segregation, and police officers often joined, supported, and protected lynch mobs. During the civil rights movement, police beat protesters who marched for equality on national television. When Black people dared to move into historically white neighborhoods, police were enlisted to ward off residential integration and protected the people who terrorized Black families. During the summer and fall of 2020, police brutalization of Black men and

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<sup>7</sup> Leon F. Litwack, *TROUBLE IN MIND: BLACK SOUTHERNERS IN THE AGE OF JIM CROW* (1998), 286.

<sup>8</sup> EJI

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<sup>10</sup> David Gans,



women was captured on camera phones, and police officers in North Carolina pepper sprayed Black people peacefully marching to vote.

Today, law enforcement still operates to control Black people through a system characterized by deep-seeded and systemic racism, a failure to recognize the fundamental humanity and dignity of Black people, and the conflation of brown skin with dangerousness, criminality, and inhumanity. The result is a system in which Black people are disproportionately killed by the police, stopped by the police, arrested by the police, and more likely to experience physical and emotional harm from their interactions with the police.

*Verse 2*

*Black rage is founded on blatant denial  
Squeezed economics, subsistence survival  
Deafening silence and social control  
Black rage is founded on wounds in the soul*

In the second verse, Lauryn Hill moves from the original sin of slavery to its successors: the evolving systems of economic, social, and spiritual oppression. Long after emancipation, the theft that began in slavery continued as Black people were systematically robbed of their property and their emotional, cultural, and economic investments in their communities through systems of white supremacy. This “extraction of wealth”<sup>11</sup> from Black bodies and Black communities occurred through government action and inaction, racial terror, and outright theft. Indeed, as stated by reparations scholar Randall Robinson, “no race, no ethnic or religious group, has suffered so much over so long a span as blacks have, and do still, at the hands of those who benefited, with connivance of the United States government, from slavery and the century of legalized American racial hostility that followed it.”<sup>12</sup> Yet, the United States continues to deny the horrors and legacy of slavery, and has failed to take meaningful steps towards reparations for Black Americans. This failure is the heart of the “blatant denial” of which Hill sings.

The call for Black reparations reflects an insistence that this country acknowledge its brutal history and the lasting consequences of those actions. It is a demand that America provide compensation that will help to finally make the idea of America, one that is held and experienced by white people, real for Black people. As articulated by legal scholar Charles Ogletree:

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<sup>11</sup> *Ta-Nehisi Coates: Reparations Are Not Just About Slavery But Also Centuries of Theft & Racial Terror*, DEMOCRACYNOW! (July 4, 2019), [https://www.democracynow.org/2019/7/4/ta\\_nehisi\\_coates\\_reparations\\_are\\_not.](https://www.democracynow.org/2019/7/4/ta_nehisi_coates_reparations_are_not)

<sup>12</sup> Randall Robinson, *THE DEBT: WHAT AMERICA OWES TO BLACKS* 8 (2000).

The failure to acknowledge this history greatly influences the national debate about race. If we refuse to consciously confront the nation's complicity in enslaving millions of its subjects and brutalizing millions of its citizens during Jim Crow, then we cannot engage in a conscientious discussion of race. To invoke our nation's responsibility for discrimination is not to play the 'victim card' but to demand the same treatment that other races and ethnicities receive. Accordingly, the first goal of reparations is to remember that our nation must fully acknowledge their many contributions to our country's economic and political well-being."<sup>13</sup>

Following the abolition of slavery, new systems of white supremacy evolved to continue the theft, exploitation, and racial terror that were at the core of chattel slavery. Although there were many motivations, one was the desire to keep Black people "in their place" physically and economically. As Lauryn Hill writes, "squeezed economics and subsistence survival" became the reality for Black people forced to labor without their consent, or for little or no compensation, preventing many from leaving the plantations on which they or their ancestors labored.<sup>14</sup> When the federal government abandoned Reconstruction and the former slave-owning class returned to full power, the weight of state and local governments was thrown behind protecting the racial and economic hierarchy.

This retrenchment began with sharecropping, a system in which Black laborers worked white-owned land in exchange for a share of the crops minus the costs of food and lodging, "often in the same slave quarters they had previously inhabited."<sup>15</sup> However, Black sharecroppers were regularly cheated, exploited, and went unpaid with no legal recourse. The system of sharecropping all but constrained Black people and their families to a life of perpetual poverty. As one Black Georgian wrote, "No man can work another man's land. . . even for half and board and clothe himself and family and make any money. The consequence will be the freedmen will become poorer and poorer every year."<sup>16</sup>

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<sup>13</sup> Ogletree, Charles J. Jr. "Repairing the Past: New Efforts in the Reparations Debate in America." *Harvard Civil Rights-Civil Liberties Law Review*, vol. 38, no. 2, Summer 2003, p. 283.

<sup>14</sup> Equal Justice Initiative, 2018, *Slavery in America: The Montgomery Slave Trade*, 56, [eji.org/wp-content/uploads/2020/08/slavery\\_report-08-20-20-web.pdf](https://www.eji.org/wp-content/uploads/2020/08/slavery_report-08-20-20-web.pdf).

<sup>15</sup> Equal Justice Initiative, *Lynching in America: Confronting the Legacy of Racial Terror* (3d Ed., 2017), <https://lynchinginamerica.eji.org/report/>.

<sup>16</sup> at 409.

In a 1965 commencement address at Howard University, President Lyndon B. Johnson acknowledged the deep differences between Black and white poverty. He said, Black poverty is not white poverty:

there are differences-deep, corrosive, obstinate differences--radiating painful roots into the community, and into the family, and the nature of the individual. These differences are not racial differences. They are solely and simply the consequence of ancient brutality, past injustice, and present prejudice.<sup>17</sup>

While there has been progress since President Johnson uttered those words on Howard's campus, the differences between Black and white poverty persist. The wealth gap between Black and white households is as wide today as it was in 1970.<sup>18</sup> And, by at least one metric, the disparities have actually gotten worse. In 1968, the median Black household possessed only 9.4% of the wealth of the median white household. As of 2016, that percentage dropped to just 8.7%.<sup>19</sup> The median net worth of Black households in 2016 was \$17,150, while the median net worth of white households at that time was \$171,000.<sup>20</sup>

These economic disparities persist for many reasons. Historian Manning Marable posited that “the most striking fact about American economic history and politics is the brutal and systemic underdevelopment of Black people.”<sup>21</sup> According to his theory, Black people “have never been equal partners in the American Social Contract, because [our] system exists not to develop, but to *underdevelop Black people.*”<sup>22</sup> To effect this underdevelopment, racism is embedded into the core of power, the economy, culture, and society.<sup>23</sup> The result is that Black people have been intentionally sacrificed to feed America's growth and expansion: “each advance in white freedom was purchased by Black enslavement; white affluence coexists with Black poverty; white state and corporate power is the product in part of Black powerlessness; income mobility for the few is rooted in income stasis for the many.”<sup>24</sup>

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<sup>17</sup> Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965. Volume II, entry 301, pp. 635-640. Washington, D. C.: Government Printing Office, 1966.

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<sup>19</sup> Hansen, Sarah. “Here's What the Racial Wealth Gap in America Looks Like Today.” *Forbes*, 5 June 2020, <https://www.forbes.com/sites/sarahhansen/2020/06/05/heres-what-the-racial-wealth-gap-in-america-looks-like-today/#6f243b1d164c>.

<sup>20</sup> McIntosh, Kristen, et al. Brookings Institute, 2020, *Examining the Black-White Wealth Gap*, <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/>.

<sup>21</sup> Manning Marable, *HOW CAPITALISM UNDERDEVELOPED BLACK AMERICA* (Haymarket Books 2015) at 1.

<sup>22</sup> *Id.* at 2 (emphasis in the original)

<sup>23</sup> *Id.* at 9-10.

<sup>24</sup> *Id.* at 2.

Among the primary drivers of the underdevelopment of Black people has been Black wealth extraction through theft, exile, terror, and government actions that drove Black people from their homes. For example, a recent study estimated that since 1910, Black families have lost hundreds of billions of dollars because of lost land.<sup>25</sup> One of the study’s authors explained, “if you want to understand wealth and inequality in this country, you have to understand black land loss.”<sup>26</sup>

The renewed momentum in the century-long fight for reparations offers America the opportunity to grapple with how to address the full legacy of the theft, wealth extraction, and terror born from slavery. Reparations seek to redress historic injustices, whether those injustices were committed during chattel slavery, Jim Crow, or more recent episodes of racial violence and exclusion. Traditional calls for reparations have included demands for apologies, investigatory commissions, community economic development and investment programs, and individual payments. Regardless of the form that reparations may take, calls for reparations seek more than a token acknowledgment of the suffering inflicted on Black people. The underlying purpose is to redress the lasting damage done to Black people and Black communities and provide compensation and reparative measures to rebuild those lives and communities.

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*Verse 3*

*Black rage is founded: who fed us self-hatred  
Lies and abuse, while we waited and waited  
Spiritual treason, this grid and its cages  
Black rage is founded on these kind of things*

Some of the most telling evidence of the injuries of Jim Crow and the racial terror campaigns that followed Emancipation are in the “grids and cages” that are central to the architecture of racial inequality—the housing

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<sup>25</sup> Nathan Rosenberg & Bryce Wilson Stucki, *How USDA Distorted Data to Conceal Decades of Discrimination Against Black Farmers*, THE COUNTER (June 26, 2019) <https://newfoodeconomy.org/usda-black-farmers-discrimination-tom-vilsack-reparations-civil-rights>; see also Lizzie Presser, *Kicked Off the Land*, NEW YORKER (July 22, 2019), <https://www.newyorker.com/magazine/2019/07/22/kicked-off-the-land> (quoting Reverend Garrison Frazier); William A. Darity & A. Kirsten Mullen, *FROM HERE TO EQUALITY: REPARATIONS FOR BLACK AMERICANS IN THE TWENTY-FIRST CENTURY* (2020) (assigning monetary values to wrongs perpetrated against Black Americans since the end of the Civil War).

<sup>26</sup> Lizzie Presser, *Kicked Off the Land*, NEW YORKER (July 22, 2019), <https://www.newyorker.com/magazine/2019/07/22/kicked-off-the-land> (quoting Reverend Garrison Frazier).

segregation and concentrated poverty that are regular fixtures in America's landscape. America is profoundly segregated along racial lines, with white communities having greater access to wealth and opportunity. Rigid racial segregation feeds social, economic, and resource inequality, with White communities of opportunity on the one hand, and many Black communities without access to quality schools, jobs, or transportation on the other.

One way that white people have held on to their power and privilege is by claiming privileged spaces as their own, then using the law and public policy to preserve those "white spaces" and leave Black communities trapped in physical and psychological grids and cages. Although the Fair Housing Act of 1968 banned explicitly racially discriminatory housing practices, America has a long and complicated history of racial segregation in housing enforced through laws, public policies, individual acts of discrimination, and mob violence. Today, Black people are more likely to live in communities with concentrated poverty and profoundly limited life opportunities. Residential segregation blocks Black access to quality education, employment opportunities, government services, and social capital. Residents of racially segregated communities also experience increased contact with the criminal legal system, one of the critical drivers of unequal opportunity in America. The result is poor, isolated, over-policed, and under-resourced Black communities.

America has used powerful and unexpected tools to create this segregated landscape. Among the most effective and durable is transportation policy. Transportation policy has been integral in creating and entrenching the nation's racially segregated landscape, serving as walls, wedges, and extractors in Black communities around the country. In particular, the nation's highways were built through and around Black communities to physically entrench racial inequality and advance the interests of white residents.

The construction of the interstate highway system played a key role in creating the spatial and economic conditions prevalent in urban centers today. Indeed, highway construction both symbolically and physically encouraged racial segregation and isolation. The passage of the Federal-Aid Highway Act of 1956 fueled these policies. Federal and state highway builders purposely targeted Black communities to make way for massive highway projects. In states around the country, highways disproportionately displaced and destroyed Black homes, churches, schools, and businesses, sometimes leveling entire communities. Although billed as an opportunity to remove "blight," highways often tore through once-vibrant communities, ripping the social fabric and inflicting psychological wounds on both those forced to leave their homes and those left behind.

For example, in St. Paul, Minnesota, the construction of Interstate 94 displaced one-seventh of the city's Black residents. As one observer noted, "[v]ery few blacks lived in Minnesota, but the road builders found them."<sup>27</sup>

Similarly, in Pittsburgh, Pennsylvania, a Black community known as the Hill District was devastated in order to build Interstate 579. When Interstate 579 opened to traffic, it had effectively cut off the Hill District from Pittsburgh's thriving downtown area and displaced thousands of Black residents. The population of the Hill District dropped from approximately 54,000 in 1950 to approximately 9,500 in 2013. More than four hundred businesses were lost. Removing, displacing, and destroying the community that is home to so many people crushes that community. It should be no surprise that today, approximately forty percent of the Hill District's residents live below the poverty line.<sup>28</sup>

Interstate 95 in Florida tore through the center of Overtown, a large and vibrant Black community considered to be the center of economic and cultural life for Black people living in Miami. A single interchange took up forty square blocks, devoured the Black business district, and took the homes of about ten thousand people.<sup>29</sup> By the late 1960s, Overtown was dominated by the highway and there was no evidence of why it was once called the Harlem of the South.

In other communities, the highway spared Black homes but became a permanent racial barrier between white and Black neighborhoods, further entrenching racial segregation and walling off economic opportunity and investment. In Orlando, Florida, for example, at the request of white residents, Interstate 4 was built to provide a barrier separating Black residents on the west side of town from white residents and the central business district on the east side.

Ultimately, the nation's highway system contributed to today's intense racial segregation and concentrated racialized poverty, and created physical, psychological, and economic barriers that persist to this day. Class and racial inequality, economic deprivation and depression, residential isolation and segregation, are all a part of the legacy of highway politics that focus on growth and expansion at the expense of Black communities, building roads to whites-only suburbs through the heart of Black neighborhoods. The interstate highway system did not cause every problem facing urban communities. However, its construction compounded discrimination, exclusion, and exploitation, and triggered a process that weakened Black neighborhoods.

Residents of communities cordoned off by highways also live with the stigma of what amounts to state-imposed racial segregation. Stigmatization assaults one's self respect and dignity, labeling an individual with signs of an

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<sup>27</sup>*Cite in White Men's Roads.*

<sup>28</sup> *Id.*

<sup>29</sup> Raymond A. Mohl, *The Interstates and the Cities: The U.S. Department of Transportation and the Freeway Revolt, 1966-1973*, 20 J. POL'Y HIST. 193, 194, 196 (2008).

inferior status. Living in a segregated community can impose a sense of “otherness” for the segregated group, resulting in a detrimental impact on physical and mental health. Over time, even the courts have come to recognize the stigma that victims of racial segregation experience. The Court moved, for example, from *Plessy v. Ferguson*’s rejection of the idea that segregation marks Black people with “a badge of inferiority,”<sup>30</sup> to *Brown v. Board of Education*’s acknowledgment that the stigma of racial segregation “is greater when it has the sanction of the law,” conveying a sense of inferiority.<sup>31</sup> The erection of highways separating Black from white communities, or structures that encircled Black communities, sent a clear message of racial hierarchy. It demonstrated the power of White people over the lives of Black people and ensured that Black people understood “their place.”

*Verse 4*

*Black rage is founded on draining and draining  
Threatening your freedom to stop your complaining  
Poisoning your water while they say it’s raining  
Then call you mad for complaining, complaining*

In identifying the draining impact of racism, Lauryn Hill speaks to the grinding pain that racism deals out on a daily basis. From the constant demands of resisting, protesting, fighting, and coping; to the exhaustion caused by subtle and blatant racial hostility and never ending microaggressions; to the frustration caused by the legal, social, and political barriers that put accountability and transformation out of reach, racism plays with our bodies and our minds.

Worse still, Black rage and protest is dismissed. As Hill notes, when Black people complain about racism they are often called mad. The fault is not America’s, we are told, it is our own. The unceasing beat of racism is compounded by narratives of Black pathology that are used to justify oppression. Black people are frequently blamed for society’s deficiencies and told that they are, in fact, the cause of their own oppression. This began during slavery, when a common narrative was that Black people were savage brutes, prone to violence and criminality unless domesticated and made docile. Slavery was, they said, to Black peoples’ benefit. This narrative of excessive Black criminality has evolved, but remains a central thread in the conversation about racism in the United States. During Reconstruction and throughout Jim Crow, as Black Codes in the South and discriminatory policing in the North literally criminalized Blackness, sociology and statistics replaced Darwinism and eugenics as proof of innate Black criminality. In the so-called progressive era, well-meaning reformers advocated for more humane treatment of people

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<sup>30</sup>163 U.S. 537, 551 (1896).

<sup>31</sup>347 U.S. 483, 494 (1954).

convicted of crimes but still warned that the “Black criminal” was a breed apart because the propensity for crime revealed the faults of an immature race. As recently as June 2016, a Reuters/Ipsos public opinion poll revealed that a shockingly high number of people of all political stripes described Blacks as unintelligent, lazy, violent, and criminal.<sup>32</sup>

When a narrative is so common, it bears on every aspect of life. For example, as the videos of police shootings and beatings of unarmed Black people fill our heads, the narrative of excessive Black criminality is pulled from the shelf to justify the brutality. “If only he had followed directions;” “What was she doing before the recording started?” The over-policing of Black communities is justified by stereotypes of excessive crime in those communities. Critiques of police brutality are dismissed as irrelevant in the face of “Black on Black” crime. The school-to-prison pipeline and the excessive punishment of Black children is justified by the belief that Black children are hardened and require less nurturing, protection, and support. Moreover, when states around the country did take steps to reform police use of excessive force, most reform measures included exceptions for when an officer believes that their life is in danger. However, in a country steeped in the ubiquitous narrative of excessive Black dangerousness, the exception swallows the rule. There is an incredible willingness of police officers, judges, juries, and the average American to believe that a Black person, even unarmed and running away, poses a serious threat.

Black criminality is not the only false story this nation repeatedly tells. Black people are regularly exposed to commentary from academics, political leaders, and their fellow Americans that defends segregation in the nation’s colleges and universities by alleging the intellectual inferiority and poor work ethic of Black people. Sexual violence against Black women is often dismissed because they are stereotyped as promiscuous women who invite sexual assault. In 2020, COVID-19 was introduced into a society suffering from deep structural inequality, including in the public health systems. Yet, when data showed that Black people were disproportionately likely to contract and die from COVID-19, many did not blame the systemic racism that leaves Black people more likely to be exposed to the virus, at a greater risk of developing complications, and more likely to experience a disproportionate share of the fall-out from the lock downs that spread across the country. Rather, Black

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<sup>32</sup> Emily Flitter & Chris Kahn, Exclusive: Trump Supporters More Likely to View Blacks Negatively, REUTERS, <http://www.reuters.com/article/us-usa-election-race-idUSKCN0ZE2SW>



people were criticized for not being disciplined or sensible enough to protect themselves.

The nation continues to gaslights Black people by denying that racism exists and blaming Black people for the harms they suffer as the result of that racism. These notions are fully baked into American civil rights laws, which refuse to consider the complex nature of systemic racism and disregards the lived experience of its victims. Instead, the nation's courts are fixated on an inflexible commitment to race blindness, and an historical commitment to unearthing incontrovertibly racist intentions by individual actors.

The United States Supreme Court has interpreted civil rights laws in a way that strips them of their potential to dismantle the tools of institutionalized privilege and structural racism.<sup>33</sup> The current interpretations of civil rights laws and Constitutional provisions adhere to an inflexible commitment to race blindness, limiting the ability of both courts and policy makers to meaningfully address racial inequality. The focus on challenging intentional discrimination by specific actors is similarly problematic. This focus presumes that by eliminating the aberrant behavior of a few bad apples we will root out bias within our systems. But thinking of racism only in those narrow terms misunderstands the true nature, power, and persistence of racism. It completely overlooks the centuries-long impact of race-based laws, policies, and practices that have caused and perpetuate racial inequality.

For most Black people, racism is not Bull Connor siccing his dogs on Black children seeking to integrate public schools, while hurling racial slurs. It is sending your children to a under-resourced, heavily-segregated public school which consistently under-prepares its students for college and life. It is living an hour and a half-away from decent jobs because your community is ill served by public transportation. It is a lack of access to supermarkets providing affordable and healthy food, while your children are sick because they are exposed to environmental stressors. It will be difficult if not impossible, to find a single actor responsible for these harms, and even less likely that there is explicit evidence that that actor was predominantly motivated by racial animus. But, that is the standard the courts set—and without that evidence, America denies that anything racist happened. This is how they call you mad for complaining, complaining.

Black rage can be a potent force to propel protest, driving overdue reform and transformation of discriminatory policies and institutions. It is not surprising, then, that federal, state, and local governments have regularly used force and intimidation to stifle voices of Black protestors and stop their complaining, either directly or by providing cover and support to private

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<sup>33</sup>. *Id.* at 1751.

individuals. This history is ubiquitous and well-documented. It includes the Fugitive Slave Act, which mandated efforts to capture enslaved Blacks who were making their way to free states, police violence against protesters during the Civil Rights Movement and the Movement for Black Lives, and white vigilantes who assaulted freedom riders and murdered civil rights activists registering Black voters in the South, all in partnership with the police and without fear of legal retribution.

This is not just history. As relentless racism leads to Black rage, and that rage leads to protest, the law is increasingly employed to threaten Constitutionally-protected rights to petition the government for redress. Even as civil rights icons like Martin Luther King, Jr., Rosa Parks, John Lewis, and Fannie Lou Hamer are finally celebrated for their civil disobedience that helped end the era of legalized apartheid in the United States, the right to protest is under fresh assault. In several jurisdiction across that country that have seen significant protests demanding racial justice, legislatures have moved to enhance the penalties for protest-related conduct. From 2016 through 2019, for example, Minnesota “lawmakers introduced ten bills that either made obstructing traffic on highways a misdemeanor or increased penalties for protesting near oil and gas facilities.”<sup>34</sup> These were put forward in reaction to the protests surrounding the nearby Dakota Access Pipeline as well as police killing of Philando Castile. These laws would have allowed “protesters to be jailed for up to a year, fined offenders up to \$3,000 each, and allowed cities to sue protesters for the cost of police response.”<sup>35</sup>

According to a 2020 report by PEN America, the country has seen an explosion of state legislation designed to silence dissent. The report documented that from 2015 to 2019, 116 bills limiting the rights of protestors were proposed in state legislatures across the country.<sup>36</sup> As the authors of the report spell out, this outpouring of legislation points to increasing hostility towards racial justice advocacy. For example,

[i]n Missouri, Black Lives Matter protests began in 2014, but have continued a sustained protest presence in years since. In 2017, legislators there began proposing a raft of anti-protest bills, targeting the exact tactics that BLM protesters had popularized. In July 2016, Black Lives Matter protesters marched along Interstate 94 in St. Paul, Minnesota; months later, in

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<sup>34</sup> Sadasivam, Naveena. “U.S. States Have Been Trying to Criminalize Protests for the Past Five Years.” *Rolling Stone*, 4 June 2020, <https://www.rollingstone.com/politics/politics-features/u-s-states-have-been-trying-to-criminalize-protests-for-the-past-five-years-1009986/>.

<sup>35</sup> *Id.*

<sup>36</sup> “Arresting Dissent: Legislative Restrictions on the Right to Protest.” *PEN America*, May 2020, 1, <https://pen.org/wp-content/uploads/2020/05/Arresting-Dissent-FINAL.pdf>.

Minneapolis, thousands of people marched to protest Trump's win in the November 2016 election, including by marching on the interstate highway. Within the next few months, Minnesota legislators had proposed six different anti-protest bills, including five that would have created new criminal penalties for either obstructing a highway or obstructing traffic.<sup>37</sup>

Direct attempts to threaten the freedom of dissenters are in addition to the physical violence directed towards those protesting, and there can be little doubt that such egregious displays of force are not simply meant to keep the peace, but to deter dissent and stifle Black rage. For example, during the summer of 2020, anti-police brutality unrest was met with the very violence people were protesting, with officers "punching, kicking, gassing, pepper-spraying and driving vehicles at often peaceful protesters in states across the country."<sup>38</sup> Their actions left thousands hurt and in jail, with some facing life-threatening injuries.<sup>39</sup> A *ProPublica* review of nearly 400 videos of police responses to protesters found "troubling conduct by officers in at least 184 of them."<sup>40</sup> *Human Rights Watch* issued a report on the New York City Police Department's response to a protest in the Mott Haven section of the Bronx on June 4, 2020, and found that:

Police conduct during the Mott Haven protest ... amounts to serious violations of international human rights law which the federal, state, and local governments are obligated to observe. These include law enforcement's excessive use of force, violations of the rights to free expression and peaceful assembly, arbitrary arrests and detentions, and cruel and degrading treatment of detainees. Legal observers and volunteers providing jail support are human rights defenders who are protected under international human rights law and should never be targeted for this work. The attacks on street medics, the obstruction of their work, and the denial of medical care to injured protesters amount to violations of the right to health.<sup>41</sup>

Unsurprisingly, government has also sought to criminalize resistance to discrimination and injustice. Under the Donald Trump administration, there were efforts to criminalize and brand activists as "Black identity extremists,"

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<sup>38</sup> Gabbatt, Adam. "Protests About Police Brutality are Met with Wave of Police Brutality Across US." *The Guardian*, 6 June 2020, <https://www.theguardian.com/us-news/2020/jun/06/police-violence-protests-us-george-floyd>.

<sup>39</sup> *Id.*

<sup>40</sup> Buford, Talia, Waldron, Lucas, Syed, Moiz, and Shaw, Al. "We Reviewed Police Tactics Seen in Nearly 400 Protest Videos. Here's What We Found." *ProPublica*, 16 July 2020, <https://projects.propublica.org/protest-police-tactics/>.

<sup>41</sup>

subjecting them to governmental surveillance and prosecution. In 2017, officials with the FBI’s Domestic Terrorism Analysis Unit alleged that there was a “resurgence in ideologically motivated, violent criminal activity” stemming from Black people’s “perceptions of police brutality.”<sup>42</sup> Under this narrative, the federal government attempted to prosecute Rakem Balogun as a “black identity extremist” for statements he made on Facebook protesting police brutality.<sup>43</sup> Mr. Balogun spent five months in jail—during which time he lost his job, car, and home—before being cleared of any wrongdoing. However, he, and others similarly targeted will continue to carry the stigma of arrest and prosecution.

*Verse 5*

*Old time bureaucracy drugging the youth  
Black rage is founded on blacking the truth  
Murder and crime, compromise and distortion  
Sacrifice, sacrifice who makes this fortune?*

*“Not one of us in here owns a poppy field. This thing is bigger than Nino Brown. This is big business. This is the American way.” Nino Brown in New Jack City (1991).*

The idea that the American government facilitated and profited off of the proliferation of drugs in Black communities is a prevalent theme throughout hip-hop music and culture.<sup>44</sup> Black activists have long accused the government of fostering crime and then using that as an excuse to aggressively police and excessively incarcerate Black people. And many have found this story easy to believe. After all, the United States government has a long history of sanctioning and profiting from oppression, so why not this latest iteration?

The story is based on more than conjecture. In the foreword to Gary Webb’s book *Dark Alliance: The CIA, the Contras, and the Crack Cocaine Explosion*, Congresswoman Maxine Waters wrote that in reading Webb’s original reporting, she continually thought back to the countless meetings she

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<sup>42</sup> Sam Levin, *FBI Terrorism Unit Says ‘Black Identity Extremists’ Pose a Violent Threat*, THE GUARDIAN (Oct. 7, 2017), <https://www.theguardian.com/us-news/2017/oct/06/fbi-black-identity-extremists-racial-profiling>.

<sup>43</sup> Sam Levin, *Black Activist Jailed for his Facebook Posts Speaks Out About Secret FBI Surveillance*, THE GUARDIAN (May 11, 2018), <https://www.theguardian.com/world/2018/may/11/rakem-balogun-interview-black-identity-extremists-fbi-surveillance>.

<sup>44</sup> from KRS-One’s “Illegal Business” to Public Enemy’s “Night of the Living Baseheads” to Kanye West in “Crack Music.”

attended in South Central Los Angeles discussing the source of the drugs pouring into the City. His reporting led her to the conclusion that:

The CIA, DEA, DIA, and FBI knew about drug trafficking in South Central Los Angeles. They were either part of the trafficking or turned a blind eye to it, in an effort to fund the Contra war. I am convinced that drug money played an important role in the Contra war and that drug money was used by both sides.

The saddest part of these revelations is the wrecked lives and lost possibilities of so many people who got caught up in selling drugs, went to “prison, ended up addicted, dead, or walking zombies from drugs.”<sup>45</sup>

At the time, Gary Webb’s bombshell three-part series for the *San Jose Mercury News* about the beginnings of the crack epidemic in South Central L.A. was subjected to extraordinary scrutiny. Webb’s original three-part series reported that:

In addition to waging a proxy war for the U.S. government against Nicaragua’s revolutionary Sandinista government in the 1980s, elements of the CIA-backed Contra rebels were also involved in trafficking cocaine to the U.S. in order to fund their counter-revolutionary campaign. The secret flow of drugs and money, Webb reported, had a direct link to the subsequent explosion of crack cocaine abuse that had devastated California’s most vulnerable African American neighborhoods.<sup>46</sup>

While some regarded his reporting as conspiracy theory, others celebrated it as the apotheosis of investigative journalism. The series’ underlying story was propelled around the world via the internet—the story sometimes attracted more than one million readers a day—as well as extensive coverage on talk radio, and Black radio stations in particular.<sup>47</sup> In December 1988, the Senate Subcommittee on Terrorism, Narcotics, and International Operations issued a report acknowledging that “[f]oreign policy priorities towards the Bahamas, Honduras, Nicaragua, and Panama at times delayed, halted, or interfered with U.S. law enforcement’s efforts to keep narcotics out of the United States.”<sup>48</sup> The subcommittee report goes on to state that:

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<sup>45</sup> Webb, Gary W. *Dark Alliance: The CIA, the Contras, and the Crack Cocaine Explosion*. (New York: Seven Stories, 1999) 20-21.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> “Drugs, Law Enforcement and Foreign Policy.” *United States Senate Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations*, December 1988, 2, <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB113/north06.pdf>.

On the basis of this evidence, it is clear that individuals who provided support for the Contras were involved in drug trafficking, the supply network of the Contras was used by drug trafficking organizations, and elements of the Contras themselves knowingly received financial and material assistance from drug traffickers. In each case, one or another agency of the U.S. government had information regarding the involvement either while it was occurring, or immediately thereafter.<sup>49</sup>

Congresswoman Waters' contention that law enforcement turned a blind eye to the burgeoning drug crisis in order to fund the Contra war helps explain some the federal government's response, or lack thereof. At the state and local level, the initiation of the War on Drugs was enormously lucrative for local police departments. As Michelle Alexander explains in *The New Jim Crow*, the announcement of the War on Drugs was met with confusion by law enforcement. The War on Drugs preceded illegal drug use and abuse becoming a debilitating issue in communities across the country. Moreover, this federal effort contravened the states' rights approach to crime control, leaving local police skeptical of an attempt to upend the existing paradigm. The Reagan Administration solved this buy-in problem literally, by providing what amounted to massive bribes to state and local law enforcement agencies. As Alexander notes,

huge cash grants were made to those law enforcement agencies. . . . The DEA [was] offered free training, intelligence, and technical support to state highway patrol agencies that [were] willing to commit their officers to highway drug interdiction. The Pentagon, for its part, [gave] away military intelligence and millions of dollars in firepower to state and local agencies willing to make the rhetorical war a literal one.<sup>50</sup>

In addition to the cash grants, military equipment, training, and intelligence, state and local law enforcement were given another financial stake in the War on Drugs: asset forfeiture. This stunning new power—the ability to keep assets seized while combatting the drug trade—did not incentivize winning the War on Drugs; it encouraged jurisdictions to prolong it. “Law enforcement gained a pecuniary interest not only in the forfeited property, but in the profitability of the drug market itself.”<sup>51</sup> Modern asset forfeiture laws in the drug context date back to the Comprehensive Drug Abuse Prevention and Control Act. Passed in 1970, the Act authorized the federal government to take drugs, equipment for producing and storing drugs, and

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<sup>49</sup> *Id.* at 36.

<sup>50</sup> Alexander *supra* note , at 73-74.

<sup>51</sup> *Id.* at 78.

vehicles used to transport drugs.<sup>52</sup> The types of property governments could seize kept growing. Then in 1984, Congress amended the law to say that federal law enforcement agencies could keep all of the proceeds from seized assets, while state and local law enforcement could keep up to 80 percent of the asset's value.<sup>53</sup> Between 1985 and 1991, the Justice Department took in more than \$1.5 billion in assets tied to allegedly illicit conduct. In the five years after that, the DOJ nearly doubled that amount, collecting \$2.7 billion for its asset forfeiture fund.<sup>54</sup> The asset forfeiture program persists to this day, with the Justice Department having taken in upwards of \$27 billion from 2001-2019.<sup>55</sup>

The law required police to destroy seized drugs, but they were able to keep seized funds. This shifted law enforcement priorities from thwarting the dissemination of drugs to cash raids. As Patrick Murphy, a former commissioner of the NYPD, explained to Congress, it became department policy to “seize the cash and cars of persons coming into the city,” while the drugs that those people intended to purchase continued to circulate. He added that the NYPD had a “financial incentive to impose roadblocks on the southbound lanes of I-95, which carry the cash to make drug buys, rather than the northbound lanes, which carry the drugs.”<sup>56</sup> The massive windfall available to law enforcement created perverse incentives and predictably led to law enforcement conduct that was both legally permissible and morally reprehensible.

In *United States v. Reese*, the United States Court of Appeals for the Ninth Circuit illuminated the corrosive effect that these policies can have on the operation of drug task forces. *Reese* focused on a drug task force that operated as an independent unit within the Oakland Housing Authority and that became “deformed by its dependence on federal drug money.”<sup>57</sup> In the words of one task force member, it operated “more or less like a wolfpack,” with officers rolling up and taking “anything and everything we saw on the street corner.”<sup>58</sup>

The issues that pervaded Oakland's drug task force are not uncommon. In Baltimore, Maryland, federal officials indicted members of the now-defunct

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<sup>53</sup>Cite to stat.

<sup>54</sup> *Id.* at 63.

<sup>55</sup> Balko, Radley. “Study: Civil Asset Forfeiture Doesn't Discourage Drug Use or Help Police Solve Crimes.” *The Washington Post*, 11 June 2019, <https://www.washingtonpost.com/opinions/2019/06/11/study-civil-asset-forfeiture-doesnt-discourage-drug-use-or-help-police-solve-crimes/>.

<sup>56</sup> Blumenson and Nilson *supra* note, at 67-70.

<sup>57</sup> Blumenson and Nilson *supra* note 15, at 82.

<sup>58</sup> *Id.*

Gun Trace Task Force (GTTF). As its name suggests, the GTTF was intended to get guns and violent criminals off the city's streets. But drugs became deeply, and illegally, entwined with their efforts. Their widespread misconduct was initially unearthed by the DEA, who suspected that one of the officers was helping drug dealers skirt charges. In the course of their investigation, they caught the officer allegedly admitting, "I sell drugs," with the scope of the violations they uncovered expanding over time.<sup>59</sup> Among the staggering abuses by officers in the GTTF:

In July 2016, the officers allegedly picked up a married couple even though there was no evidence of any crime, found out that the couple had \$40,000 in a house outside the city, and proceeded to scour the property for cash. They took \$20,000 before they called other law enforcement to the home, arguing that they had uncovered criminal activity — with no actual evidence.

In another case, officers took a man's house keys, found out where he lived through police databases, and went to the house, where they found drugs and a safe. They allegedly took \$100,000 from the safe, which had \$200,000 inside. Then they filmed themselves pretending to open the safe for the first time—to cover up the crime, according to investigators.

During the 2015 Baltimore riots over the police killing of Freddie Gray, one officer allegedly stopped a looting at a pharmacy—only to take the stolen drugs himself, give them to a drug dealer, and split the proceeds.

In total, the task force is suspected of stealing at least \$300,000 in cash, three kilos of cocaine, 43 pounds of marijuana, 800 grams of heroin, and jewelry worth hundreds of thousands more in cash.<sup>60</sup>

As of April 2020, fifteen officers have been charged or convicted by federal prosecutors for their role in the GTTF corruption scandal.<sup>61</sup> Those who were convicted are serving prison sentences ranging from seven to twenty-five

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<sup>59</sup> Lopez, German. "8 Cops Allegedly Used an Elite Baltimore Police Team to Plunder the City and its Residents." *Vox*, 13 Feb. 2018, <https://www.vox.com/policy-and-politics/2018/2/2/16961146/baltimore-gun-trace-task-force-trial>.

<sup>60</sup> *Id.*

<sup>61</sup> Fenton, Justin. "15th Baltimore Police Officer Charged in Gun Trace Task Force Corruption Fallout." *The Baltimore Sun*, 15 Apr. 2020, <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-gttf-rivera-charged-20200415-rntnu3xkzvavrg6b5xsmv2ck3q-story.html>.



years.<sup>62</sup> Beyond the individual repercussions the officers faced for their corruption, their misconduct also led the State’s Attorney Marilyn Mosby to ask the courts to throw out almost eight hundred cases that were compromised by the tainted officers.<sup>63</sup> Even if these cases are thrown out in the future, that will be a woefully insufficient remedy for the harms created by the greed borne out of a corrupt system. As Hill asks, “Who makes this fortune?”

*Chorus*  
*When the dogs bit*  
*When the beatings*  
*When I'm feeling sad*  
*I simply remember all these kinds of things and then I don't fear so*  
*bad*

The chorus of Black Rage shares a message of resilience. It asserts that facing the truth can be a source of strength. Hill embraces the power of not only naming one’s fears and acknowledging the weight of our oppression. The chorus also recognizes the generations of resistance, perseverance, and sacrifice that came before. Indeed, the chorus of Black Rage echoes the message of empowerment in the poem “Still I Rise” by Maya Angelou:

Out of the huts of history’s shame  
I rise  
Up from a past that’s rooted in pain  
I rise  
...

Leaving behind nights of terror and fear  
I rise.

Both Hill’s chorus and Maya Angelou’s poem reminds us that Black rage must be channeled to crush the architecture of oppression and unravel the racism that has woven itself into the fabric, systems, and structures of this nation over time.

## CONCLUSION

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<sup>62</sup> Fenton, Justin. “State Investigation into Baltimore Police Gun Trace Task Force Scandal Has Been Proceeding in Secret.” *The Baltimore Sun*, 1 May 2020, <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-gttf-investigation-progress-20200501-bfo6ze2xgzdnjb7tjthjimxaxm-story.html>.

<sup>63</sup> “Baltimore Prosecutors to Toss 800 Gun Trace Task Force Cases.” *Associated Press*, 6 Sept. 2019, <https://apnews.com/article/1c592497e48d48039db0d05edc3c653c>.

In a few stanzas, Lauryn Hill walks through the experience of being Black in racist America. She explores the physical brutality of racism and the toll it takes on its' victim's bodies and minds, and explores the political, social, economic, and personal implications of life in a country built on the systematic undervaluing of Black people and the underdevelopment of Black communities. Hill takes the listener through centuries of unrelenting harm, compounded by cultural and legal norms that blame Black people for their victimhood. She reveals how the government continues to use its power to silence dissent and profit off of Black pain. And, she tells the story using a beloved popular song to show just how truly American racism is.

Yet, "Black Rage" is—unexpectedly—a song of hope. Because the pain and abuse Lauryn Hill describes leads to Black rage, and it is that rage which provides a pathway to Black liberation by fueling activism and protest. Indeed, the remembering of this history, and the knowledge that Black people have survived, and indeed thrived, despite that history, helps her to fear less. Fear is a powerful tool of the oppressor. Rage can be a powerful tool of the oppressed.

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