

Black and Native Oppression as Corporate Frame

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The Critical Corporate Theory Collection is part of the *Systemic Justice Journal*, published by the Systemic Justice Project at Harvard Law School. The Collection is comprised of papers that analyze the role of corporate law in systemic injustices. The authors are Harvard Law students who were enrolled in Professor Jon Hanson's Corporations course in the spring of 2021.

The Collection addresses the premise that corporate law is a core underlying cause of most systemic injustices and social problems we face today. Each article explores how corporate law facilitates the creation and maintenance of institutions with tremendous wealth and power and provides those institutions a shared, single interest in capturing institutions, policies, lawmakers, and norms, which in turn further enhance that power and legitimates its unjust effects in producing systems of oppression and exploitation.

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ABSTRACT

This paper argues that the material and metaphysical violence levied against Black and Indigenous peoples in the United States form the foundation of modern corporations and “the corporation” as such. By analyzing corporations’ basic building blocks—capital, property, and land—and their attendant historical legacies, this paper demonstrates that violences of a time ostensibly long ago are still with us, our economies, and our assumptions. This paper argues that these violences continue to shape our world, the peoples in it, and how we understand “peoples” and “worlds”; that these continue to materially and particularly harm Black and Indigenous peoples; and, preliminarily, that there may yet be a way out of these patterns and legacies—namely, revolution.

Black and Native Oppression as Corporate Frame

INTRODUCTION: ON ANTI-BLACKNESS AND ANTI-INDIGENEITY

As many have observed, and as the events of the past year have reminded us, anti-Blackness and anti-Indigeneity work together to saturate many, if not all, domains of public and private life in the world, the West in particular. The systems built around us, our governments, our neighborhoods and homes, the ways in which wealth is produced (and “wealth” as such), our internal lives, including our predispositions and assumptions—all of these are connected to the various violences levied at Indigenous and Black peoples. These violences are not merely a difficult part of our world; rather, they continuously give the world and the peoples thereof shape, constitutive of the very things we might try to wrestle into compliance or something like “justice.” Worse than sturdy or durable, they are formative, and, as this paper will illustrate, corporations and the corporate form are not immune to or wholly distinct from these structuring violences.

Consider, for example, the inequitable distribution of suffering in the COVID-19 pandemic. Black and Native people suffer the highest infection rates, the highest mortality rates, the lowest vaccination rates, and the most severe economic impact;¹ and, as their repositories, prisons and Native American reservations are simultaneously hotbeds for the disease and all but ignored by the state.² These patterns are familiar in the United States, eerily reminiscent of smallpox blankets and captives languishing in fetters and plantations. And like the genocidal era of old, the designed, severe impact of COVID-19 represents a toxic mixture of

cruelty and negligence through which this nation knows itself, a hateful apathy; even if it were not the state's explicit intention to wipe out Indigenous and Black people, neither the state nor a critical mass of its subjects are moved enough to intervene in their deaths. This is an apathy that is constitutive, and has roots that are constitutive, of, say, what we now know as the United States.

These roots—anti-Blackness and anti-Indigeneity—are ubiquitous, yet often veiled, everywhere and nowhere. In her book *In the Wake: On Blackness and Being*, Christina Sharpe likens anti-Blackness, specifically in its all-encompassing quality, to meteorological patterns: “In my text, the weather is the totality of our environments; the weather is the total climate; and that climate is antiblack.”³ In this way, something like the chattel slavery of is less a single or singular event, but rather a singularity of an anti-Black climate:

In the United States, slavery is imagined as a singular event even as it changed over time and even as its duration expands into supposed emancipation and beyond. But slavery was not singular; it was, rather, a singularity—a weather event or phenomenon likely to occur around a particular time, or date, or set of circumstances.⁴

While Sharpe is primarily concerned with anti-Blackness on a global scale and, as such, her metaphor of the “weather” is meant to attend to both international and more local instantiations of anti-Blackness, we might extend that metaphor to anti-Indigeneity, at least in a locale like the United States. Here, the various instances of genocidal actions might comprise a “singularity” of the anti-Indigenous climate that surrounds and comprises the country, or, in other words, one possible manifestation of these kinds of anti-Indigenous violence and dispositions. In any case, Sharpe's insights allow us to articulate the vastness, multivalence, near transcendence of the violences facing Black and Indigenous people in the United States and how they might manifest in material histories and institutions, including, but not limited to, slavery, land theft, and their afterlives.

Corporations in particular have brought about such singularities. In modern times, companies such as Wells Fargo and large developers, for example, have preyed on Black homeowners and tenants all across the country, employing tactics including predatory lending, still-prevalent housing discrimination, mass evictions, and rent gouging.⁵ This, as has been well-documented, has often led to the fracturing and eventual gentrification of Black neighborhoods, whereby Black

residents are pushed from their homes, displaced to other neighborhoods and to the streets.⁶ Additionally, it is also well-documented that incarceration, as a place and process to which Black people have long been (made) especially vulnerable, is tied to different, layered corporate interests. Industries including manufacturing, farming, the service industry, as well as traditionally state-sponsored services such as firefighting all have some financial, profitable foothold in the prison system.⁷ And, perhaps more insidiously, both large corporations such as Corrections Corporation of America (CCA) and smaller construction companies compete and clamor for first rights to build and maintain prisons, jails, and detention centers on behalf of the state. In the case of contemporary anti-Indigenous violence, particularly in the collaboration between the government and corporations in conceiving and enacting such violence, the Dakota Access Pipeline illustrates centuries of ongoing conquest that made and makes the United States; against the protests of the Standing Rock, Cheyenne River, Oglala Lakota, and Yankton Sioux peoples, Energy Transfer Partners was successful in petitioning the government to build and operate a massive oil pipeline through sacred Indigenous lands.⁸

Importantly, as gestured toward before, these kinds of collaborations between corporations, anti-Blackness, and anti-Indigeneity are not merely aberrations from an otherwise functioning system; rather, “the system” is in a reflexive, reciprocal relationship with this collaboration, functioning through, furthering, and being made possible by it. What is a corporate office without land? Whose land is it? How can capitalism function without inexpensive labor? Whose labor is particularly exploitable? And, more existentially, how is the self-conception of the modern, United States subject dependent on making oneself safe from threats, owning and defending one’s home and property, and building one’s wealth? Moreover, what kind of people are the threat, whom must we defend ourselves against, and where does the capital we desire come from? These kinds of questions are the focus of this paper and, I argue, represent nodes of anti-Blackness and anti-Indigeneity that form the foundations of modern corporations, the market(s) they participate in, and, ultimately, the nation itself. Specifically, we might consider capital, property, and land as formations which both comprise the basis of corporations and are engendered by anti-Black and anti-Indigenous violence.

ON CAPITAL, PROPERTY, AND LAND

Broadly, what we now understand to be the international

economic regime known as modern capitalism has its roots in European colonialism and its associated chattel slavery. In *Black Marxism: The Making of the Black Radical Tradition*, Cedric Robinson outlines four successive stages of racialization which eventually reached their apogee in the conquest of “Africa” and the so-called “New World” from the 16th century onward:

- “1. the racial ordering of European society from its formative period, which extends into the medieval and feudal ages as “blood” and racial beliefs and legends.
2. the Islamic ... domination of Mediterranean civilization and the consequence retarding of European social and cultural life: the Dark Ages
3. the incorporation of African, Asian, and peoples of the New World into the world system emerging from late feudalism and merchant capitalism.
4. the dialectic of colonialism, plantocratic slavery, and resistance from the sixteenth century forward, and the formations of industrial labor and labor reserves.”⁹

In particular, the fourth stage, in which slavery and colonialism became systematized as race-based projects, would not only form the bedrock for nascent European imperialism and the transatlantic slave trade, but it would also inaugurate subsequent stages of the transnational economic order that interpellated the United States and its participation in this order. For example, as gestured toward before, the initial (and ongoing) appropriation of Native American lands was made possible and legitimized ideologically by such racialization, as was the slaveholding practices that persisted after the African slave trade had been abolished and, with its cheap labor, made something like the Industrial Revolution possible.

And, more than capitalism, “capital” itself as conceived of by the West is built on these violences. Elsewhere in *Black Marxism*, Robinson describes how African slave trade and labor became crucial aspects of the burgeoning economic system, not only as some peripheral feature, but as the basis and framework for the monetary operations of various European nation-states. This—slave trade along with slave labor—was a way of production that eventually “exceed[ed] the boundaries of its commercial origins” in Iberia and spread from the Italians and Portuguese to the Spanish, British, and French world powers as

constitutive of how these powers would understand economy.¹⁰ Slaves and slavery were, in a word, currency itself. Further, Anthony Farley argues that, in the United States, this moment was epitomized in 1619, when Dutch slavers exchanged Black slaves for food. This is to say that, in the slave trade, Black slaves became both commodity and capital. For Farley, this paradox forms the basis for Western economy and the law itself:

“Flesh becomes fruit and the taking and eating of that fruit was the beginning of Western thought.... The slaves are the stuff of dreams. Indeed, the slaves dream of freedom during all the days and nights of their captivity. Eating the dreamers fills the whites with strong dreams. These appropriated dreams are the sum and substance of white reason, of law and the modern mind, of Enlightenment.”¹¹

Capital in its modern manifestations, then, has a legacy that is bound up with anti-Blackness and anti-Indigeneity, both historically and in what Sharpe and other scholars refer to as the contemporary “afterlives of slavery,” or its persistent effects and structures of thought.

Closely related to capital, another structure of thought that also borrows from its roots in slavery and colonialism is property. As mentioned before, historically, Black people were, as a matter of economic practice, considered exchangeable for property or money. Other examples of this include the infamous *Zong* massacre of 1781, where the ship’s crew threw more than 130 slaves overboard in order to preserve supplies and subsequently attempted to collect insurance on their loss,¹² and the *Dred Scott* decision, where the court held that (Black) slaves were legally property according to the laws of the United States.¹³ Coupled with different fugitive slave acts, whereby any Black person anywhere in the United States was vulnerable to capture or recapture,¹⁴ the property status of slaves in the United States was therefore imputed to Black flesh in general. In other words, Black people *were* property, which is to say moldable, fungible, and/or ultimately disposable. And, today, we can discern these characteristics, what Martin Luther King, Jr. once referred to as the “thingification” of Black people, still with us. Consider, for example, that none of Breonna Taylor’s murderers was charged with murder, but one was charged with accidentally firing into her bedroom wall (here, the wall and the threat potential to other people its damage signified were more worthy of the law’s protection than Breonna’s own life),¹⁵ or the designation used by

1992 Los Angeles Police to designate disturbances in Black communities: “NHI”—“No Humans Involved.” But more than floating characteristics ascribed to Black persons, the thingification and fungibility of Black people manifest in the organization of our social worlds, which gives rise to and exacerbates police violence and its anti-Black disposition. This relationship appears, for example, in Ferguson, Missouri, a predominately Black city where the Department of Justice found an extractive, conspiratorial system which produced “a significant and increasing amount of [city] revenue from the enforcement of code provisions,” participated in by courts, police, and prosecutors to increase city revenue through fines.¹⁶ It was within this context which encouraged active, draconian police practices that Michael Brown was confronted and killed by police officer Darren Wilson in 2014.

Further, and relatedly, when Black people threaten or are perceived to threaten the property rights of others, the violent force of the state (or of those whom the state deputizes) that defines those property rights is mobilized, severely and asymmetrically. This was exemplified this summer, when police all across the country responded viciously to protests and so-called “riots” in the name of protecting local businesses.¹⁷ But, somewhat more subtly, we might also discern this in law and order (i.e., policing) regimes outside of times of protests, as in “broken windows” policies popular in many different states. There, such outsized violences as racial profiling, stop and frisk, and police use of force are given license and expression through the so-called protection of private property, evident in the very name of the policy. Black people, then, are rendered as both property and property’s antagonists, subjecting them to the crushing retribution of the state on both sides, even in the absence of actual fault; the Black is at once the incarnation and the violation of property law. This embodied violation in turn bolsters the sociopolitical order that conjured it: “the ‘black criminal,’ the figure used to justify lynching, chain gangs, exploitative labor, segregation, and the overall maintenance of white supremacy.”¹⁸ In short, as Rinaldo Walcott writes in *On Property*:

“It is precisely because of Black peoples’ intimate relationship to property as both an idea and an actual practice as a result of having been property ourselves, that we understand that the entire carceral network and the innumerable problems that afflict it are intimately bound up with modern conceptions of property, because in many ways we are the foundation of the idea itself.”¹⁹

On the other side of the specter of the Black criminal is the restless Native, atop whose lands anti-Black violence manifests. As *Johnson v. M'Intosh* makes clear, the Native American has no claim to the land that is superior to that of the state, which is to say of white people. In his opinion, Justice Marshall justified the United States's claim to the land by invoking the doctrine of discovery, which he used to establish the notion that, since the British encountered the land in question before other European powers, they had the rightful claim to the parcel of land in question, and what would become the United States inherited this land from the British. Underneath this doctrine, however, was Justice Marshall's argument that colonists were justified in dispossessing Indigenous people of their lands because of what kind of people they were: "Although we do not mean to engage in the defense of those principles which Europeans have applied to Indian title, they may, we think, find some excuse, if not justification, in the character and habits of the people whose rights have been wrested from them."²⁰ The perceived "character and habits" of Indigenous people, which is to say their being, in Marshall's words, "fierce savages, whose occupation was war, and whose subsistence was drawn chiefly from the forest,"²¹ thus served as the means by which white settlers articulated racial difference. This (stereotypical) racial difference, which is to say the white creation and subsequent evaluation of racial difference, in turn served (and still serves—*Johnson v. M'Intosh* is still good law) as the "justification" for the claiming and parceling out of Indigenous lands. In other words, as a matter of fundamental theory and ongoing praxis, there is no "real property" in the United States without anti-Indigeneity. And with this conjured image of the violent, incompetent Native, violence and land theft carried out against Native communities becomes the law of the land: "What was the inevitable consequence of this state of things? The Europeans were under the necessity either of abandoning the country, and relinquishing their pompous claims to it, or of enforcing those claims by the sword...."²² As Marshall's opinion makes clear, and as subsequent and ongoing history affirms, acquisition of Indigenous lands, the displacement of their peoples, and the myriad violences thereof are inextricably tied to the state's conception of land and property along with the rights that attend to them, beginning with the state's own violent claims to the land.

This conception of the land as purchasable, alienable, and divisible did not merely constitute some gentle difference of opinion or ideological debate. Instead, colonialism and the settler-slaver sociopolitical order it inaugurated violently constituted a severe, realty-shifting disruption for Indigenous peoples. As theologian Willie

Jennings observes:

When early European Christians entered these places, they fundamentally altered the relation of land to peoples. From positions of unimaginable power, they renamed the land, reorganized common life, and reformed the ecologies of native peoples. At the heart of this transformation is a world-altering reconfiguration of the relationship between land and identity.

When they surveyed their new domain they refused to see those new worlds through the eyes of native peoples as places bound up with their bodies. Many native peoples understood their bodies as deeply connected to the earth and what walked and grew upon it. The notion of being simply bodies floating through space was pure chaos. These European settlers viewed people as separate from land and viewed land for its development potential as private property.²³

Here, then, we might understand Western conceptions of land, property, and the capital(ism) woven into them as crystallized refusals—of Indigenous and Black self-determination, of their equal standing with those calling themselves white, of their personhood. And, importantly, these refusals are crafted and sanctioned by institutions and collectives, including the various imperial regimes participating in the (neo)colonial enterprise and their laws.

ON THE CORPORATE FORM

These crystallized refusals form the pillars of the corporate form and the market(s) in which adherents seek to participate. Intrinsic to the corporations that have explicitly participated in and lobbied for the state-sanctioned violences discussed before, the “corporation” as such takes capital, property, and land as given, seeking to make efficient and maximize the positions and/or profits of the stakeholders it prioritizes. “Capital,” “property,” and “land” therefore function as presuppositions which necessitate corporate organization, and these corporations legitimize and depend them as ideological and legal structures.

A variety of doctrines in corporate law, for example, are concerned with legal remedies for those cases in which a corporate actor loses someone’s money, which is to say their capital. Ways of approaching this include something like the business judgment rule, which, broadly speaking, holds that corporate officers are not liable for loss when a

decision “is made by financially disinterested directors or officers,” when those directors and/or officers are “duly informed” before making that decision, and when they “exercise judgment in good faith to advance corporate interests.”²⁴ A rule like this is reasonable on its face, but each component indicates a reliance on the troubling legacies described before. For instance, what is being “lost” when someone loses money? Or, more precisely, what are they trying to hold on to, and why is the singular goal of corporations to amass capital, so much so that a loss of capital also carries with it the risk of punishment? These are the logics of capitalism, a way of being that, by definition, encourages the hoarding of capital by any means necessary, including and especially cheap labor, over and against other responsibilities. Where, for example, is the “moral judgment rule” in corporate law? Why are remedies for those kinds of wrongdoing relegated to criminal and/or tort law, considered periphery to the workings and purpose of corporations? Why must a loss be financial in order to be legible to corporate law? And what does it mean that an economy was built on these warped priorities?

Relatedly, corporate law’s assumptions about the land are evident in the land’s conspicuous absence from the legal doctrine and case law governing corporations. Even in cases like *Local 1330, United Steel Workers v. United States Steel Corporation*, where a locale’s wellbeing is at issue, the land fades into the background as an irrelevant, auxiliary concern, if it is a concern at all.²⁵ There, plaintiffs argue that, because the community of Youngstown, Ohio had come to rely on the defendant, United States Steel Corporation, as the main source of their employment and, accordingly, the town infrastructure (in the words of the District Judge, “And to accommodate that industry, lives and destinies of the inhabitants of that community were based and planned on the basis of that institution: steel.”), United States Steel Corporation should not be permitted to suddenly close their steel mills and leave town based on the business being what they consider “unprofitable.” The corporation argued that the plants were, in fact, unprofitable, it was therefore within their discretion to make “a business decision to discharge its former employees and abandon Youngstown,” and that there is no legal basis for the kinds of relief the plaintiffs sought. The Court of Appeals agreed with United States Steel Corporation.

Here, a case where both courts recognized the centrality of the United States Steel Corporation to the town of Youngstown and its people, where all parties admit that the people of a certain space have come to rely on that corporation and that that corporation’s abrupt departure would harm the people and that space, there is simply nothing (corporate) law can do. This is a detestable outcome in its own

right, but, more fundamentally, it affirms that corporations have no duty to space, to the land, under corporate law. The land and the peoples residing in that land are little more than resources to be utilized for corporations, labor and raw materials to work with, to use up, and to discard when expedient. In this case, the plaintiff's requests were more modest in their diagnosis of the problem than this paper's, and they were denied anyway; corporations, apparently, do not owe anything to the *cities they're in*, let alone to the peoples whose land was stolen to build those cities, or to the land itself. Those peoples and their lands become the barely discernible backdrop, the muted white noise, behind what the law considers to be more pressing and/or germane to the "corporation"—namely, money and the obligations thereof. The land is relevant to United States Steel Corp only insofar as it was a location to be used for profit and that it establishes jurisdiction for the case, a conception affirmed in corporate law, and this is rooted in a particular white (supremacist) conception about the land discussed before: alienable, divisible, property, and, along with the peoples there, negligible when inconvenient.

And with this surrounding context which grounds corporate law, corporations are thus authorized to do their work, which, on account of the social order these corporations are grafted into, follows a track through and into anti-Black and anti-Indigenous violence. These are contemporary violences. One example of this is, as mentioned before, the activities of Energy Transfer Partners in and around Standing Rock. In this case, this corporation sought to assert their dominance over the land of others, a rehearsal of the kind of anti-Indigeneity that makes something like the United States possible. And, hearkening back to *Johnson v. M'Intosh*, the federal government under three separate administrations have chosen to allow the pipeline to operate normally, asserting their ultimate say-so over Indigenous lands. The multiple layers and formulations of capital, property, and land explicated in this paper are apparent in this case. In the name of profit, or securing an abundance of capital, and twisted forms of "ownership" whereby someone else's ancestral homelands can be claimed through a legal fiction, Energy Transfer Partners is licensed to take and ruin land. And, here, land is a source of revenue and a staging ground for capital-building, rather than the sacred lands which constitute Indigenous identity and community. The white conception of land conquers and is made victorious through an alliance between the state and corporations, an alliance that affirms that Native peoples have no claim to the land which white people are bound to respect. And this manifests in physical, gratuitous violence, including mass arrests and the mobilization of the

National Guard and dogs and water hoses and rubber bullets and mace. Like their land, Native peoples are disposable under the logic and assumptions that form the corporation and this country.

And, similarly, home for Black people is also demonstrated to be a precarious thing in the United States. Gentrification and displacement are rampant throughout major cities, including the Cambridge and Boston areas where schools like Harvard “own” massive amounts of land. In Massachusetts, there is no statewide rent control, and major real estate developers have footholds in government bodies like the Boston Planning and Development Agency, the government body which oversees so-called urban renewal projects.²⁶ Homes are thus destroyed and seized, rents are driven up, and Black people in particular are continually exiled from the places they call home; a recent study found that Boston is the third-most intensely gentrified city in the country, with more than 135,000 Black and Latino residents pushed out of their housing between 2000 and 2013.²⁷ And importantly, gentrification is not some gentle economic phenomenon. It, much like the Dakota Access Pipeline, represents a partnership between the government and corporations, and this is a violent partnership; it is well-documented, for example, that gentrification is carried out with the help of violent policing practices, that it accompanies negative health outcomes and increased risk of homelessness, and that it destroys Black businesses and fractures Black communities.²⁸ Here, the disposability of Black folk is painfully obvious. Black homes and bodies are looted for profit as a matter of economic policy, and the antagonism between Black people and property is affirmed as they are removed from their own property, their bodies and dignity violated for the sake of protecting “property values.” And, of course, all of this is based on a warped perception of the land as an alienable, divisible, sellable, ownable thing—a white supremacist assumption rooted in Indigenous displacement, as discussed before.

CONCLUSION: TOWARD ALTERNATIVES

This paper has not been mainly concerned with proposing solutions, but with better apprehending a problem—namely, the intractability of anti-Blackness and anti-Indigeneity in the ways our social worlds are organized, including our economies and their corporations. And if we admit that these are intractable aspects of our systems as currently constituted, we must also admit that the ultimate solution must be nothing short of revolution, a complete overhaul of our ways of being. As Anthony Farley writes,

“The system of marks is a plantation. The system of property is a plantation. The System of law is a plantation. These plantations, all part of the same system, *hierarchy*, produce white-over-black, white-over-black only, and that continually.... The slave finds its way back from the undiscovered country only by burning down every plantation.”²⁹

In other words, the way forward for Black and Indigenous people is a destruction of juridical governance itself: “For a slave to become human, the entire order of things must be undone and that means the undoing of property and law altogether.”³⁰

However, we might also think of intermediate measures on the road and in the spirit of revolution. One such measure is reparations to all Black and Indigenous people in and beyond this country. These should be in the form of direct and, frankly, enormous payments to individuals, along with programmatic interventions (e.g., trainings, free education, community health programs, etc.). And, importantly, there should be no bar to receiving reparations based on proximity to chattel slavery; all Black people everywhere inherit the legacy of slavery as those who, by definition, are particularly enslavable,³¹ and it makes little difference to, say, a police officer whether the Black person they gun down are from Brooklyn or Brazil. Additionally, the United States continues to also wreak havoc on Black people abroad, as in the government’s undue influence, exploitation, and underdevelopment of Africa and the Caribbean.³² Reparations have international implications and should be much broader in scope than a few modest payments to people able to trace their lineage to those who were formally chattel or those suffering from specific harms related to Jim Crow in the United States.

And for Indigenous people specifically, reparations should also include the demands of the landback movement, namely:

“1. **Dismantle** — white supremacy structures that forcefully removed us from our Lands and continue to keep our Peoples in oppression.

a. Bureau of Land Management, National Parks Service

2. **Defund** — white supremacy and the mechanisms and systems that enforce it and disconnect us from stewardship of the Land.

a. Police, military industrial complex, Border Patrol, ICE

3. **Return** — All public lands back into Indigenous hands.
4. **Consent** — Moving us out of an era of consultation and into a new era of policy around Free and Prior Informed Consent.”³³

All of these are, of course, costly solutions, they are mostly retroactive, and they do not address the metaphysical, spiritual aspects of these violences, nor their rootedness in the law or its assumptions about what capital, property, and land are or ought to be. There can be no unspilling of blood. But, given the brutal history and the ongoing oppression that continues to traumatize, starve, and kill Black and Indigenous people, these are steps toward something like justice and away from the earth-shattering status quo, even if they are timid and incomplete steps. In any case, the world as-is is not sustainable, and so we must change it—all of it.

ENDNOTES

¹ See Rhitu Chatterjee, *How the Pandemic Is Widening the Racial Wealth Gap*, NPR, Sep. 18, 2020, <https://www.npr.org/sections/health-shots/2020/09/18/912731744/how-the-pandemic-is-widening-the-racial-wealth-gap>; see also Wei Li, *Racial Disparities in COVID-19*, SCIENCE IN THE NEWS - HARVARD MEDICAL SCHOOL, Oct. 24, 2020, <https://sitn.hms.harvard.edu/flash/2020/racial-disparities-in-covid-19/>.

² See Sahir Doshi et. al, *The COVID-19 Response in Indian Country*, Center for American Progress, Jun. 18, 2020, <https://www.americanprogress.org/issues/green/reports/2020/06/18/486480/covid-19-response-indian-country/>.

³ CHRISTINA SHARPE, *IN THE WAKE: ON BLACKNESS AND BEING* 104 (2016).

⁴ *Id.* at 106.

⁵ See, e.g., Matt Egan, *Wells Fargo accused of preying on Black and Latino homebuyers in California*, CNN BUSINESS, Feb. 27, 2018, <https://money.cnn.com/2018/02/27/investing/wells-fargo-sacramento-lawsuit-discriminatory-lending/index.html>.

⁶ See, e.g., Sandra Feder, *Stanford professor's study finds gentrification disproportionately affects minorities*, STANFORD NEWS, Dec. 1, 2020, <https://news.stanford.edu/2020/12/01/gentrification-disproportionately-affects-minorities/>.

⁷ See, e.g., Robin McDowell and Margie Mason, *Cheap labor means prisons still turn a profit, even during a pandemic*, PBS, May 8, 2020, <https://www.pbs.org/newshour/economy/cheap-labor-means-prisons-still-turn-a-profit-even-during-a-pandemic>.

⁸ See Rebecca Hersher, *Key Moments in the Dakota Access Pipeline Fight*, NPR, Feb. 22, 2017, <https://www.npr.org/sections/thetwo-way/2017/02/22/514988040/key-moments-in-the-dakota-access-pipeline-fight>.

⁹ CEDRIC ROBINSON, *BLACK MARXISM: THE MAKING OF THE BLACK RADICAL TRADITION* 67 (2000).

¹⁰ *Id.* at 111.

¹¹ Anthony Paul Farley, *Johnnie Cochran's Panther: An Essay on Time And Law*, 33 T. MARSHALL L. REV. 51, 58 (2007).

¹² See Ian Bernard, *The Zong Massacre (1781)*, BLACKPAST, Oct. 11, 2011, <https://www.blackpast.org/global-african-history/zong-massacre-1781/>.

¹³ *Dred Scott v. Sanford*, 60 U.S. 693 (1857).

¹⁴ See Breonna Taylor: Police officer charged but not over death, BBC NEWS, Sep. 23, 2020, <https://www.bbc.com/news/world-us-canada-54273317>.

¹⁵ See Regan Morris, *LA riots: How 1992 changed the police*, BBC NEWS, Apr. 29, 2012, <https://www.bbc.com/news/world-us-canada-17878180>.

¹⁶ U.S. DEP'T OF JUSTICE, INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 10 (2014), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.

¹⁷ See Jamelle Bouie, *The Police Are Rioting. We Need To Talk About It*, NY TIMES, Jun. 5, 2020, <https://www.nytimes.com/2020/06/05/opinion/sunday/police-riots.html>.

¹⁸ NAOMI MURAKAWA, THE FIRST CIVIL RIGHT: HOW LIBERALS BUILT PRISON AMERICA 10 (2014).

¹⁹ RINALDO WALCOTT, ON PROPERTY 16 (2021).

²⁰ *Johnson v. M'Intosh*, 21 U.S. (8 Wheat.) 543, 589.

²¹ *Id.* at 490.

²² *Id.*

²³ Willie James Jennings, *Overcoming Racial Faith*, DIVINITY (DUKE UNIVERSITY) 5, 7–8 (2015).

²⁴ “Allen & Krakman on Understanding the BJR”

²⁵ *Local 1330, United Steel Workers v. United States Steel Corporation*, 631 F.2d 1264 (1980).

²⁶ See Rachel Slade, *The BPDA: Paved and Confused*, BOSTON

MAGAZINE, Apr. 10, 2020,
<https://www.bostonmagazine.com/news/2020/04/10/bpda-failures/>.

²⁷ See Deanna Pan, *Boston is the third most 'intensely gentrified' city in the United States, study says*, BOSTON GLOBE, Jul. 10, 2020, <https://www.bostonglobe.com/2020/07/10/metro/boston-is-third-most-intensely-gentrified-city-united-states-study-says/>.

²⁸ See Candace Simpson, *In Bright Mansions: On Gentrification and Police Violence*, The Bias Magazine, Oct. 2, 2020, https://christiansocialism.com/breonna-taylor-police-gentrification/?fbclid=IwAR1U3HDkJkWx6OFGXQywr1wxr5TZAjMZd7tnQFQWK3hHD0yVN7EMI_f92pw.

²⁹ Anthony Paul Farley, *Perfecting Slavery*, 36 LOY. U. CHI. L.J. 225, 241 (2004).

³⁰ Farley, *supra* note 11 at 62.

³¹ See SHARPE *supra* note 3 at 141.

³² See, e.g., Asad Ismi, *The Ravaging of Africa: Western neo-colonialism fuels wars, plundering of resources*, CCPA MONITOR, Oct. 2002, <https://nointervention.com/archive/Africa/other/article344.html>.

³³ See *Landback Manifesto*, LANDBACK, <https://landback.org/manifesto/>.