

I. Introduction

During enslavement, American government at all levels enabled and benefitted from the direct theft of African Americans' labor. Since then, federal, state, and local government actions have directly segregated and discriminated against African Americans and also paved the way for private discrimination in labor and employment. Federal, state, and local laws and policies, including those of California, have expressly and in practice limited what work African Americans can do and suppressed African Americans' wages and opportunities for professional advancement. Federal laws have also protected white workers while denying the same protections to African American workers, setting up and allowing private discrimination. Government and private discrimination have contributed to the inability of African Americans to build wealth over generations. Although progress has been made, African American workers continue to face serious discrimination today. The badges and incidents of slavery have carried forward. The devaluation of African Americans, their abilities, and their labor did not end. It simply took on different forms.

Around the time of the Civil War, state and local governments passed laws known as the Black Codes and "Jim Crow" laws. While these laws touched all aspects of life, one of their main goals was to control how African Americans earned a living in order to maintain African Americans as a servant class for white Americans. These laws limited African Americans' job opportunities and salaries and their ability to provide for their families.

The federal government itself directly discriminated against African American workers. African American workers were routinely excluded from federal employment until 1861 and, in 1913, President Woodrow Wilson allowed for the federal workforce be segregated. The segregated federal government demoted and relegated African American workers to lower paid jobs, and, for instance, forced African American workers to use separate toilets in the Treasury and Interior Departments. Although the military offered an opportunity for upward mobility for African Americans, its ranks remained segregated until 1960, with lower pay and rank for African American service members. Even as the overall proportion of African American service members has grown, military leadership has remained overwhelmingly white, with only two African American officials out of 41 total holding four-star rank in 2020.

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Railway workers with pneumatic drill. Undated photograph.

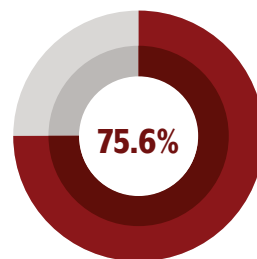
Although the federal government throughout history has passed laws, implemented policies, and made progress in protecting workers, its efforts were often limited in time and impact, and often left out African American workers due to compromises with racist southern legislators. After the Civil War, the Freedmen's Bureau provided for the welfare of previously enslaved African Americans, but it did so in a manner that reinforced racist notions, and lasted only seven years before being dismantled by Congress under pressure from white southerners. The federal government failed to prevent white Americans from using violence and terror to limit African Americans' ability to earn a living, and certified unions that excluded African American workers. Federal labor protections under the New Deal, which aimed to help American workers' economic prospects, excluded or harmed African Americans.

The Civil Rights Act of 1964 included Title VII, which largely banned discrimination on the basis of race in employment. However, it did not remedy the discriminatory workplace structures that have accumulated for hundreds of years. In 1977, the Supreme Court limited these federal protections to only instances where an employee can prove that their employer intended to discriminate against them, an extremely high standard. Federal government affirmative action plans created in the 1970s did lead to an increase in the rate of minority employment in businesses that contracted with the federal government in those years, but an organized backlash has narrowed the scope and impact of these programs since in the early 1980s. Despite some progress in preventing labor discrimination against African American workers, the federal government has made little to no effort to address the harms of past government action.

Research has produced evidence that, as a result of the legacy of enslavement and subsequent and ongoing discrimination, white workers are paid more than African American workers, and African American and white workers are concentrated in different types of jobs.¹ As of 2019, median African American wages were equivalent to only 75.6 percent of white wages, falling from a height of 79.2 percent in 2000. Researchers estimate that between one-quarter to one-third of the wage gap between African American and white workers is due to racial discrimination.² Without a safety net of savings, African Americans can be more vulnerable to upheavals in the labor market and less able to advocate for higher wages or other benefits. As of 2020, 19.5 percent of African Americans were living in poverty compared to 8.2 percent of non-Hispanic white Americans.³ Out of the 2021 S&P 500 and Fortune 500 companies, only six of the chief executive officers of those companies were African Americans.⁴ In 2020, African Americans held only 8.7 percent of the board seats in Fortune 500 companies.⁵

Similar patterns of government neglect and discrimination exist in California. African American workers did not hold many government jobs in the state until World War II. When Bay Area Rapid Transit was built in 1967, no skilled African American workers were hired because the National Labor Relations Board (NLRB)-certified unions did not admit African American members. BART, though a government agency, refused to use its power to insist on non-discrimination policies by the unions. In 1996, California changed its constitution to ban the use of affirmative action in government employment and education with Proposition 209. Persistent discrimination and limited affirmative action have prevented African Americans from receiving the same wages and career opportunities as white Americans received with government support.

African American Wages in 2019 were



of **white** American wages

This chapter recounts this long history and the continuing impact of discrimination in labor and employment. Section III provides a brief summary of enslavement, a subject explored in greater detail in Chapter 2. Section IV discusses discrimination in the laws enacted and government programs carried out from the Civil War forward as well as government support of private

discrimination in labor and employment. Section IV also includes discussion of the advances and limitations of civil rights laws. Section V outlines the history of discrimination in government employment. The effects still seen today from centuries of discrimination are summarized in Section VI.

II. Enslavement

The story of African Americans in the United States begins with stolen labor. The purpose of enslavement was to exploit the fruits of African American labor for the benefit of mostly white Americans. For a full discussion of enslavement, please see Chapter 2. The labor of enslaved African Americans built the infrastructure of the nation, filled the nation's coffers, and produced its main agricultural products for domestic consumption and export.⁶

Federal and state law treated African Americans themselves as commodities to be sold by enslavers.⁷ This system exploited the labor and love of African American mothers to recreate and grow the enslaved labor force.⁸

Over the 200-plus years of slavery's existence in this country, enslavers extracted an estimated \$14 trillion of labor from the human beings they enslaved.⁹ One recent study estimated that "enslaved workers were responsible for somewhere between 18.7 and 24.3 percent of the increase in commodity output per capita nationally between 1839 and 1859."¹⁰ Through various forms of taxes and tariffs—often structured to protect the interests of enslavers—federal, state, and local governments all reaped financial benefit from this condoned economic activity.¹¹

Enslavement effectively led to separate labor markets for Black and white Americans.¹² White workers had access to a larger and more desirable selection of jobs, while free Black workers were relegated to menial labor.¹³ Frederick Douglass observed, "Finding my trade of no immediate benefit, I threw off my carking habiliments, and prepared myself to do any kind of work I could get to do."¹⁴

Although there were fewer legal limitations on African Americans in the North, white workers were more motivated to reduce competition from African Americans.¹⁵ Less threatened by free Black workers in the South, white employers were more likely to employ Black workers in

skilled jobs than free Black wage earners in the North.¹⁶ In 1860, for example, approximately 10 percent of Black men in New York City worked in a skilled trade, while in Richmond the figure was 32 percent, and in Charleston,

Federal and state law exploited the labor and love of Black mothers to create and grow the enslaved labor force. Between 1619 and 1808, 300,000 enslaved people were trafficked to the United States. By 1860, approximately 3.9 million enslaved African Americans lived in the United States. Over the 200-plus years of slavery, enslavers extracted an estimated \$14 trillion of free labor from enslaved people.

where one third of the population was Black, 76 of Black men worked in a skilled trade.¹⁷ A few years earlier, in 1856, nearly 40 percent of Black artisans in Philadelphia reported that unrelenting racial prejudice had compelled them to abandon their trades.¹⁸

California

As discussed in Chapter 2, enslavement existed in California into the mid-1860s.¹⁹ Enslavers brought enslaved African Americans with them when they moved west.²⁰ Additionally, California passed its own fugitive slave law in 1852 and, for the three years that it was in force, it prevented courts from recognizing the freedom of those fleeing to California.²¹ California at the time strongly discouraged free African Americans from entering its territories.²² The relatively few free African Americans who resided in California in the late 1700s and the decades that followed tended to work as fur traders, scouts, cowboys, and miners.²³

California's lack of government oversight allowed slavery to take hold in certain regions, including where enslavers brought African Americans to mine for gold.²⁴

By 1852, 300 enslaved persons were involved in gold mining, with other enslaved persons forced to work in other capacities.²⁵ The California Fugitive Slave Act, coupled with California's law prohibiting the taking of testimony from an African American person against a white person, posed a threat to the lives of both free and enslaved African American residents.²⁶

One enslaver from Mississippi, Charles Perkins, brought three enslaved men, Robert Perkins, Carter Perkins, and Sandy Jones to California in 1849.²⁷ Perkins later left the men behind with a friend who released them in 1951.²⁸ The three freed men then set up a freight hauling business that earned them over \$3,000 in personal property, worth around \$98,000 in 2020 dollars, but in 1852, the California Supreme Court ordered the three back to slavery in Mississippi.²⁹

III. Government Support of Private Discrimination

Following the Civil War, Congress created programs to benefit African Americans and passed statutes to protect their rights. But fierce opposition from white government officials undermined these programs and led to their premature end—while the Supreme Court undermined statutory protections, allowing state and local legislatures to impose segregation.

Throughout American history and as discussed in the preceding chapters, local and state governments with the tacit approval of the federal government passed many laws restricting African American conduct. The

majority of southern African American families did not own land and were exploited by white landowners in the sharecropping system.³¹ African American women were mostly relegated to domestic service jobs until well into the 20th century.³²

When the federal government aimed to improve labor conditions in the 1930s with the New Deal, federal policies and programs often failed to benefit, or even harmed African Americans, often by design. New Deal programs purposefully linked benefits like healthcare, paid vacations, pensions, tuition benefits, social security, and unemployment benefits to employment with large corporations, which at the time, generally did not hire Black workers.³³ Southern members of the House and Senate from states that passed laws to prevent African American workers from voting were instrumental in structuring the New Deal to exclude industries in which most African American workers were employed, like agriculture, domestic services, and casual labor.³⁴

When the federal government tried to remedy the racism faced by African American workers, the actions often lacked power to enact real change and often lasted only a short time.

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The United States government established Freedmen's Villages to house, clothe, and educate freed enslaved people. (c. 1863-1865)

Black Codes and Jim Crow laws aimed to consolidate and maintain economic and political power generally in the hands of white Americans by controlling the type of work available to African Americans, and how that work has been performed.³⁰ This governmental discrimination against African Americans supported private employment discrimination. Until the Great Migration, as discussed in Chapter 1 and 5, the majority of African Americans lived in the South, and the

Freedmen's Bureau: Short-Lived Paternalism

In the wake of the Civil War, the federal government created programs to aid African Americans and statutes to protect their rights. However, both failed to live up to their promise to give African Americans equal access to economic and labor opportunities or remedy the harms of slavery.

Immediately before the end of the Civil War, Congress created the Bureau of Refugees, Freedmen, and Abandoned Lands to provide for the welfare of formerly enslaved African Americans, including through “issues of provisions, clothing, and fuel, as [necessary] for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children,” according to the statute.³⁵ Commonly known as the

The Federal Freedmen’s Bureau withheld services and food in order to force African Americans into labor contracts, prosecuted Black workers, and enforced vagrancy laws to prevent African Americans from moving.

Freedmen’s Bureau, the agency had the authority to supervise labor relations in the South, with the mandate to provide education, medical care, and legal protections for formerly enslaved African Americans, along with the authority to rent out and eventually sell allotments of abandoned or confiscated land to free African Americans.³⁶

The original goal of the Freedmen’s Bureau Act was the more radical notion of allowing African Americans the means to become self-sufficient.³⁷ In the closing days of the Civil War, Union General William Tecumseh Sherman issued Special Field Order No. 15, setting aside 400,000 acres of confiscated land for those who had been freed, and two months later, the Freedmen’s Bureau’s Act formalized the field order, “providing that each negro might have forty acres at a low price on long credit.”³⁸ Many free African Americans and northern Republicans believed that land reform in the South—granting formerly enslaved African Americans access to their own land—was the true way that formerly enslaved people would be free from their enslavers.³⁹ The resulting independent African American farmers would provide a power base for a new social and political order in the postwar South.⁴⁰

This new vision of social relations in the South was opposed by southerners as well as northerners who opposed enslavement but whose commitment was more to notions of free labor and capitalism than racial equality.⁴¹ A large number of African American landowners would threaten plantations and disrupt the southern economy and social system.⁴² White capitalists in the North and South believed that African American freedom should mean African American workers continuing to work on a plantation, although they would now be paid.⁴³ They did not believe that African Americans should be able to support themselves independently through subsistence farming, which

would have led to less cotton being grown and posed a threat to the interests of cotton merchants and other capitalists in the South, elsewhere in the United States, and in Europe.⁴⁴ After the assassination of Abraham Lincoln, who had wished to give freed persons “an interest in the soil,”⁴⁵ Andrew Johnson became president and repudiated Lincoln’s promises.⁴⁶ Proclaimed Johnson, “This is a country for white men, and by God, as long as I am president,

it shall be a government for white men.”⁴⁷ In less than a full harvest season, the land that Sherman had given to freed persons was returned to the prior owners.⁴⁸

Although the Freedmen’s Bureau tried to assert and protect the rights of the formerly enslaved, the Bureau under President Johnson perpetuated racist stereotypes, paternalistic attitudes, and continued to limit African Americans’ economic and social power. Bureau agents often viewed formerly enslaved African Americans as children, unprepared for freedom, and needing to be taught the importance of work and wages.⁴⁹ The Freedmen’s Bureau abandoned the possibility of land reform in the South, and focused on labor relations between African American and white southerners instead.⁵⁰

Bureau agents did protect African American workers’ rights by invalidating enslavement-like labor contracts, and they enforced contracts and settled wage disputes at the end of the harvest season.⁵¹ However, the Bureau also harmed African Americans by acting on the racist belief that African Americans avoided work, and it was the Bureau’s responsibility to reform such laziness.⁵² One commander noted that emancipation only meant “liberty to work, *work or starve*.”⁵³ General O.O. Howard, director of the Freedmen’s Bureau, stated that African Americans must enter into labor contracts regardless of the contract terms because any Black man “who can work has no right to support by the government.”⁵⁴ To this end, Bureau agents withheld social services and food in order to force African Americans into labor contracts,⁵⁵ prosecuted African American workers who broke labor contracts, enforced vagrancy laws, and imposed other restrictions on African Americans’ mobility.⁵⁶ The Bureau allowed plantation owners to deduct unfairly large sums for supplies and rations, until many workers would receive little wages at all.⁵⁷ The wage guidelines for African American workers provided less pay for African American women regardless of their productive capacity.⁵⁸

Nonetheless, the Freedmen’s Bureau met severe resistance from southern politicians. In 1866, President Andrew Johnson vetoed the bill extending its existence

past one year, and it was only enacted once Congress overrode the veto.⁵⁹ Six years later, in 1872, Congress bowed to pressure from white southerners and dismantled the Bureau.⁶⁰

An 1865 Mississippi law required African Americans to enter into a labor contract with white employers by January 1 of every year or risk being in violation. The punishment for violation was a criminal conviction allowing the state or locality to force the African American to work without pay.

Black Codes and Other Laws Controlled African American Workers

Immediately after the Civil War, “Black Codes,” passed by state and local governments in both the North and the South, governed the conduct of free African Americans. Free African Americans posed a threat to the racial hierarchy of slavery, and Black Codes were a range of laws to maintain the lower status of African Americans through restrictions on movement and activity, often in order to compel them to work in menial jobs for low pay.⁶¹

The Thirteenth Amendment to the Constitution outlawed the institution of slavery, but it allowed involuntary servitude as a punishment for a crime. Mostly southern state and local governments used this loophole to develop a system of laws, often built around vagrancy laws, that turned African Americans into criminals, and then allowed the government to turn those labeled “criminals” into de facto enslaved persons, forced to labor without pay or freedom of movement.⁶² For an in depth discussion of convict leasing, please see Chapter 11.

Vagrancy laws, passed by numerous states, criminalized unemployment.⁶³ An 1865 Mississippi law required African Americans to enter into a labor contract with white farmers by January 1 of every year or risk being in violation.⁶⁴ Violating such laws risked a criminal conviction that allowed the state or locality to force the African American to work without pay.⁶⁵ Means of compelling the labor of African Americans persisted even after some forced labor provisions were repealed. Other states “used open-ended fraud and false-pretenses laws to punish [workers] who had received advances and then breached contracts without repayment.”⁶⁶

Some jurisdictions used Black Codes to limit opportunities available to African Americans. Some laws

prohibited employers from hiring workers who were already under contract; contract labor law gave employers nearly unlimited power over workers and often their family members as well; and individuals who quit jobs could be arrested and returned to their employers.⁶⁷ South Carolina enacted a statute in 1869 that criminalized simple breaches of labor contracts.⁶⁸ Probate courts could order that African American children be “apprenticed” to their former enslavers.⁶⁹ For an in-depth discussion of apprenticeship, please see Chapter 8. In South Carolina, African Americans were required to apply for a permit to do work that was not agriculture.⁷⁰ These codes often reinforced enslavement, even after it had been outlawed.

Later, as the Great Migration began, states also enacted laws that discouraged African Americans from migrating to places elsewhere in the country that offered better work opportunities with improved conditions and higher pay. After the Civil War, interstate labor recruiters known as emigrant agents helped African American workers leave the South towards better jobs in the North.⁷¹ The Southern states lost large numbers of workers and even when workers did not move, the possibility of leaving improved African American workers’ bargaining power.⁷² The Southern states responded by passing laws that required emigrant agents to pay high license taxes.⁷³ The Supreme Court in 1900 ruled that one such law was constitutional, and allowed Southern states to hinder the ability of poor and rural African American laborers to move towards better jobs elsewhere.⁷⁴

The Supreme Court Announces “Separate but Equal”

In 1866, Congress overrode President Johnson’s veto to pass the Civil Rights Act of 1866, the first federal legislation banning discrimination on the basis of race.⁷⁵ As discussed in other chapters, the Civil Rights Act of 1866 was aimed at ensuring that African Americans had the same legal rights as white Americans. However, while criminalizing violations committed under color of law, the Act did not provide any civil remedy.⁷⁶

The Civil Rights Act of 1875 allowed individuals to pursue a monetary penalty against businesses and other public accommodations that discriminated against African Americans.⁷⁷ This protection lasted only eight years, however, before the Supreme Court in 1883 decided in

the *Civil Rights Cases* that the Fourteenth Amendment did not apply to private parties.⁷⁸

The decision allowed private employers and other businesses to discriminate openly against African Americans with no repercussions.⁷⁹ Together with *Plessy v. Ferguson* in 1896, which condoned the doctrine of “separate but equal,” the Supreme Court’s decisions created the ability for both private and public employers to entrench an inferior labor market for African American workers, with lower wages, fewer protections, and limited opportunities for advancement for the next 100 years.

Lack of Government Protection from Violence

In both the North and the South, federal, state, and local governments neglected their duty to protect African American workers from violence as a tactic to limit their job opportunities. White land owners, employers, vigilante groups, and others used violence and terror, more closely examined in Chapter 3, to deter African Americans from earning fair wages for their labor and achieving economic success.⁸⁰ For decades following Emancipation, lynchings targeted African Americans who attempted to wield some political and economic influence or even take steps as limited as demanding pay for their work.⁸¹ While private actors often were the perpetrators of these brutal killings, federal, state, and local governments, in failing to prosecute racial violence, accepted its use to limit economic and political opportunities of African Americans.⁸²

Legal Segregation

During the brief period of Reconstruction following the end of the Civil War until the 1870s, radical Republicans in the federal government passed laws increasing African Americans’ economic and labor freedom. This included rights to change employers, keep a portion of crops grown through cooperative labor, and change locations.⁸³ But this progress was temporary.

After the Union army withdrew from the South, as discussed in Chapters 2, 3, and 4 on enslavement, political disenfranchisement, and racial terror, respectively, southern states passed laws and white Americans used racial terror and violence to prevent African Americans from voting. The southern Democrats took back control of state and local governments across much of the South and built a power base in the federal government.⁸⁴ In the South, state and local governments passed laws that created a formal, legally enforced system of segrega-

To comply with Jim Crow laws, businesses would need to pay to erect segregated workspaces for Blacks, and thus many employers simply refused to hire any Black workers. As a result, most of the jobs available to African Americans were menial service jobs.

tion.⁸⁵ The federal government supported this system with a series of Supreme Court decisions culminating with *Plessy v. Ferguson*’s official acceptance of “separate but equal” Jim Crow segregation regimes in 1896.⁸⁶

Segregation affected all aspects of African Americans’ lives, including voting, marriage, education, transportation, access to public accommodations, and labor and working conditions.⁸⁷ For example, South Carolina passed a statute that essentially required employers to create two separate work spaces, as it forbid white textile workers from working in the same room or using the same entrances, exits, pay windows, doorways, stairways, or windows at the same time as African American workers.⁸⁸ African American textile workers in South Carolina could not use the same “water bucket, pails, cups, dippers or glasses” as white workers.⁸⁹ Not only did such laws directly regulate the labor of African Americans, they also made it more expensive to hire African American workers when such additional facilities were required.⁹⁰ In order to be compliant with state law, an employer would need to pay twice for compliant facilities if they hired any African American workers.⁹¹ Many employers simply refused to hire any African American workers.⁹² As a result, most of the jobs available to African Americans were menial and service jobs.⁹³

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African-American engineers, working in an apparently segregated office, located in Newport News, Virginia. (1936)



Photograph shows Sam Williams (center, holding dog), his wife Diccie Williams (center in white), their youngest son Sidney Williams (in front of Sam), and other men, women, and children in a cotton field. (c. 1908)

State and local governments' refusal to enforce the economic and civil rights of African Americans in contract and employment disputes allowed white Americans to exploit and discriminate against African Americans. African Americans in the South mostly remained in agriculture, in a sharecropping or tenant farming system.⁹⁴ Sharecropping and tenant farming emerged in the late 1860s and lasted into the 1940s, tying African American workers to agricultural work and rendering them unable to pursue other opportunity.⁹⁵ A sharecropping or tenancy arrangement typically involved African American workers and tenants paying rent to a white farmer while living and working on the rented land. The tenant farmers purchased supplies—including seed, fertilizer, and tools—on credit from plantation stores that then attached significant markups to the supplies and charged high interest rates, often locking the tenant farmers into a permanent state of debt.⁹⁶ Tenants were required to pay off all debts before leaving the farm, and landlords enforced these requirements with threats of violence.⁹⁷ For decades, federal authorities did little to limit peonage, even after the Supreme Court declared the practice unconstitutional.⁹⁸

Although the sharecropping system also exploited poor white farmers, an added layer of racial terror plagued African American sharecroppers, with no hope of government or legal protection. In the South, an African American challenged a white American at the risk of severe violence, or death.⁹⁹ For example, in 1948, two white Americans beat an African American tenant farmer in Louise, Mississippi, because the African American farmer had asked for a receipt after paying for his water bill.¹⁰⁰ If an African American farmer tried to sell extra agricultural product without the landlord's permission, he could be whipped or killed.¹⁰¹ "They could never leave as long as they owed the master. That made the planter as much master as any master during slavery, because the sharecropper was bound to him, belonged to him, almost like a slave," the grandson of a sharecropper told Isabel Wilkerson, the Pulitzer

Prize-winning journalist and author of both *The Warmth of Other Suns: The Epic Story of America's Great Migration* and *Caste: The Origins of Our Discontents*.¹⁰²

"One reason for preferring Negro to white labor on plantations is the inability of the Negro to make or enforce demands for a just statement or any statement at all. He may hope for protection, justice, honesty from his landlord, but he cannot demand them. There is no force to back up a

demand, neither the law, the vote nor public opinion... Even the most fair and most just of the Whites are prone to accept the dishonest landlord as part of the system," wrote anthropologist Hortense Powdermaker.¹⁰³

Elsewhere in the country, the Great Migration, as discussed in detail in Chapter 1 and 5, brought African Americans from the South to the North, Midwest, and West. "Blacks, though native born, were arriving as the poorest people from the poorest section of the country with the least access to the worst education[.]" wrote Wilkerson.¹⁰⁴ Largely excluded even from the better paying jobs in even the menial occupations, African American workers in the North and West earned the least money when compared with white recent immigrants at the time.¹⁰⁵ In 1950, African Americans in these regions had an annual income of \$1,628.¹⁰⁶ Italian immigrants made \$2,295, Czechs made \$2,339, Poles made \$2,419, and Russians made \$2,717.¹⁰⁷

ANNUAL INCOME DURING GREAT MIGRATION

White immigrant workers versus Black workers

Russian	\$2,717
Pole	\$2,419
Czech	\$2,339
Italian	\$2,295
\$1,628 African American	

Until well into the 20th century, African American women could mostly only find work as domestic servants for

white employers.¹⁰⁸ Following the Civil War, new career opportunities opened up for women in the fields of teaching and nursing.¹⁰⁹ Black women who entered these professions could only work in segregated facilities.¹¹⁰ A few decades later, private employers hired mostly white women as receptionists, department store clerks, and telephone and machine operators.¹¹¹ African American women took over household work as white women, including white immigrant women, moved into these better paying jobs with set work hours.¹¹²

In both the North and the South, African American female labor participation rates were double those of American-born white women and triple those of immigrant women. During the first half of the 20th century, the number of white female domestic workers fell from 1.3 million to 542,000, while Black women went from accounting for 30 percent of household workers around

During the first half of the 20th century, the number of white female domestic workers fell from 1.3 million to 542,000, while Black women went from accounting for 30 percent of household workers around 1900 to about 60 percent of household workers at the end of World War II. Some Black women working as servants lived in their employer's homes and were on call 24 hours a day.

1900 to about 60 percent of household workers at the end of World War II.¹¹³ Some African American women working as servants lived in their employer's homes and were on call 24 hours a day.¹¹⁴ Other African American women resorted to what was colloquially referred to as "slave markets," where they gathered on street corners early in the morning to wait for white housewives to bid on them for as little as fifteen cents an hour.¹¹⁵ One woman at a Chicago "slave market" reported that she made 50 cents a day—the same money as she would earned for picking cotton in the field.¹¹⁶

In each of these eras, and through to the present, civil courts did not protect African Americans to the same degree as white Americans. However, there were exceptions. One scholar has found evidence that African Americans used civil courts in one district in Mississippi before the Civil War to vindicate their rights in claims over contracts and wages, and found that in many instances these litigants won their cases.¹¹⁷

But discrimination remained built into the law. Several states, including California, prohibited African American persons from testifying against those who were white.¹¹⁸

African Americans additionally faced *de jure* and then *de facto* exclusion from juries.¹¹⁹ Some states explicitly banned African Americans from jury service, while others tied jury service to voting, which was then limited to white men.¹²⁰ Exclusion continued by other means after the Supreme Court in 1879 ruled that a West Virginia statute limiting jury service to white men violated the Fourteenth Amendment.¹²¹ Other forms of discrimination, including segregation, also limited access to justice.¹²²

Over time, in addition to the racial terror discussed in Chapter 3 and the political disenfranchisement discussed in Chapter 4, the civil court system also contributed to a failure to protect African Americans against the theft or government taking of property, which often has been a source of income and sustenance. For example, in 1856, an enslaver, Thomas Howlett, directed that his plantation be sold and the proceeds given to his enslaved African American workers, who were to be freed upon his death.¹²³ Two courts upheld Howlett's will over the challenges of Howlett's white relatives, but the formerly enslaved workers never received the proceeds from the plantation sale.¹²⁴

In another example, in 1964, Alabama sued two cousins, Lemon Williams and Lawrence Hudson, claiming that the 40-acre farm that the family had owned and operated since 1874 belonged to the state.¹²⁵ A state court judge ordered Lemon Williams and Lawrence Hudson off the land, though, in the same courthouse, investigating journalists found tax and property records showing that the family owned the farm.¹²⁶

Barriers to justice, including those outlined above and in Chapter 11, continue for African Americans today. While the relationship between race and the civil justice system is under-researched, studies thus far indicate that African Americans under-utilize the civil justice system, including in the area of labor and employment. In a 2016 study conducted by legal scholar and professor Sara Sternberg Greene of low-income minority group attitudes toward the civil justice system, African American respondents were less likely than white American respondents to have considered seeking help for their civil legal issues, largely because of distrust in the legal system.¹²⁷ This lack of trust often stems from prior negative experiences.¹²⁸ African American people are more likely than white people to experience biased treatment in the judicial system, and individuals who experience discrimination are more likely to anticipate and perceive discrimination across institutional contexts.¹²⁹ There is

also evidence that African Americans are reluctant to complain when they perceive discrimination or experience other grievances.¹³⁰ Additionally, social science research shows that litigants may find their attorneys through their professional networks, and African Americans have more limited professional networks.¹³¹

Underutilization of the civil justice system and lack of access to justice have particular impact in the area of labor and employment. African Americans hold a significant share of low-wage jobs, in sectors in which wage theft is prevalent, and yet the available evidence indicates that African Americans rarely bring wage theft claims.¹³² African Americans are more likely than white Americans to file a discrimination lawsuit without a lawyer.¹³³ A 2010 study found that African Americans are half as likely as white Americans to have a lawyer.¹³⁴ In general, less than five percent of worker discrimination claims go to trial and result in a ruling for the plaintiff,¹³⁵ and self-represented litigants are significantly less likely to achieve a favorable outcome in a discrimination suit.¹³⁶

Exclusion from Unions

Legal segregation laws not only confined African American workers in the South, but also impacted the economy of the entire country.¹³⁷ Segregation pitted workers of different races against one another, result-

Prior to World War II, many unions refused to accept Black people as members. Since before the Civil War, white workers have claimed that Black workers were not suited to skilled labor in order to avoid competition for jobs. In the North, companies and unions did not hire Black workers because white workers refused to work beside them, and for the sake of morale, the companies and unions would not force the issue. White workers sometimes walked off the job to force their employers to rid their workplace of Black employees.

ing in continued suppression of opportunity for Black workers and less collective power for workers of all races.¹³⁸ Unions have a lengthy history in the United States as craftsmen have long joined together to solve problems related to their craft.¹³⁹ In the 18th century, strikes, labor organizing, and collective bargaining developed at the same time, and the first authenticated strike was called in 1786 by Philadelphia printers.¹⁴⁰ Unions reached their peak around World War II, as unions grew at the rate of approximately one million workers per year.¹⁴¹

Prior to World War II, many unions refused to accept African American people as members.¹⁴² Since before the Civil War, white workers have claimed that Black workers were not suited to skilled labor in order to avoid competition for jobs.¹⁴³ In the North, companies and unions did not hire African American workers because white workers refused to work beside them, and for the sake of morale, the companies and unions would not force the issue.¹⁴⁴ White workers sometimes walked off the job to force their employers to rid their workplace of African American employees.¹⁴⁵

Throughout the nineteenth century trade unions organized by white workers typically excluded African American workers; in 1902, African American workers scarcely made up three percent of members in unions.¹⁴⁶ In response to exclusion, African American workers sometimes formed their own unions.¹⁴⁷ For example, in 1869, African American delegates attended the Colored National Labor Union convention in Washington, D.C., which was a counterpart to the white National Labor Union.¹⁴⁸

Government action sometimes supported labor unions' discrimination against African American workers.¹⁴⁹ For example, when the city of St. Louis built a segregated hospital for African American patients, white union members protested the hiring of a single African American tile setter.¹⁵⁰ The city fired the contractor and committed not to hire any contractor that employed African American workers.¹⁵¹

Legal segregation both reflected and intensified racial tension between workers. Segregation made contact between African American and white workers almost impossible, ensuring that African American and white workers would inhabit different worlds and making labor organizing across racial lines more dangerous and less likely to occur.¹⁵² Legal segregation not only held down the wages of African American working-class Americans, it also pre-

vented working class white workers from demanding higher pay, as long as African American workers could always be forced to work for less.¹⁵³

The American Federation of Labor, founded in 1886 and survived today by the AFL-CIO, initially strived for racial equality¹⁵⁴ as leaders recognized the value of a united working class.¹⁵⁵ However, legal segregation in the South proved to be too influential and federation leadership allowed local affiliates to exclude African American workers.¹⁵⁶

African American workers protested exclusion throughout the 1920s¹⁵⁷ and 1930s.¹⁵⁸ The Federation's leaders' formal response was that the Federation did not discriminate, "human nature cannot be altered," and African American individuals ought to be grateful for what the Federation had done for them.¹⁵⁹

Scholars have argued that legal segregation discouraged white and African American workers from working together for better working conditions and fostered a racial division that served the interests of southern planters and industrialists.¹⁶⁰ For example, beginning in the 1880s, African American and white tenant farmers and sharecroppers began to join biracial political parties to challenge the political and business elite of the South.¹⁶¹ Scholars such as Jacqueline Jones, who testified before the Task Force, have argued that legal segregation and private racial discrimination were used to disrupt this burgeoning biracial political force.¹⁶²

For example, before the Civil War, African American women, men, and children worked in the South. After the war, southern textile-mill owners reserved those jobs for white families, and advertised hazardous mill work as a welcome escape from sharecropping.¹⁶³ This drove a wedge between the African American and white rural poor.¹⁶⁴

Exclusion from Occupational Licenses

Unions also played a part in how states excluded African American workers from skilled, higher paying jobs through what eventually became state licensure laws. A license from a state entity is required to practice some professions and trades, like electricians and doctors.¹⁶⁵ State, and sometimes local, governments, have designed these licensing requirements so that Black workers are less likely to qualify, which has intensified the impact of discrimination by private employers and unions.¹⁶⁶

State licensure systems worked in parallel to exclusion by unions and professional societies¹⁶⁷ in a way that has been described by scholars as "particularly effective" in excluding Black workers from skilled, higher paid jobs.¹⁶⁸ White craft unions implemented unfair tests, conducted exclusively by white examiners to exclude qualified Black workers.¹⁶⁹

For example, across the country from the late 1890s through the late 1930s, state laws allowed local mayors or city councils to appoint the members of the licensing board for plumbers.¹⁷⁰ This meant that the local plumbers' unions could exert significant influence over who sat on the licensing board.¹⁷¹ From there, the boards erected barriers to avoid licensing African American plumbers, such as requiring a union apprenticeship—from which

African American individuals were banned—before an applicant could even qualify to take a licensing exam.¹⁷² Other barriers included a high school diploma, which was more difficult for Black workers due to education discrimination (as discussed in Chapter 6, *Separate and Unequal Education*), passing a personal interview conducted by a white person, or sometimes, even false test scores.¹⁷³

COURTESY OF UNIVERSAL HISTORY ARCHIVE/UNIVERSAL IMAGES GROUP VIA GETTY IMAGES



"Housekeeper Pushing Young Girl on Toy Cart on Sidewalk, Port Gibson, Mississippi." (1940)

These methods, which were used by other professions as well,¹⁷⁴ did not ban African American workers outright. Because these statutes were outwardly neutral, courts have repeatedly found that they were constitutional without questioning the discriminatory motives and impact.¹⁷⁵ A few courts recognized the dangers of allowing licensing boards to control entry into the profession, but not enough to stem the tide.¹⁷⁶

Government support made the discrimination worse. In Virginia, a white plumber explained his state's law requiring members of the plumber's union be part of the licensing board: [T]he Negro is a factor in this section, and I believe the enclosed Virginia state plumbing law will entirely eliminate him and the impostor from following our craft."¹⁷⁷ By 1924, 24 states and Puerto Rico had similar laws in place.¹⁷⁸

And these laws were effective.¹⁷⁹ In 1973, Montgomery County, Alabama had only one licensed African American plumber, who, despite having spent four years studying the trade, was told he failed the local exam each time he took it. He was not allowed to see his exam papers or told what his score was. He was finally able to obtain a local license after passing the state master plumber's exam.¹⁸⁰

Charlotte, North Carolina, similarly had only one African American plumber in 1968, and in Maryland in 1953, only two of the 3,200 licensed plumbers were African American.¹⁸¹ The impact of these exclusionary

efforts is still felt today: In 2021, the Bureau of Labor Statistics estimated that 87.2 percent of plumbers are white and only 7.1 percent are African American.¹⁸²

The use of licensure to regulate jobs increased dramatically after the 1950s, when only five percent of professions required licensure in the United States.¹⁸³ In 2018, roughly 21.8 percent of professions required licensure.¹⁸⁴ Some of the reasons for this increase include trying to professionalize and legitimize certain jobs and an overall growth of fields that have historically required licensure.¹⁸⁵

Regardless of the reason, one result of the growth is that discriminatory licensing standards have become more widespread. Even if these standards did not intend to exclude African American workers, the result was exclusion. One such method today is the bans on licensure for people with criminal records.

As discussed in Chapter 12, Mental and Physical Harm and Neglect, state and federal governments have criminalized African Americans throughout our nation's history, resulting in African Americans being more likely to have criminal records without necessarily committing crimes at higher rates than other races or ethnicities.¹⁸⁶ Race discrimination and disproportionality in the criminal justice system thus combine with laws like those excluding persons with criminal justice system involvement from licensure to close off avenues for work.

It is difficult for people with criminal records, who are disproportionately African American, to find jobs, even if their records are old or have little to do with the job, or if they have demonstrated rehabilitation.¹⁸⁷ When a license is required those challenges can become insurmountable. One 2016 study showed that there were 27,254 state occupational licensing restrictions against people with criminal records nationwide, 12,669 of which involve restrictions on licensure for people with any type of felony conviction and 6,372 of which involve restrictions for people with misdemeanor convictions.¹⁸⁸ 19,786 licensure restrictions were lifetime bans and 11,338 were mandatory and allowed no discretion by the board.¹⁸⁹ In some instances, upon release, formerly incarcerated persons cannot work in the very professions for which prison job rehabilitation programs trained them.¹⁹⁰ For example, while many prisons provide training programs on barbering, laws in every state prevent a formerly incarcerated person from working as a barber.¹⁹¹

Recently, efforts have begun to reform these criminal record exclusions.¹⁹² Several states have now passed laws to revise licensing restrictions related to people's criminal records.¹⁹³ But thousands of restrictions still remain. A database funded by the United States Department of Justice shows that there are currently 12,989 consequences of having a criminal record for various licenses nationwide.¹⁹⁴

Discrimination in Promotion and Pay

During World War I, African American workers began to make headway in previously white workplaces and industries. African American men took blue collar jobs previously held by immigrants who had shifted employment to the war effort; African American women took jobs previously held by white women and boys.¹⁹⁵ African American workers might earn 300 percent more doing industrial labor in the North than they earned doing agricultural labor in the South.¹⁹⁶ As discussed in Chapters 1 and 5, these job opportunities in the North and West led approximately three million African Americans to migrate from the South between World War I and World War II, and another five million to move between 1940 and 1980.¹⁹⁷

Wherever they landed in the North, the Midwest, or the West, African Americans found more discrimination, which translated into racial job ceilings, pay differentials, and segregation by job type.¹⁹⁸ For example, Ford Motor Company refused to employ African American workers at a level above general labor outside of the Detroit area, and in the Chicago stockyards African American workers were excluded from jobs as foremen, as they were not permitted to supervise white workers.¹⁹⁹

For example, Ford Motor Company refused to employ Black workers at a level above general labor outside of the Detroit area, and in the Chicago stockyards Black workers were excluded from jobs as foremen, as they were not permitted to supervise white workers.

In the urban industrial South, African American workers were categorized in lower-level jobs “helping” white workers, who would simply supervise work while taking home the higher wage.²⁰⁰ One African American employee at the Firestone Company's Memphis plant described how: “You'd be classified as a ‘helper,’ but you'd be doing all the work. The white man would get the high wage ... [but] he'd just be sittin' there watchin'.”²⁰¹ As a result,

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Building site with whites on one side and African Americans on the other. (c. 1950)

African American workers were penalized both with lower wages and fewer advancement opportunities.

Black workers were often only hired in jobs that were far more physically dangerous.²⁰² For example, Ford Motor Company's foundry, where many African American workers were employed, had a lack of safety equipment, poor ventilation, and management-induced speed-ups that lead to worker injury and death.²⁰³ One foundry worker described others finished a shift "so matted and covered with oil and dirt that no skin showed...we could [only] tell a friend by his voice."²⁰⁴

This pattern continued across manufacturing sectors for decades. African American workers were limited to lower-paying categories, barred from supervisory roles, and denied opportunities for advancement. For example, by 1970, one-fifth of autoworkers in Detroit were Black, but Black workers remained all but completely excluded from higher-level positions.²⁰⁵

In 1968, African American autoworkers formed the Dodge Revolutionary Union Movement to protest racism at the plant. A writer in the organization's newsletter laid out the stark segregation and discrimination then present at the plant:

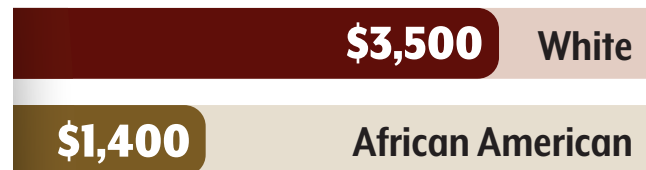
1. "95% of all foremen in the plants are white;
2. 99% of all the general foremen are white;
3. 100% of all plant superintendents are white;
4. 90% of all skilled tradesmen are white;
5. 90% of all apprentices are white; (6)...systematically all of the easier jobs are held by whites;

6. Whenever whites are on harder jobs they have helpers;
7. When Black workers miss a day they are required to bring 2 doctors' excuses as to why they missed work;
8. ...seniority is also a racist concept, since Black workers were systematically denied employment for years at the plant."²⁰⁶

This trend was not limited to manufacturing. In 1950, salaries of college-educated workers, in both the North and South, were significantly lower for African Americans across industries. For example, African American managers averaged an annual salary of around \$1,400, while white managers averaged closer to \$3,500.²⁰⁷ In today's dollars, this translates to a monthly salary of approximately \$1,396 for African American managers and \$3,489 for white managers.²⁰⁸ Discrepancies like this existed in professional, teaching, farming, clerical, sales, and skilled technician occupations as well.²⁰⁹

SALARY OF COLLEGE EDUCATED WORKERS

By Race in 1950



Exclusion from New Deal Protections

In the 1930s, the federal government under President Franklin D. Roosevelt sought to remake the relationship between employer and employees.²¹⁰ The New Deal transformed American society and set in motion the creation of the middle class²¹¹—but for white Americans.²¹² The New Deal reshaped the role of the federal government in providing for American citizens.²¹³ Programs funded under the New Deal infused a huge amount of capital into the economy. Two researchers have estimated that the federal government spent almost \$27 billion on various New Deal public works programs between 1933 and 1943.²¹⁴

Southern Democrats, who rose to power by preventing African Americans from voting through a combination of violence and voter suppression laws, forced President Roosevelt essentially to exclude African Americans from New Deal programs and legislation.²¹⁵ While northern liberals at the time would not support explicitly racist language in the programs and statutes, the Southern Democrats' racist aim was accomplished in the structure of the programs themselves.²¹⁶ In order to pass numerous

New Deal laws, President Roosevelt compromised with the Southern Democrats to ensure their votes by largely excluding jobs mostly held by African Americans from the New Deal's protections like unemployment insurance, minimum wages, equalized bargaining power, or anti-child labor laws.²¹⁷ Agricultural and domestic-service workers, and anyone with seasonal or part-time jobs, were excluded from these benefits.²¹⁸ Approximately 85 percent of all African American workers in the United States at the time were excluded,²¹⁹ although some historians disagree that federal lawmakers intended to discriminate against African Americans.²²⁰

~85% of African American workers



were **excluded** from New Deal programs

Congress also compromised to allow New Deal programs to be administered at the local level.²²¹ By the design of the Southern Democrats in Congress, southern local white government officials were in control of local relief efforts—individuals who held the view that African Americans should not receive relief of any kind if white southerners had laundry to be done or cotton to be picked.²²² While African American northerners received some governmental jobs and assistance, African American southerners did not.²²³

The following is a non-exhaustive list of labor-related New Deal laws and programs and the ways in which they have discriminated against African Americans. Many of the New Deal laws created the foundational structures that continue to provide Americans with a social safety net today.

National Industrial Recovery Act of 1933

The National Industrial Recovery Act created the National Recovery Agency, which established industry-specific minimum wages and employment protections. The National Recovery Agency eventually enacted over 540 codes providing for minimum wages and maximum hours in different industries.²²⁴

Many employers advocated for explicitly racist codes before the agency—one argued that African American workers made “a much better workman and a much better citizen, insofar as the South is concerned, when he is not paid the highest wage.”²²⁵ While explicit race-based

codes were not adopted, the structure of geographic and occupational classifications in the codes often accomplished the same goal. An industry code would classify a state as either “Northern” or “Southern” for the purpose of setting a minimum wage, with “Southern” states often having a lower minimum.²²⁶ And different occupations, governed by different codes, had different minimum wages. One example demonstrates how the government used both geographic and occupational classifications and exclusions to pay African American workers less and provide them fewer protections. Delaware was classified as being “Northern”—and thus subject to a higher minimum wage—for 449 industry codes, but was classified as being “Southern”—and thus subject to a lower minimum wage—for the fertilizer industry, where African American workers made up 90 percent of the industry.²²⁷ John P. Davis, in a speech to the 25th Annual Conference of the National Association for the Advancement of Colored People in 1934 stated: “[T]he one common denominator in all these variations is the presence or absence of Negro labor. Where most workers in a given industry are Negro, that section is called South and inflicted with low wage rates. Where Negroes are negligible, the procedure is reversed.”²²⁸

The purpose of the occupational and geographic differentials in the wage codes was clear to those involved in implementing the National Industrial Recovery Act at the time. The Executive Director of the National Recovery Agency's Labor Advisory Board wrote in 1934: “[T]o the degree the Southern rate is a rate for Negroes, it is a relic of slavery and should be eliminated.”²²⁹ That same year, Ira De A. Reid, of the National Urban League, wrote in the newspaper the Chicago Defender: “the Negro's initial attitude towards the national recovery act is best reflected in the interpretation of initials given by one observer who called it ‘Negro Riddance Act.’”²³⁰

National Labor Relations Act of 1935 (Wagner Act)

The National Labor Relations Act of 1935 (NLRA or Wagner Act), proposed by Senator Robert Wagner, dramatically increased the power of organized labor by allowing officially certified unions in certain sectors the right to negotiate on behalf of *all* employees, if supported by a majority of workers.²³¹ The National Labor Relations Board (NLRB), the agency designated to administer the law, was able to hold hearings and resolve disputes involving union representation.

The NLRA harmed African Americans by purposefully allowing unions to discriminate based on race and by failing to cover sectors of the economy that mostly employed African Americans.²³² This undermined the

bargaining power of African American workers and their ability to participate in the newly-recovering economy for decades.²³³

Labor unions have played a critical role in the development of American society and the day-to-day experience of the American worker. During and after the New Deal, workers' and employers' power was uniquely balanced, which enabled an unprecedented improvement in the condition of the working class in America, the benefits of which continue to be seen today.²³⁴ For example, workers with strong unions have been able to set industry standards for wages and benefits that help all workers, both union and nonunion.²³⁵ "Union workers are more likely to be covered by employer-provided health insurance. More than nine in 10 workers covered by a union contract (94%) have access to employer-sponsored health benefits, compared with just 68 percent of nonunion workers."²³⁶ As another example, union workers also have greater access to paid sick days. Nine in 10 workers covered by a union contract (91 percent) have access to paid sick days, compared with 73 percent of nonunion workers.²³⁷

While African American leaders proposed amendments to the NLRA to prohibit government certification of a union that did not allow African American workers to join and have all rights, the American Federation of Labor, the principal white-dominated federation of craft unions, opposed this protection due to its desire to eliminate competition from African American workers.²³⁸ The American Federation of Labor and Southern Democrats won, and the final law protected the bargaining rights of unions with racist membership policies. This gave white labor organizers the power to exclude African American workers from contract negotiations and implement their racist views in the union contracts, protected by the federal government.²³⁹

The final law also excluded agricultural and domestic workers, another compromise to the Southern Democrats.²⁴⁰

Federal law essentially allowed unions to ignore and discriminate against African American workers by protecting segregated unions. Unions refused to admit African American workers or afford them the privileges of membership, segregated African American workers into less-skilled jobs, and used collective bargaining rights to force employers to replace African American workers with white workers, while the NLRB, the federal agency charged with administering the NLRA, stood

out of the way.²⁴¹ For example, the NLRB-certified Building Service Employees Union in New York forced Manhattan hotels, restaurants, and offices to replace African American elevator operators and restaurant workers with white employees, and the federal agency took no action in response.²⁴²

In 1944, the U.S. Supreme Court held that unions were obligated to represent their members without discriminating on the basis of race, but did not require them to eliminate racial segregation in their membership or provide African American union members with a mechanism for enforcing their civil rights.²⁴³

Only in 1964 did the federal agency finally decide that it could revoke a union's government certificate due to its racial segregation.²⁴⁴ Even then, individual African American workers still had limited recourse against racist union leadership. Employees subject to a racist union could not deal directly with their employer instead.²⁴⁵ Additionally, even after the NLRB stopped certifying

Federal law essentially allowed unions to ignore Black workers by maintaining segregated unions, segregating Black workers into less-skilled jobs, locking them out of contract negotiations, and using collective bargaining rights to force employers to replace Black workers with white workers.

whites-only unions, seniority rules meant that African American workers would need years to secure wages comparable to those of white workers.²⁴⁶

Social Security Act of 1935

The Social Security Act of 1935 created old-age and unemployment benefits to help seniors and those out of work. This landmark law followed the same pattern as the rest of the New Deal legislation in limiting how its benefits applied to African Americans through occupational carve outs for agricultural and domestic labor, and allowing local rather than federal administration,²⁴⁷ although some historians dispute the allegation that Congress acted with racist intent in making these carve outs.²⁴⁸ The Social Security Act created several programs that remain central to the government's efforts to ensure some minimal level of financial stability, including retirement insurance, unemployment insurance, and Aid to Families with Dependent Children programs.²⁴⁹

During the debate over the Social Security Act, Congress acknowledged the preponderance of African American workers in the agricultural and domestic labor sectors, but excluded these occupations despite accusations of racism.²⁵⁰ Charles H. Houston testified on behalf of the NAACP: “In these States, where your Negro population is heaviest, you will find the majority of Negroes engaged either in farming or else in domestic service, so that, unless we have some provisions which will expressly extend the provisions of the bill to include domestic servants and agricultural workers, I submit that the bill is inadequate . . .”²⁵¹

African Americans advocated for a nondiscrimination provision in the statute as protection from the racist local administration of previous New Deal relief statutes. For example, one activist pointed out that in the local administration of past emergency measures “there ha[d] been repeated, wide-spread, and continued discrimination on account of race or color as a result of which Negro men, women, and children did not share equitably and fairly in the distribution of the benefits accruing from the expenditure of such Federal Funds.”²⁵² Congress did not include any such provision in order to secure the support of Southern Democrats.

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Nine-year-old boy receiving twenty cents for hamper of beans he picked for a contract farmer, Homestead, Florida (1939)

Charles H. Houston expressed the view of many African Americans: “If we follow the history of the workmen’s compensation acts, we know that two great classes of workers who will be excluded from the benefit of unemployment insurance; they are agricultural workers and

domestic workers. Again, 3 out of every 5 Negro workers drop through the holes of the sieve.”²⁵³

Fair Labor Standards Act of 1938

The Fair Labor Standards Act of 1938 (FLSA), which is still in force today, provides the federal minimum

Like other New Deal laws, the Fair Labor Standards Act excluded agriculture and domestic services from its labor protections. Because of these exclusions, the FLSA essentially outlawed white child labor and continued to allow Black child labor, because most white children worked in industrial settings and most Black children worked in agriculture.

wage, the maximum number of working hours before overtime pay is required, and the limits on child labor. Like other New Deal laws, in order to appease Southern Democrats, the law purposefully excluded certain occupational categories, like agriculture and domestic services, preventing the majority of African Americans from benefiting from the law’s protections.²⁵⁴ Because of these exclusions, the FLSA essentially outlawed child labor in industrial settings, where most white children worked at the time, and allowed child labor in agricultural and domestic work, where most African American children worked.²⁵⁵

Members of Congress were clear about the racist intent. For example, Florida Representative J. Mark Wilcox explicitly stated: “You cannot put the Negro and the white man on the same basis and get away with it. Not only would such a situation result in grave social and racial conflicts but it would also result in throwing the Negro out of employment and in making him a public charge. There just is not any sense in intensifying this racial problem in the South, and this bill cannot help but produce such a result.”²⁵⁶

Congressman Cox of Georgia specifically objected to the possibility of equal wages because of the impact it would have on relieving the economic subjugation of African Americans central to the social organization of the South, stating the FLSA “will, in destroying State sovereignty and local self-determination, render easier the elimination and disappearance of racial and social distinctions.”²⁵⁷ As with other New Deal legislation, Congress included the agricultural and domestic service exemptions in order to secure the support from Southern Democrats needed to pass the legislation at all.²⁵⁸

Thus, when the FLSA passed without applying to agricultural or domestic workers, or to employers engaged in intrastate commerce such as service workers, it achieved the explicit aims of the drafting Congress. Like the other New Deal legislation, it accomplished the withholding of protections from many African Americans through these “race-neutral” occupational exclusions. These carve outs remained until the 1970s, and agricultural workers are still excluded from overtime protections.²⁵⁹

As originally enacted, the FLSA did not address pay for tipped workers.²⁶⁰ While tipping prior to the Civil War had been frowned upon by many as an aristocratic, European practice incompatible with American democracy, after the war many restaurants and rail operators embraced tipping as a means of hiring newly freed African Americans without actually paying them—these workers were forced to labor for tips alone.²⁶¹ Tipping thus kept African American workers in an economically and socially subordinate position.²⁶²

Later the Supreme Court held that employers could count workers’ tips toward their wages when calculating whether a worker was receiving minimum wage.²⁶³ Employers did not need to pay their employees at all as long as workers’ income from tips met or exceeded the established federal minimum wage.²⁶⁴ Congress did not require a base wage for tipped employees until 1966.²⁶⁵ Set then as fifty percent of the federal minimum wage,

service quality.²⁶⁸ And 17 percent of tipped working people of color live in poverty, compared to less than 13 percent of all tip workers.²⁶⁹

Federal Emergency Relief Administration (1933 to 1935) and Works Progress Administration (1935 to 1941)

The Federal Emergency Relief Administration (FERA) provided funding for state and local government programs in public works and the arts, and provided more than 20 million jobs.²⁷⁰ But the program disproportionately spent its funds on unemployed white workers, frequently refusing to hire African American workers for anything except unskilled work, and paying less than the officially stipulated wage.²⁷¹ One local administrator stated that “he had to tailor relief ...to accommodate the demands of southern plantation owners for cheap farm labor by curtailing [the level of] relief payments to agricultural laborers and sharecroppers.”²⁷²

The Works Progress Administration (WPA) replaced FERA in 1935, but continued its racist and often sexist practices. For example, driven by the presumption that men were the primary earners and most in need of jobs among needy families, most projects created heavy construction-type work for men, ignoring women’s wage needs and limiting their opportunities.²⁷³ From 1935 to 1941 fewer than 20 percent of all WPA workers were women and only about three percent were African American women.²⁷⁴ Projects to

train women in domestic skills were often explicitly limited to only white women.²⁷⁵ Government officials specifically pushed African American workers out of WPA jobs when local conditions required cheap agricultural labor. In Oklahoma, a WPA official closed an African American women’s work project when there was a large cotton crop, writing to Washington, D.C.: “these women are perfectly able to do this kind of work and there is plenty of work to do.”²⁷⁶

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the tipped federal hourly minimum cash wage stands today at \$2.13, where it has been for more than a quarter century.²⁶⁶ The employer must make up the difference between this amount and the federal minimum hourly wage of \$7.25 only if the employee’s tips combined with the direct wages of at least \$2.13 per hour do not equal the federal minimum hourly wage.²⁶⁷

Today’s tipped wage system carries the legacy of slavery. While African American workers no longer are over-represented in the tipped workforce, studies of the restaurant industry have revealed that diners consistently tip African American servers less than white servers, regardless of

Civilian Conservation Corps (1933 to 1942)

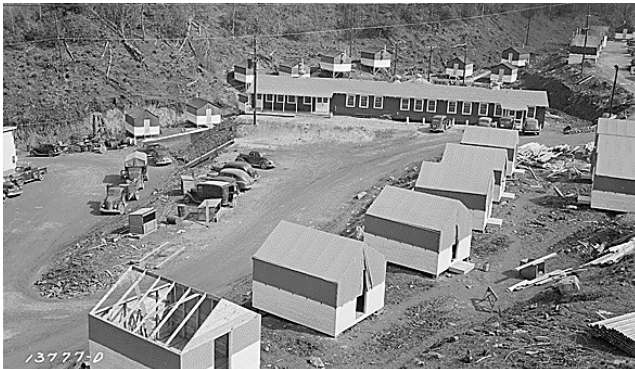
The Civilian Conservation Corps (CCC), a public works program focused on conservation projects, employed over 2.5 million men during its tenure—African American and white women were completely excluded—just 10 percent of whom were African American men.²⁷⁷ While this was somewhat similar to the percentage of African Americans in the population at large, the conditions of the CCC replicated the racist government intervention seen in other programs, with explicitly limited participation numbers, official segregation at work camps, and with African American workers restricted

to the least-desirable unskilled jobs.²⁷⁸ For example, in Georgia, local selection agents refused to enroll a single African American applicant for almost a year, and only relented and enrolled a token number of African Americans after federal agents threatened to withhold the state's entire allotment of funds.²⁷⁹

Tennessee Valley Authority

The Tennessee Valley Authority was a public utility created by the federal government to bring jobs and development to an area hit especially hard in the Depression. The project included construction, conservation, and social service jobs, and it remains one of the largest utilities in the country today.²⁸⁰ It too continued the pattern of the other government works programs. African American workers were assigned to work separately on construction projects, and were only allowed to work at all if there were enough African American workers to make up a full segregated crew.²⁸¹ African American workers were also denied foreman or supervisory roles.²⁸²

COURTESY OF NATIONAL ARCHIVES



Tennessee Valley Authority, Fontana Dam, North Carolina. "Negro tent camp." (1942)

Agricultural Adjustment Administration

The federal government created the Agricultural Adjustment Administration (AAA) in 1933 to increase agricultural prices by paying farmers to grow fewer crops.²⁸³ The administration of the AAA harmed African American workers in three specific ways.

First, the program reduced crop planting. For example, the agency limited the amount of land dedicated to cotton farming, but allowed each white landowner to decide *which* acres to stop cultivating, and most often they chose those worked by African American tenant farmers and sharecroppers.²⁸⁴

Second, landowners received federal payments, but the federal administration allowed white landowners to act as "trustees" for their African American tenants without oversight from the AAA.²⁸⁵ Often, landowners never paid their African American tenants.²⁸⁶

Third, the AAA allowed disputes over payments to be brought to local elected county committees, and not a single African American farmer served on a county committee throughout the South.²⁸⁷ The county committees, composed of white landlords and white tenants, ruled against African American tenants and directed the vast majority of benefits for the program to white farm owners.²⁸⁸ In 1934, Ira De A. Reid of the National Urban League said that "[s]o far as the Negroes in the South are concerned the AAA [and other New Deal Agencies] might just as well be administered by the Ku Klux Klan."²⁸⁹

Fair Employment Practices Committee

Faced with enormous activist pressure, President Roosevelt during World War II attempted to protect African American workers, but these actions were temporary and did not have serious enforcement powers. In the lead up to World War II, civil rights activists demanded desegregation of the defense industry. Following a 1941 meeting of civil rights groups from across the country, activists formed the March on Washington Movement with the aim of using mass protest to desegregate the military and industrial workplaces that were central to the war effort.²⁹⁰ Soon the movement had spread across the country, with local chapters from San Francisco to Washington, D.C.²⁹¹

By June 1941, 100,000 or more African American workers from across the country were expected to march on the nation's capital, alarming President Roosevelt at the prospect of a mass protest in Washington, D.C. on the eve of the country's entry into war.²⁹² In response, he issued Executive Order 8802, which both banned discrimination on the basis of race in government employment, defense industries, and training programs and created the Fair Employment Practices Committee (FEPC) to investigate and address complaints of race discrimination.²⁹³ While a step forward, FEPC had power over only public-financed wartime industries, and it did not have any real enforcement power. It was only able to issue recommendations, including the cancellation of defense contracts in cases of persistent discrimination.²⁹⁴

FEPC's impact varied around the country. From March 1942 to 1944, African American employment in war-production jobs rose from under three percent to over eight percent, and some African American workers found jobs as skilled labor in manufacturing and minor managerial roles.²⁹⁵ The most progress was made in places where African American activists, progressive unions, and local civil rights organizations worked together with FEPC investigations to pressure for change. In St. Louis, a large March on Washington Movement chapter agitated to reinstate African American workers at a local arms plant, raise wages, and increase hiring of African American

women. The organization used its resources to file and pursue FEPC complaints, justifying the establishment of a regional office to address the concerns of African American workers, but pursued this official action hand-in-hand with mass rallies to general grassroots support.²⁹⁶

Under the weak enforcement system, other geographic areas were less successful. Both public officials and private employers in several southern cities refused to provide integrated defense employment, and the federal government did not force action.²⁹⁷ FEPC had no mechanism to act against Alabama Governor Frank Dixon, who supported employment of African American war workers only within the bounds of the segregationist system already in place in the southern states.²⁹⁸ FEPC disbanded in 1946 as the war ended, thus ending a temporary attempt of limited effectiveness to address labor discrimination.²⁹⁹

Gains and Limitations of the Civil Rights Acts

Congress passed a series of civil rights laws in the 1960s prohibiting discrimination in employment, voting, and housing. Title VII of the Civil Rights Act of 1964 outlawed employment discrimination on the basis of race, color, religion, sex, or national origin.³⁰⁰

Title VII created strong protection for African American workers throughout the country, making it illegal for an employer to (1) fail to hire or discriminate against a worker, or (2) limit job opportunities because of that worker's "race, color, religion, sex, or national origin."³⁰¹

The law protects workers against current racial discrimination and segregation practices, but does not provide a way to right past wrongs.³⁰² It exempts "bona fide" seniority systems and professionally developed ability tests.³⁰³ The former are also known as "last hired, first fired" systems, and the latter include tests developed as part of an application process, such as for firefighters, even though these can be employed in a discriminatory manner.³⁰⁴ Strict adherence to a seniority system means that "last hired" African American workers, who more recently moved into positions now that racist discrimination is outlawed, will be "first fired," under the systems allowed by the law.³⁰⁵ In 1977, the Supreme Court held that Title VII did not outlaw these seniority systems even when they discriminate against African American workers, stating that a seniority policy "does not become unlawful under Title VII simply because it may perpetuate pre-Act discrimination."³⁰⁶

Title VII is limited in other ways as well. The Supreme Court also drew a line between intentional and unintentional discrimination.³⁰⁷ Currently, Title VII protects an employee if they can show that their employer intended to discriminate against them,³⁰⁸ which can be difficult to prove. If the employee cannot prove their employer's racist intentions, Title VII protects them only if the challenged employment practice is not "job related" or not "consistent with business necessity."³⁰⁹ For example, in *Griggs v. Duke Power Company*, the defendant company re-

Between 1964 and the late 1970s, the federal government enacted affirmative action programs which increased the number of minority groups in government contracting work until the Supreme Court and the Reagan Administration effectively ended federal affirmative action in the 1980s.

quired a high school diploma or passing an intelligence test for certain jobs. Neither requirement was related to successful job performance, and both requirements disqualified African American applicants at a substantially higher rate than white applicants.³¹⁰ The requirements did not fulfill a genuine business need and was thus prohibited by the Act.³¹¹ In 1965, Congress formed a federal agency called the Equal Opportunity Employment Commission to enforce Title VII and other employment statutes and regulations. The commission, which continues today, covers all industries, and not just wartime industries, like its predecessor, the Fair Employment Practices Committee.³¹² It also has enforcement powers to assess penalties and issue orders, instead of only making recommendations.³¹³ However, the agency has been chronically underfunded, which has limited its ability to widely enforce federal protections against racial discrimination in a large number of cases.³¹⁴ The agency's staff numbers decreased from 3,390 to 1,968 between 1980 and 2018 despite the U.S. population increasing by more than 44 percent in that time.³¹⁵

Limits of Affirmative Action

As the Civil Rights Acts were only forward-looking, between 1964 and the late 1970s, the federal government enacted affirmative action programs intended to address the effects of past racist discrimination and segregation.³¹⁶ These programs increased the number of underrepresented groups in government contracting work until the Supreme Court and the Reagan

Administration in the 1980s effectively brought many federal affirmative action programs to an end.

In 1965, President Lyndon B. Johnson issued Executive Order 11246, which required government contractors to employ affirmative action to expand opportunities for underrepresented groups and established the Office of Federal Contract Compliance to enforce the order.³¹⁷ In 1972, the Nixon Administration approved the “Philadelphia Plan,” which instituted numerical goals and timetables for the integration of Black and other racial minority workers into federal contracts.³¹⁸ In the late 1970s, President Jimmy Carter extended affirmative action requirements to state and local governments, educational institutions, and contractors—nearly every entity that did business with the federal government.³¹⁹ These executive actions, along with anti-discrimination laws improved labor market conditions for African Americans.³²⁰ Between 1974 and 1980, the rate of minority employment in businesses that contracted with the federal government rose by 20 percent.³²¹ Local government set-aside programs also had impact. A 2014 study found that these programs led to a 35 to 40 percent reduction in the Black-white gap in self-employment, which is a proxy for small business ownership, though it appeared that the gains mostly benefited those who were better educated.³²²

By the late 1970s, an organized backlash had developed and a number of lawsuits challenged the constitutionality of affirmative action.³²³ In response, the U.S. Supreme Court began narrowing the scope of affirmative action programs. The Court has not held that affirmative action is permissible as redress for past harms. The Court, however, did reject explicit race-based quota systems in *Regents of the University of California v. Bakke* in 1978. There, the Court held that it was permissible for government affirmative action programs—in this case, a state school—to consider an applicant’s race in order to advance the interest of diversity, but that it was unconstitutional for an affirmative action program to employ race-based quotas.³²⁴

By the early 1980s, under President Ronald Reagan, the federal government began to restrict its enforcement of affirmative action requirements, halting the progress made during the preceding administrations.³²⁵

Housing Segregation Limits African American Job Opportunities

Despite the unquestionable progress made in civil and workers’ rights since the Civil Rights Acts, numerous systemic issues continue to harm African American workers.

The government and private actions described in Chapter 5 created a segregated American landscape across the country. This residential segregation created an entrenched type of employment discrimination in the second half of the 20th century.

Following World War II, white workers followed the government incentives described in Chapter 5 and moved to the suburbs. Large industrial employers closed facilities in urban centers and followed the white workers. Black workers, who could not move to the suburbs due to the barriers erected by federal and local governments, were left behind in urban centers.

Following World War II, white workers followed the government incentives described in Chapter 5, Housing Segregation, and moved to the suburbs.³²⁶ Large industrial employers closed facilities in urban centers and followed the white workers.³²⁷ Black workers, who could not move to the suburbs due to the barriers erected by federal and local governments, were left behind in urban centers.³²⁸ These barriers included discriminatory and inequitable government transportation policy decisions that limited urban African Americans’ access to jobs,³²⁹ like the Bay Area Rapid Transit (BART) system, designed in the 1960s. In an Oakland neighborhood that is one of the most diverse in the city and one of the densest parts of the region, BART trains run nearly 3 miles without stopping, whereas BART stations are only 1.75 miles apart in suburban areas that are less than half as dense.³³⁰ As one transportation expert explained, “BART was literally designed ... to speed white suburban commuters past Black inner-city residents.”³³¹ For an in depth discussion of transportation discrimination, please see Chapter 7.

Research has produced evidence that the phenomenon of “job suburbanization” caused significant decline in Black employment and increased Black-white labor inequality.³³² Examples of the movement of jobs to the suburbs abound. For instance, the Ford Motor Company moved all engine production sited at its River Rouge plant—at the time, the largest employer of Black workers in the Detroit region—to facilities in suburban

Brook Park, near Cleveland and Dearborn, outside of Detroit.³³³ Michigan's *Labor Market Letter* observed the "creation of a very large and alarmingly consistent list of long-term unemployed" Black workers in the region.³³⁴

This exodus of major employers to the suburbs also prevented African Americans from fully taking advantage of benefits provided by unions. For example, the Communication Workers of America lost thousands of African American members when customer service call centers moved out of New York City and reopened in areas not easily accessible to African Americans living in the city.³³⁵

Between 1967 and 1987, the number of industrial jobs dropped precipitously in cities with large Black populations: by 64 percent in Philadelphia, by 60 percent in Chicago, by 58 percent in New York, and by 51 percent in Detroit.³³⁶ Oakland and Los Angeles also experienced a decline in manufacturing.³³⁷ Automobile and tire companies that had been prevalent in Los Angeles shuttered or moved to the suburbs as early as the 1950s.³³⁸ An analysis of census data for the 15 largest metropolitan areas of the time found that between 1960 and 1970, the suburbs of these areas saw a 44 percent increase in jobs while central cities saw a seven percent decline.³³⁹ Whereas nearly two thirds of jobs were in urban centers in 1960, by 1970, only 52 percent of jobs were in urban centers and in some cities, the majority of jobs were suburban.³⁴⁰ Corporate executives occasionally admitted that avoiding Black communities "sometimes" motivated their decisions about where to locate.³⁴¹ Federal jobs in urban centers also dropped by more than 41,000 between 1966 and 1973.³⁴²

Corporate executives occasionally admitted that avoiding Black communities "sometimes" motivated their decisions about where to locate. Between 1970 and 1993, African Americans lost ground in nearly every economic category, with unemployment among African Americans rising from 5.6 percent to 12.9 percent.

By the early 1990s, the African American urban industrial working class had nearly disappeared nationwide. The impact was broad. Between 1970 and 1993, African Americans lost ground in nearly every economic category, with unemployment among African Americans rising from 5.6 percent to 12.9 percent.³⁴³ If new manufacturing was built, for example, by American auto companies, studies have shown a consistent pattern of rural and

suburban locations about thirty miles from the African American neighborhood.³⁴⁴

COURTESY OF H. ARMSTRONG ROBERTS/CLASSICSTOCK VIA GETTY IMAGES



African American settlement near steel foundry, Workers homes in East St. Louis, Illinois. (c. 1920)

More recently, U.S. trade policy added to the negative impact of automation and changing technology on jobs for African Americans.³⁴⁵ Free trade policies and the resulting job losses in the manufacturing sector hit African American men especially hard, as this sector has offered relatively higher-paying jobs for those with lower levels of educational attainment.³⁴⁶ These jobs were also more likely to be unionized and afford a range of attendant benefits, from health care to pensions.³⁴⁷ African American workers were also disproportionately among those whose call center and customer service jobs were subject to offshoring. One study found that African Americans lost 646,500 good manufacturing jobs between 1998 and 2020, a 30.4 percent decline in total African American manufacturing employment, as part of the overall loss of more than 5 million manufacturing jobs during that time period.³⁴⁸

African American workers who have lost their jobs have been less likely than their white counterparts to find a replacement job, and when they found new jobs, they more likely to experience pay cuts.³⁴⁹ The

loss of jobs to free trade also depressed wages in the long term and intensified wealth inequality.³⁵⁰ The impact has been far reaching. One researcher found that manufacturing decline between 1960 and 2010 had disproportionately harmed African American communities in the areas of wages, employment, marriage rates, house values, poverty rates, death rates, single parenthood, teen motherhood, child poverty, and child mortality.³⁵¹

These harms may continue. More than a quarter of all African American workers are concentrated in 30 jobs at high risk of automation, according to a 2017 finding of the Joint Center for Political and Economic Studies.³⁵²

According to one meta-study, from 1989 to 2014, employment discrimination against African Americans had not decreased.

Ongoing Discrimination

Legal segregation resulted in social separation between African American and white Americans, with lasting consequences. Employers often hire new employees by relying on their social networks, ethnic loyalties, apprenticeships, and union relationships. Legal segregation prevented Black workers from building these necessary formal and informal networks with white Americans, effectively barring Black workers from entering into new, mostly white workplaces or industries.³⁵³

African Americans continue to experience labor discrimination today. One meta-analysis examining a 25-year period starting in 1989 found that discrimination against African Americans in the labor force had not decreased.³⁵⁴ African Americans receive interview callbacks for jobs at lower rates than white people. In a study where equally qualified resumes with white-sounding and Black-sounding names were sent out, white applicants received 36 percent more callbacks than African American applicants.³⁵⁵

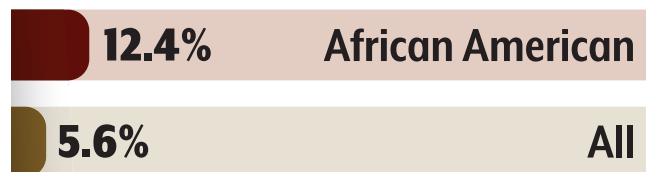
Even when researchers enhanced the resumes associated with Black-sounding names to make them stronger, white candidates still received more callbacks.³⁵⁶ Another study found that African American candidates had stronger odds of being called for an interview when their resumes were stripped of information conveying racial or ethnic background.³⁵⁷

Discrimination against job applicants with criminal history is another factor limiting work opportunities for African Americans. As discussed above in the licensure section, this discrimination is mandated in some instances and permitted in others.³⁵⁸ As mass incarceration has disproportionately impacted African Americans, they have disproportionately suffered post incarceration challenges. By 2010, people with felony convictions accounted for eight percent of all adults and 33 percent of African American adult males.³⁵⁹ Having a felony conviction is worse for formerly incarcerated African American job applicants than white applicants.³⁶⁰ One study found that African American men with no criminal history applying

for entry-level jobs were less likely to receive a call back than white male applicants who had recently been incarcerated.³⁶¹ Research has shown that even in jurisdictions with “ban the box” policies barring employers from asking about a candidate’s criminal history on a job application, African American applicants receive significantly fewer callbacks than white job applicants because employers may assume the African American applicants have a criminal history.³⁶²

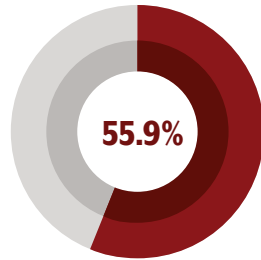
While Black women have endured both racism and sexism and persistently had their labor devalued,³⁶³ African American men experience discrimination in the labor market in unique ways. This is in part due to the criminalization of Black men and boys, examined in Chapter 11, which results in societal distrust and isolation of Black men and boys.³⁶⁴ Growing emphasis on “soft skills” particularly disadvantages Black male job applicants, as many employers wrongly perceive Black men as lacking in these skills that are viewed as increasingly important.³⁶⁵ Researchers have found that employers hold false negative beliefs about the dependability, motivation, and attitude of African American men, and are unlikely to change these racist beliefs during a written application or interview.³⁶⁶

UNEMPLOYED COLLEGE GRADUATES IN 2013



Racial employment gaps are worse among educated workers.³⁶⁷ A 2014 study revealed that 12.4 percent of African American college graduates aged 22 to 27 were unemployed in 2013, compared to a rate of 5.6 percent for all college graduates in the same age range. 55.9 percent of employed African American recent college graduates worked in an occupation that typically does not require a four-year college degree.³⁶⁸ Graduates in areas such as science, technology, math, and engineering fared better, but still experienced high unemployment and underemployment rates.³⁶⁹ In 2013, African American recent college graduates majoring in nine of 12 broad categories had less than a 50 percent chance of holding a job that required their degree.³⁷⁰ Another study found that African American individuals who received MBAs from Harvard between 2007 and 2009 began their careers earning approximately \$5,000 less than their white peers, and by 2015, the racial pay gap had increased to just under \$100,000 annually.³⁷¹

African American college graduates with a job that does **not** require a college degree (2013)



California

The historic gap in employment between African American and white individuals is seen in California. By every measure, African American Californians continue to lack access to labor markets available to white Californians and as a result continue to suffer harms that have compounded since before the founding of our country. In March 2022, for example, the most recent data available, the unemployment rate was 10.5 percent for African American Californians and 5.9 percent for white Californians.³⁷²

Lack of Government Protection

From its earliest days of statehood, California enacted a series of laws limiting the ability of African Americans to participate as full citizens of the state, as discussed in other chapters. These laws limited African Americans' voting rights, property rights, interracial marriage, and testimony in court or serve on a jury.³⁷³ California barred the testimony of African American individuals in both civil and criminal proceedings.³⁷⁴ These laws left African American Californians with little protection under the law, undermining their ability to advocate for themselves in the workplace, vindicate property rights, or even bear witness to the crimes they suffered.³⁷⁵

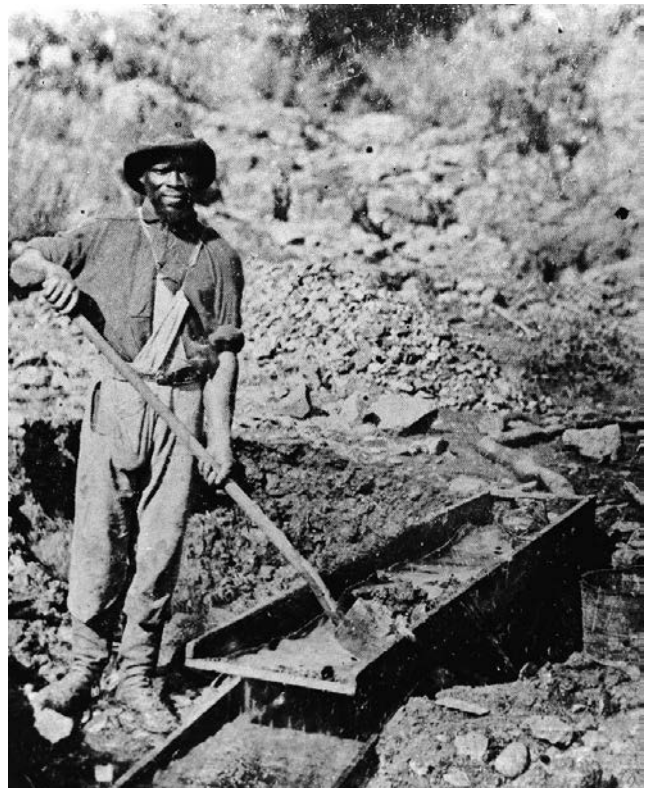
The discovery of gold in California 1848 drew migrants from across the country and beyond.³⁷⁶ African Americans were among them. A small group of Black individuals established one of the earliest mining claims in Sacramento County, at "Negro Bar," near what is now Folsom, on property once owned by William Leidesdorff, an Afro-Caribbean businessman.³⁷⁷ African Americans operated several successful mines, including Horncut Mine, a prosperous quartz mine in Yuba County, and the Washington Mine, a gold mine established in 1869.³⁷⁸

African American miners faced a hostile environment. Because African Americans lacked the right to testify in court during this period, African American miners were

vulnerable to legal challenges and encroachments on their mining claims.³⁷⁹ Frustrated by the discrimination they faced in California, including the state's discriminatory testimony and suffrage laws in particular, many Black miners left in the late 1850s for gold fields discovered in British Columbia, though some returned to the United States after the Civil War.³⁸⁰ To this day, derogatory names like Negro Bar and Negro Flat are still used for locales in the mining region of California.³⁸¹ The California Department of Parks and Recreation currently operates the Negro Bar, Folsom Lake State Recreation Area.³⁸² However, the department is working with local community and stakeholders to change the name.³⁸³

African American mill workers played a significant role in the lumber industry from 1920 to 1960.³⁸⁴ Experienced African American workers were actively recruited from the South to staff California mills.³⁸⁵ Although vital to their employers, African American workers were paid less than their white counterparts and prohibited from undertaking supervisory duties.³⁸⁶

COURTESY OF HULTON ARCHIVE VIA GETTY IMAGES



An African-American miner poses with a shovel in Auburn Ravine during the Gold Rush, California. (1852)

During the late 1800s and early 1900s, African American workers were recruited from the South to work farms in the San Joaquin and Imperial Valleys.³⁸⁷ Many African American farmworkers resisted the racist treatment they faced in California, and used contracted field work

as a way to establish themselves as entrepreneurs, skilled workers, or yeoman farmers.³⁸⁸ As a result, Californian farmers preferred to hire Mexican nationals and other nonwhite immigrants instead of African American workers.³⁸⁹ Additionally, growing towns and settlements during the time often explicitly discriminated against and worked to exclude African Americans from living or working there. For example, fliers for the Maywood Colony, a huge development entirely surrounding the town of Corning, California, trumpeted:

GOOD PEOPLE

In most communities in California you'll find Chinese, Japs, Dagoes, Mexicans, and Negroes mixing up and working in competition with the white folks. Not so at Maywood Colony. Employment is not given to this element.³⁹⁰

In the early 1900s, African American workers were less likely to work in higher paying industrial jobs in the West than in the North.³⁹¹ By 1930, over 50 percent of African American men were working in the industrial sectors of the Northeast and Midwest, but no more than 30 percent in the West.³⁹² While industrial jobs often had significant downsides for African American workers, they offered better pay than unskilled positions.³⁹³ Still, many California companies refused to hire African American workers.³⁹⁴ For example, in 1940, aviation official W. Gerald Tuttle of the Vultee Aircraft Company in southern California announced, "I regret to say that it is not the policy of this company to employ people other than the Caucasian race."³⁹⁵

The interwar period saw a significant influx of African American workers and residents to California. As the number of African American residents increased in cities like San Francisco and Los Angeles, African American workers not only increased in number, but also began to move into professions from which they had previously been completely excluded.

The New Deal in California

As it did across the country, the Great Depression brought significant unemployment to the state. For example, manufacturing employment fell by 30 percent from 1929 to its lowest level in 1932, while payrolls fell by 50 percent, and unemployment among unionized workers rose to 33 percent.³⁹⁶ The New Deal provided an influx of funding to the state.³⁹⁷ For example, the Works Progress Administration employed over 100,000 workers in California.³⁹⁸ Between 1933 and 1939, the federal government sent \$2.2 billion to California in the form of grants and loans.³⁹⁹

California governments engaged in discriminatory practices as the rest of the country did in disbursing this federal money. Burbank and Glendale invoked city ordinances to exclude a company of African American workers organized under the Civilian Conservation Corps.⁴⁰⁰ White residents of Richmond objected to an interracial Civilian Conservation Corps camp in 1935, until it was eventually replaced with an all-white company.⁴⁰¹

Labor organizing has a long history in California⁴⁰² that over time has led to some of the nation's most worker protective laws.⁴⁰³ The state enacted first enacted its labor code in 1937, consolidating provisions then in existence.⁴⁰⁴ California has repeatedly amended its labor and employment laws since then. Like the government, however, California for decades exempted both agricultural and domestic workers from various protections. Assembly Bill 1066, signed into law in 2016, removed exemptions for agricultural employees that had been in place for hours, meal breaks, and other working conditions, including specified wage requirements, and it created phased-in overtime requirements for such workers.⁴⁰⁵ California enacted a "bill of rights" for domestic workers in 2013, extending overtime pay rights to some,⁴⁰⁶ but these workers remain without certain other protections.⁴⁰⁷

Wartime Integration and Exclusion from Unions

African American workers made large advancements in the Bay Area during World War II, moving into manufacturing and industrial work in large numbers. By 1944, African American workers were employed widely in wartime industries, especially in the shipyards.⁴⁰⁸ For example, the City of Richmond saw a massive influx of war workers from 1940-45, when its population grew from 24,000 to 100,000, with the African American population increasing from 270 to 14,000 in those years.⁴⁰⁹

COURTESY OF E. F. JOSEPH/ANTHONY POTTER COLLECTION VIA GETTY IMAGES



African-American trainee welder Josie Lucille Owens working on the construction of the Liberty ship SS George Washington Carver at Kaiser shipyards in Richmond, California. (1943)

The Federal Employment Practices Committee, the federal anti-discrimination agency active during World War II, was largely ineffectual in California.⁴¹⁰ In 1945, FEPC reported: “More than twenty-six percent of the Negro working force were engaged in shipbuilding or ship repair. Another twenty-five percent were employed

Federal agency hearings in 1941 concluded that “there were only ten black employees in Douglas Aircraft’s workforce of 33,000, only two among Bethlehem Shipbuilding’s nearly 3,000 Los Angeles employees, and only 54 among Lockheed Aircraft and Vega Airplane’s 48,000 workers.”

in servicing water transportation, which was largely government work; these two industries alone, the report concluded, accounted for approximately “12,000 Negro workers.”⁴¹¹ Even so, the boilermakers union, representing shipbuilders, allowed only white workers to join the main branch of the union, and relegated African American workers to an “auxiliary union” where they were not permitted to vote or file grievances, received limited benefits compared to white members, could not be promoted to foreman if the job involved supervising white workers, and were classified and paid as trainees even when qualified for skilled work.⁴¹² In Los Angeles, the International Longshoremen’s and Warehousemen’s Union, Local 13, for example, excluded African American workers,⁴¹³ even though African American workers and organizations sued the boiler-makers’ union for discrimination.⁴¹⁴

FEPC helped reveal racist hiring practices at Los Angeles airline manufacturing plants. Hearings in 1941 demonstrated that “there were only ten Black employees in Douglas Aircraft’s workforce of 33,000, only two among Bethlehem Shipbuilding’s nearly 3,000 Los Angeles employees, and only 54 among Lockheed Aircraft and Vega Airplane’s 48,000 workers.”⁴¹⁵ African American workers’ organizations helped push against this racist hiring to open more of these jobs for African Americans.⁴¹⁶

Ultimately, FEPC never recommended the cancellation of any defense contracts in California.⁴¹⁷ During and after the war, areas of California continued to experience job segregation.⁴¹⁸ For example, Oakland’s employment patterns continued to have African American men and women in separate, lower-skilled, and lower-paid work.⁴¹⁹ When the end of the war brought layoffs, African American workers were disproportionately impacted. By the end of 1946, one third of all African

American residents in the Bay Area and 40 percent of African American women were unemployed.⁴²⁰

Many African Americans also migrated to California during this period to pursue farming, though they encountered setbacks similar to those in other labor sectors. Approximately 30,000 to 40,000 African Americans travelled to the San Joaquin Valley after World War II. The majority settled in cities such as Fresno and Bakersfield, and about 7,000 settled in the Tulare Lake Basin, farmland owned by J.G. Boswell.⁴²¹ Still, African American field workers faced discrimination. Unlike their white counterparts, they were rarely promoted to operate

machinery for higher pay, and were instead relegated to more demanding physical work for lower pay.⁴²² Moreover, like in factories, African American workers also experienced greater injury and danger from farm work.⁴²³

Fair Employment and Housing and Short Lived Affirmative Action

Several years before the federal government enacted its version of the law, California in 1959 passed the Fair Employment Practices Act, prohibiting employment discrimination on the basis of race by employers.⁴²⁴ The present day version of the law is the California Fair Employment and Housing Act.⁴²⁵ The California Department of Fair Employment and Housing currently enforces the Fair EHA, which also prohibits harassment based on several different protected categories, including race.⁴²⁶ The state agency investigates, prosecutes, and mediates complaints of discrimination.⁴²⁷

California’s support of the Department of Fair Employment and Housing has not been sufficient to meet the level of need. In 2013, the California Senate Office of Oversight and Outcomes reported that even though California had the strongest antidiscrimination law in the nation, the agency was funded with a “relatively miniscule allotment of resources[,]” which left the Department unable to fully enforce the law and protect workers.⁴²⁸ The agency’s investigations of employment discrimination claims “suffer[ed] from understaffing, poor quality, intake confusion, and premature case grading.”⁴²⁹ The oversight Office also unearthed a secret policy that had given the Governor’s Office final say as to whether the discrimination law would be enforced against another California state agency, making it more difficult for government workers to bring a discrimination claim.⁴³⁰ In the years since this report issued,

the Department's budget has grown, but the number of complaints it receives each year has also risen.⁴³¹

In 2013, a California government watchdog office reported that even though California had the strongest antidiscrimination law in the nation, the state agency tasked with investigating complaints was funded with a “relatively miniscule allotment of resources[,]” which left the Department unable to fully enforce the law and protect workers. The agency’s investigations of employment discrimination claims “suffer[ed] from understaffing, poor quality, intake confusion, and premature case grading.”

Like the federal government, government agencies in California also implemented affirmative action programs in employment. These programs produced mixed results. For example, between 1977 and 1995, the representation of African American tenured faculty members at the University of California system—which implemented affirmative action in its hiring—grew from 1.8 percent to only 2.5 percent, and for community colleges’ faculty between 1984 and 1991, the proportion of African American faculty only grew from 4.9 percent to 5.7 percent.⁴³²

California’s affirmative action programs were banned in 1996, after voters passed Proposition 209.⁴³³ Proposition 209 amended the California Constitution to prohibit state institutions from considering race in hiring, contracting, and education.⁴³⁴ According to polling data, Proposition 209 was supported by a majority of white and male voters, but opposed by a majority of African American, Latino, Asian American, and female voters.⁴³⁵

The evidence regarding Proposition 209’s impact on employment opportunities is complex. In the 15-year period that followed Proposition 209 going into effect, the representation of African Americans, Latinos, and women in public sector relative to the private sector did not dramatically increase or decrease.⁴³⁶ Men and women of color working for the State of California continued to earn less than their white, non-Hispanic male counterparts, and remained under-represented in high-level positions.⁴³⁷

Proposition 209’s impact on the procurement process was more severe, as state and local governments were forced to abandon race-conscious contracting programs. Prior to Proposition 209’s passage, awards of public contracts to businesses owned by people of color and women had been rising, reaching a high of

28 percent in 1994.⁴³⁸ By 1998, awards had fallen to less than 10 percent, and they never recovered despite the increasing diversity in California.⁴³⁹

One study, published in 2006, found that only 32 percent of certified “minority business enterprises” in California’s 1996 transportation construction industry were still in business 10 years later, and among those that had survived, businesses owned by African Americans had fared less well than others.⁴⁴⁰ Another study published in 2015 found that Proposition 209 had led to a loss of between \$1 billion and \$1.1 billion annually for businesses owned by

people of color or women.⁴⁴¹ As African American employers are more likely than their white counterparts to hire African American job applicants,⁴⁴² the closing of African American businesses may have also hurt African American employment.

Activists in California have worked to overturn Proposition 209, but have not been successful. In 2020, voters rejected Proposition 16, which would have repealed Proposition 209.⁴⁴³

Occupational Licensure in California

Nearly 21 percent of workers in California must obtain a license to work in their jobs. California required workers to obtain a license for 61 percent of lower-income occupations, ranking it the third most restrictive state nationwide, following only Louisiana and Arizona.⁴⁴⁴

California withholds or restricts access to licenses from persons with certain criminal convictions, which is more likely to harm African American residents. For example, as discussed in Chapter 11, some incarcerated Californians participate in a program to help battle wildfires.⁴⁴⁵ Upon release, however, program participants would not be eligible to for jobs in many fire departments, because they cannot obtain an Emergency Medical Technician (EMT) certification.⁴⁴⁶ California law specifically prohibits EMT certification for anyone who has been incarcerated for a felony within the past ten years, effectively disqualifying many people who participated in fire camp.⁴⁴⁷ In 2020, recent attempts to remediate these issues related to firefighting have had limited success.⁴⁴⁸

California has made some strides in lifting restrictions on occupational licensure in recent years, with the

passage of AB 2138, which prohibits California licensing boards from denying a license for, among other things, many convictions older than seven years and dismissed

or expunged convictions.⁴⁴⁹ While AB 2138 represents progress, other schemes remain in California which continue to have a racially discriminatory impact.⁴⁵⁰

IV. Discrimination in Government Employment

In addition to supporting legal segregation and enabling private discrimination, the federal and California governments discriminated against African American workers as employers. The federal government in civil and military service has refused to employ African American workers, segregated an integrated workforce, and relegated African American workers to lower paid, less-skilled occupations. The state and local governments in California have had similar patterns of discrimination.

Segregation in the Federal Civilian Service

The federal civilian service reflected and shaped the racist labor environment of private employers. For much of the federal government's history, it was almost totally white or segregated. During the 19th century, there was no blanket ban on African American workers, but different officials were allowed to create a patchwork of regulations forbidding employment of African Americans.⁴⁵¹ The United States Postal Service was a striking example—in 1802, African American workers were banned from carrying mail.⁴⁵² African American

workers were almost completely excluded from federal employment until 1861—the year an African American man was appointed as a clerk with the United States Postal Service in Boston.⁴⁵³

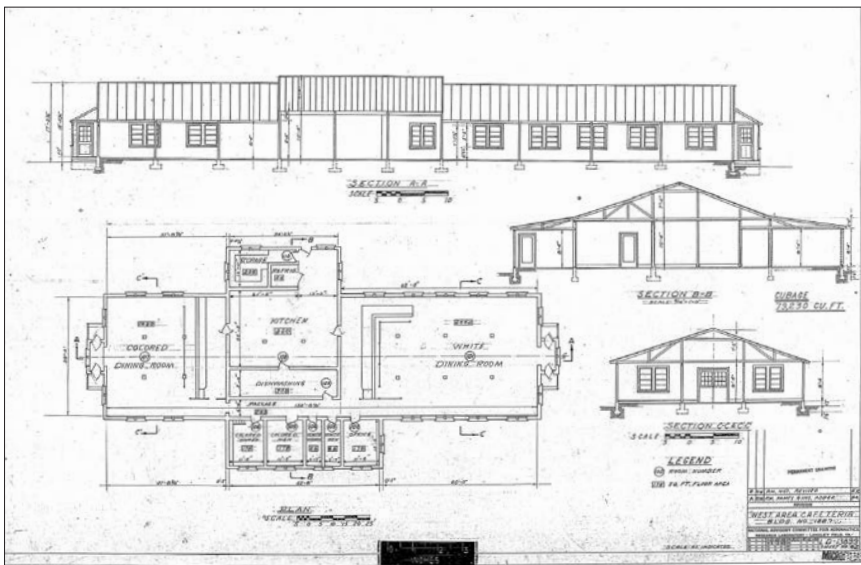
In 1913, President Wilson officially segregated much of the federal workforce, including the Treasury, the Post Office, the Bureau of Engraving and Prints, the Navy, the Interior, the Marine Hospital, the War Department, and the Government Printing Office. The federal government created separate offices, lunchrooms, and bathrooms for white and Black workers.

At the turn of the century, African Americans made up about 10 percent of the federal workforce.⁴⁵⁴ Many African American workers found steady, valuable jobs in urban post offices, but there was little possibility for advancement.⁴⁵⁵ President Roosevelt provided some support for threatened African American workers. In 1903, he refused to allow the town of Indianola, Mississippi, to drive out its African American postmaster, instead suspending service at the Indianola Post Office rather than accept the

resignation of Postmaster Minnie Cox.⁴⁵⁶ But this lasted only until the next year, when a white Postmaster was appointed.⁴⁵⁷ And the tide turned with the election of President William Howard Taft in 1908, who stated in his inaugural address: “[I]t is not the disposition or within the province of the Federal Government to interfere with the regulation by Southern States of their domestic affairs,” and that appointing African Americans to federal offices in prejudiced southern communities would do more harm than good.⁴⁵⁸

In 1913, President Wilson officially segregated much of the federal workforce, including the Treasury, the Post Office, the Bureau of Engraving

COURTESY OF SMITH COLLECTION/GADO VIA GETTY IMAGES



Blueprint for NASA/NACA's West Area Cafeteria at the Langley Research Center, showing a "White Dining Room" and a smaller, segregated "Colored Dining Room" for use by African American staff, including "human computers." (1948)

and Prints, the Navy, the Interior, the Marine Hospital, the War Department, and the Government Printing Office.⁴⁵⁹ The federal government created separate offices, lunchrooms, and bathrooms for white and African American workers.⁴⁶⁰ William McAdoo, Secretary of the Treasury, argued that segregation was necessary “to remove the causes of complaint and irritation where white women have been forced unnecessarily to sit at desks with colored men.”⁴⁶¹ The federal government fired African American supervisors, and cut off African American employees’ access to promotions and better-paying jobs, and it reserved those jobs for white employees.⁴⁶²

Postmaster General Albert S. Burleson segregated, demoted, or fired African American workers.⁴⁶³ Though no official government records have been found that indicate how many African American postal workers were driven from their jobs, there was a clear pattern to segregate, reclassify, and discharge African American workers.⁴⁶⁴

President Wilson’s decision to segregate an integrated federal workforce resulted in lower pay for African American workers cut off from better-paying jobs,⁴⁶⁵ and created separate toilets in the Treasury and Interior Departments.⁴⁶⁶ This damaged the ability of African Americans to build economic security. For example, in Washington, D.C., home of many federal jobs, African American homeownership fell after President Wilson’s actions, in part because African American federal employees no longer had access to those better jobs and salaries.⁴⁶⁷

In 1979, the U.S. General Accounting Office found that exams administered by the Office of Personnel Management to screen applicants for federal jobs disqualified African American candidates at higher rates than white candidates, “offer[ing] no real opportunity for Black job seekers to be fairly assessed for federal jobs.”⁴⁶⁸ Few African American applicants received scores high enough to have a “realistic chance” of being considered for employment.⁴⁶⁹

A later study, commissioned by the U.S. Office of Personnel Management, examined the cases of all 11,920 federal workers fired in 1992, excluding the Postal Service and uniformed military services, and found that 39 percent of those fired were African American, even though African American workers comprised only 17 percent of the workforce at the time.⁴⁷⁰ While federal personnel officials believed that African American employees were fired more often because they tended to be less experienced, less educated, and concentrated in lower-level jobs that experienced more turnover, the study found that, after

every measurable factor was discounted, African American workers were still more likely to be fired at nearly every pay grade, from the lower rungs to the senior executive level.⁴⁷¹

Despite the federal government’s history of racism against African American workers, African American workers currently make up more of the federal civil service at over 18 percent than in the general population at 14 percent.⁴⁷² However, for the Senior Executive Service, the elite corps of experienced civil servants responsible for leading the federal workforce, only 10 percent are African American.⁴⁷³

Segregation in Military Service

The military reflected the rest of the federal government and American society in enacting racist and segregationist policies for much of its history. While African Americans have consistently served in the military since the very beginning of the country, the military has historically paid African American soldiers less than white soldiers and often deemed African Americans unfit for service until the military needed them to fight.⁴⁷⁴ The military officially remained segregated until 1950.⁴⁷⁵ African American soldiers consistently failed to be recognized for their contributions, and the government failed to follow through on promises of greater opportunities in exchange for service. While military service has provided an avenue for African Americans to achieve a measure of economic stability, it has consistently been a place of racial discrimination and segregation, particularly in the highest ranks. Today, there continues to be a limited number of African Americans in leadership roles.

President Woodrow Wilson’s order to segregate the federal workforce damaged Black economic security. In Washington, D.C., home of many federal jobs, Black homeownership fell after President Wilson’s actions.

The Revolution and the War of 1812

African Americans’ military service predates the republic itself, as do the government’s actions discriminating against African American soldiers and failing to honor promises in exchange for their service. Both free and enslaved Black soldiers, from all 13 colonies, fought with the Continental Army and state militias in the American Revolution.⁴⁷⁶ During the American siege of Yorktown in 1781, British troops, in order to extend dwindling food supplies, expelled all Black volunteer soldiers they had recruited with promises of freedom.⁴⁷⁷ One British officer,

admitting the betrayal, stated: “We had used them to good advantage, and set them free, and now, with fear and trembling, they had to face the reward of their cruel masters.”⁴⁷⁸ While Joseph Ranger, a free African American man from Virginia served in the Navy of Virginia and received wages, a land grant, and later a life pension from the U.S. Government, David Baker, an enslaved man on the Isle of Wight, was forced to join the American navy as a substitute for his enslaver, and was re-enslaved after the war.⁴⁷⁹

After the republic was established, the Second U.S. Congress passed the Militia Law of 1792 allowing only “free able-bodied white male citizen[s]” to serve in the

admonition to African American soldiers who might have escaped slavery and joined the British cause in a bid for freedom and the means for self-support:

*No refuge could save the hireling and slave
From the terror of flight or the gloom of the grave,
And the star-spangled banner in triumph doth wave
O'er the land of the free and the home of the brave.*⁴⁸⁴

The Civil War

In the time of the Civil War, African Americans again attempted to join the war effort, notwithstanding the army's racist treatment and failures to follow through on promises. In 1862, Congress amended the law to permit African Americans to enlist in the Union Army, but initially, only in menial construction and camp services roles.⁴⁸⁵ African American women labored in refugee camps as servants for Union officers and as laundresses for Union troops.⁴⁸⁶ African Americans were finally admitted to military service

in the Union following the Emancipation Proclamation in 1863.⁴⁸⁷ Eventually, nearly 200,000 African American soldiers, roughly half of whom were formerly enslaved southerners, served in the Union Army.⁴⁸⁸

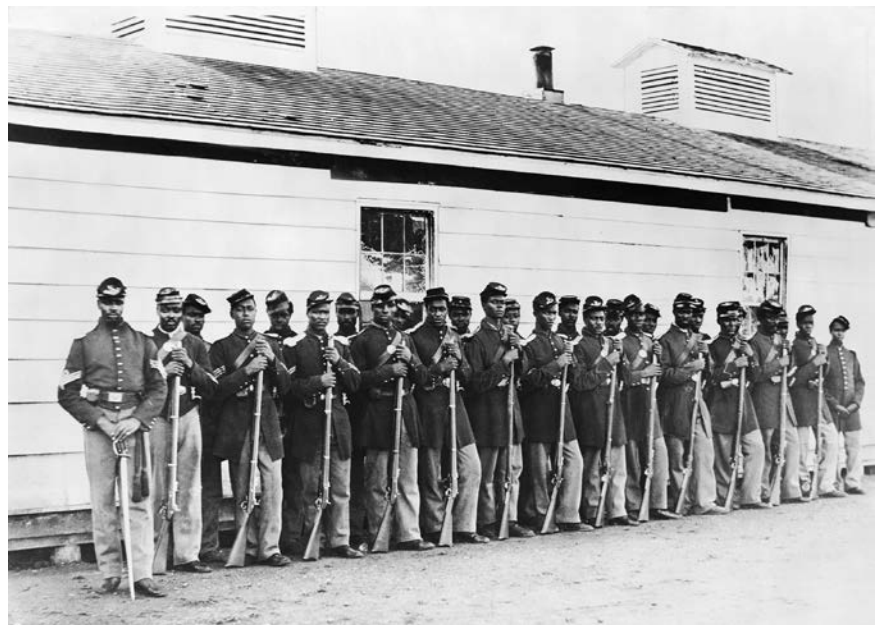
Once again, African American soldiers were afforded lesser treatment in their military service. African American soldiers were segregated, assigned lowly positions, had

During the Civil War, Black soldiers took home net pay of \$7 per month, compared to \$13 per month for white soldiers. And Black soldiers faced a higher mortality rate than their white counterparts, largely due to racist differences in medical care on the battlefield.

national militia, which became the National Guard.⁴⁸⁰ In 1796, James McHenry, the Secretary of War, declared, “No Negro, Mulatto, or Indian is to be recruited [in the Marine Corps].”⁴⁸¹ The U.S. Marine Corps continued this ban on African Americans for the next 167 years.

During the War of 1812, regardless of the fact that African American soldiers were legally not allowed to serve, African American soldiers made up a significant portion of U.S. Navy forces, and approximately one-quarter of U.S. soldiers at the Battle of Lake Erie were African American.⁴⁸² While many volunteer African American soldiers were explicitly promised freedom or equal opportunities in the future in exchange for their service by the state or federal government, these promises never fully materialized.⁴⁸³

Like they had done during the Revolutionary War, British troops recruited African American soldiers by promising freedom and land in exchange for service, but they largely failed to deliver. In fact, Francis Scott Key's “The Star-Spangled Banner”—the national anthem—contains a little-known but controversial verse understood by some scholars to have been intended as a threat or



Company E, Fourth Colored Infantry, at Fort Lincoln. African Americans have consistently served in the military since the very beginning of the country, but the military has historically paid Black soldiers less than white soldiers and often deemed African Americans unfit for service until the military needed them to fight. The military officially remained segregated until 1950. (1865)

COURTESY OF WILLIAM MORRIS SMITH/BETTMANN VIA GETTY IMAGES

few opportunities for advancement to officer rank, received lower pay, and faced far more severe disciplinary measures.⁴⁸⁹ Second Lieutenant R. H. Isabelle, the target during a purge of African American officers, resigned in disillusionment in 1863, stating that he “joined the [U]nited States army ...with the sole object of laboring for the good of the union supposing that all past prejudice would be suspended for the good of our Country and that all native born [A]mericans would unite together to sacrifice their blood for the cause as our fathers did in 1812 & 15,” but he found that “the same prejudice still exist[s].”⁴⁹⁰

During the Civil War, Black soldiers took home net pay of \$7 per month, compared to \$13 per month for white soldiers.⁴⁹¹ And African American soldiers faced a higher mortality rate than their white counterparts, largely due to racist differences in medical care on the battlefield.⁴⁹² One soldier lamented: “Wee [sic] are said to be U.S. Soldiers and behold wee [sic] are U.S. Slaves.”⁴⁹³

In fact, a small number of African American soldiers did not serve willingly in the Civil War.⁴⁹⁴ Starting in 1863, some Union officials used tactics similar to enslavers, press gangs, and man-stealers to grow the ranks of the Union Army.⁴⁹⁵ One army engineer in 1863 stated that of men forced into service: “My men, Colonel, have not been drafted. They have been kidnapped in the night.”⁴⁹⁶ Despite President Lincoln declaring in 1865 that “without the military help of the Black freedmen, the war against the south could not have been won,”⁴⁹⁷ African American soldiers were not treated on equal footing, and suffered economic and social hardship as a direct result of the government’s actions during the war.

World Wars I and II

Following the Civil War, African American soldiers in the 9th and 10th Cavalries and the 24th and 25th Infantries became known as “Buffalo Soldiers.”⁴⁹⁸ With a few exceptions—West Point graduates Henry O. Flipper, John Hanks Alexander, and Charles Young—these all-Black regiments were led by white U.S. Army officers.⁴⁹⁹ Buffalo Soldiers

aided in the nation’s westward expansion by building roads and participating in military actions that included the Red River War (1874-1875) and the Battle of San Juan Hill during the Spanish American War (1898).⁵⁰⁰ These men were also some of the first national park rangers.⁵⁰¹

However, the legacy of the Buffalo Soldiers is complex. These African American soldiers fought for their rightful citizenship rights by fighting for a white-led government in government in wars to take the Southwest and Great Plains from Native Americans.⁵⁰² Between 1870 and 1890, 18 African American Buffalo Soldiers earned Medals of Honor while fighting Native Americans.⁵⁰³ Despite their service, Buffalo Soldiers faced discrimination.⁵⁰⁴ Some were able to access higher education, secure better jobs, and own property, but others returned from service only to be lynched.⁵⁰⁵

While opportunity expanded in the military during the period after the Civil War and more African Americans joined the service, African American soldiers continued to serve in the armed forces under segregated and unequal conditions. But increased military needs prevailed and, by World War I, there were 380,000 Black soldiers out of the four million total soldiers, a proportion similar to that of Black men in the general population.⁵⁰⁶

During World War I, Black men volunteered to serve in eight all-Black army regiments but remained strictly segregated from white soldiers.⁵⁰⁷ Black soldiers were subject to humiliations including wearing discarded Civil War uniforms, or performing for the amusement of white soldiers.⁵⁰⁸ One Black soldier at the time lamented that “The spirit of Saint-Nazaire [Army station in France] is the spirit of the South.”⁵⁰⁹ This played out in the numbers: only 11 percent of Black soldiers saw combat in World War I, while the vast majority were relegated to menial labor.⁵¹⁰ This segregation reflected the larger condition of the American economy in that Black soldiers were prevented from moving up in ranks to supervisory positions, and positions in some specialized corps were blocked altogether.⁵¹¹



15th Regiment Infantry New York National Guard. (c. 1919)

This pattern continued in the interwar years and in World War II, when African Americans continued to serve in the military service despite segregation and other racist policies.⁵¹² For example, in 1941, the U.S. Army established the 78th Tank Battalion, the first African American armor unit. It was made up of African American enlisted men and white officers, but without opportunity for the African American soldiers to advance.⁵¹³

Author James Baldwin remarked that the “treatment accorded the Negro during the Second World War [marked] a turning point in the Negro’s relation to America...A certain hope died.”⁵¹⁴

This pattern extended to the Congressional actions aimed at helping soldiers returning from fighting in World War II. In 1944, the Congress passed the Serviceman’s Readjustment Act of 1944, commonly known as the “GI Bill.” The GI Bill included provisions to provide financial assistance for homeownership, opening small businesses, and education, but, like the New Deal legislation before it, it left implementation largely to racist state and local governments and contributed to housing discrimination.⁵¹⁵ As a result, its benefits were not fully realized for returning African American soldiers. For discussion of the role of the Veterans Administration in implementing and maintaining housing segregation, see Chapter 5. For a discussion of the VA’s role in education discrimination, see the Chapter 6.

Post-World War II to the Present

In 1941, President Roosevelt issued Executive Order 8802 stating, “I do hereby reaffirm the policy of the United States that there shall be no discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin...” The Marine Corps received its first African American recruits, but continued to segregate. “Even though we were all Marines we were kept separate. We didn’t have barracks, we lived in huts, built from cardboard, painted green. Camp Lejeune had barracks but we had huts. It was located in the back woods, amid water snakes and bears,” said Marine Sergeant Carrel Reavis.⁵¹⁶

In 1948, President Harry S. Truman issued Executive Order 9981 to desegregate the military.⁵¹⁷ But, while the military formally integrated, serious racial discrimination persisted. For example, the army did not begin in earnest to integrate its forces until the Korean War, when demand for additional troops meant that the army had no choice but to send African American troops to replace white troops killed or injured in battle. Segregated all-Black army units persisted until 1954. In the Marines, full integration did not occur until 1960.⁵¹⁸

Despite discrimination by the federal government, Black soldiers served and died for their country and have historically used it as a mode of upward mobility out of the South.⁵¹⁹

The highest proportion of African American individuals ever to serve in an American war came in the Vietnam

During the Vietnam War, Black men were much more likely to die on the frontlines. In 1965, 25% of soldiers killed in action were African American.

War.⁵²⁰ Young Black men were disproportionately drafted during the Vietnam War years due to education and occupation deferments that were unavailable to Black men due to a centuries of education segregation and discrimination.⁵²¹

In the Vietnam War, the American military no longer believed that African American men were not fit for combat.⁵²² African American men had a much greater chance of being on the front-line and suffered a much higher casualty rate.⁵²³ In 1965 alone, African American soldiers were almost 25 percent of those killed in action.⁵²⁴

As the United States moved to an all-volunteer military following the Vietnam War and the end to conscription, African American soldiers enlisted at a much higher rate than white individuals, leading African American representation in the military to be roughly twice their representation in the U.S. population at large.⁵²⁵

In 2020, only 2 of 41 four star military officials were



African American

Today, racial disparities in the military continue. Even as lower-level troops were integrated, leadership remained almost exclusively white. As late as 2020, of the 41 officials holding four-star rank, only two were African Americans.⁵²⁶ Based on government data received through the Freedom of information Act, researchers have found evidence that African American service members have been substantially more likely than white service members to face military justice or disciplinary action.⁵²⁷ Anecdotal news reports have presented a deep-rooted culture of racism and discrimination in all branches of the armed services.⁵²⁸ On January 6, 2021,

insurgents stormed the U.S. Capitol, carried a confederate flag inside the Capitol building,⁵²⁹ and displayed a noose and gallows in front of it.⁵³⁰ Of the more than 700 individuals charged in the January 6 insurrection, 81 people have ties to the military.⁵³¹

California

Although African Americans were present in California going back to the Spanish conquest era, they made up only around one percent or less of the population of California until 1920, and under two percent until the 1940s.⁵³² Still, the pattern seen in the federal civilian service and military service persisted in California at both the state and local levels. African American workers faced segregation and racial discrimination in state and local employment. Even when progress was made, governments failed to meaningfully address past discrimination, and African American workers remained largely shut out of the higher-paid leadership roles—a trend that still exists in the present.

Up until World War II, African American workers were absent from many public and private sector jobs in San Francisco. For example, no African American worker was employed as a public school teacher, police officer, firefighter, or streetcar conductor nor as a bank teller or bus or cab driver in the city before 1940.⁵³³ There were no African American streetcar workers until 1942—with poet Maya Angelou being one of the first—though this was not due to a lack of available skilled workforce in the area, as evidenced by the fact that within two years there were over 700 African American platform operators.⁵³⁴

When Bay Area Rapid Transit (BART) system was built in 1967, no skilled African American workers were hired.⁵³⁵ The National Labor Relations Board-certified unions did not admit African American members, and BART, though a government agency, refused to use its power to insist on non-discrimination policies by the unions.⁵³⁶ And it was a similar story when Oakland built a new central post office during the same period—not a single African American plumber, operating engineer, sheet metal worker, iron worker, electrician, or steamfitter was hired for construction of the federally funded government building.⁵³⁷

The City of Pasadena in Southern California similarly employed almost no African Americans in government jobs prior to World War II. “In Pasadena they told me they don’t hire Black teachers,” said Ruby McKnight Williams, the first African American woman to be employed by the city in a professional capacity in the 1940s. When Ms. Williams

was hired “I found out...that no [Black] men were employed by the city except garbage men and two or three men who swept City Hall. As for [Black] women, even the attendants in the restrooms at the Rose Bowl had never been colored.”⁵³⁸

Other types of government actions enforced racist and segregationist policies on African American Californians in different parts of the state. For example, in 1970 Pasadena became the first city outside of the South under a federal court order to desegregate its schools. In its ruling on the matter, the district court concluded that the Pasadena school district had discriminated both in its placement of students and in its allocation of teachers. As the court observed, the district’s failures to comply with

When Bay Area Rapid Transit system was built in 1967, no skilled Black workers were hired. When Oakland built a new central post office during the same period—not a single Black plumber, operating engineer, sheet metal worker, or other skilled laborer was hired.

its own integration policies had occurred “in connection with the teacher assignment, hiring, and promotion policies and practices of the District, its construction policies and practices, and its assignment of students.”⁵³⁹

Some segments of the public sector like law enforcement and firefighting continued to discriminate against African American Californians. When they hired African American Californians, hostile work environments sometimes followed.⁵⁴⁰ The San Francisco Fire Department, for example, had no African American firefighters before 1955, and by 1970, when African American residents made up 14 percent of the city’s population, only four of the Department’s 1,800 uniformed firefighters were African American.⁵⁴¹

Public-sector employers have provided significant opportunities to African American workers, as compared to their private-sector counterparts—including in California. Even still, Black workers continue to encounter barriers to career advancement and higher pay.⁵⁴² As of 2018, African American workers account for 9.8 percent of California’s state civil service, compared to 5.3 percent of the state’s labor force and 5.5 percent of the population. However, that 9.8 percent share has been disproportionately concentrated in lower salary ranges; African American civil servants represented 12.6 percent of employees earning \$40,000 or less but only 5.7 percent of workers earning more than \$130,000.⁵⁴³

V. Effects Today

The cumulative impacts of the federal, state, and local governments' racial discrimination and segregation continue to harm African Americans today. In 2019, the median African American household earned 61 cents for every dollar earned by the median white household.⁵⁴⁴ This is a slight increase from 2016, when African American households earned 56 cents to the dollar, a figure *lower* than it had been in 1968, after the passage of the Civil Rights Act in 1964.⁵⁴⁵

As a result of their higher unemployment rate and the persistent wage gap, African Americans experience higher levels of poverty.⁵⁴⁶ In 2020, 19.8 percent of African Americans were living in poverty, compared to 8.3 percent of white Americans.⁵⁴⁷ Due to a combination of racism and sexism, women have always had a higher rate of poverty than men.⁵⁴⁸ Twelve percent of white women are impoverished, compared to 23 percent of African American women.⁵⁴⁹ African American families are more likely than white families to have family members who are impoverished.⁵⁵⁰ This has a destabilizing effect during periods of emergency. A 2020 study found that 36 percent of white families had enough savings to cover six months of expenses, versus 14 percent of African American families.⁵⁵¹ Another recent survey also found that 36 percent of African American respondents said that they had no money at all set aside for emergen-

While African Americans have made significant advances into occupations and job categories that used to be subject to explicit segregation, or kept African American workers at the margins, there has been a limit to this progress. In 2021, an analysis of the 50 most valuable public companies demonstrated that only eight percent of “C-suite” executives—the highest corporate leaders, usually those that report to the Chief Executive Officer—are African American.⁵⁵⁴ At least eight companies list no African American executives among their leadership team, as of December 2021.⁵⁵⁵ Moreover, much of the gains that African Americans have made in employment and wages have been offset by the intensifying income inequality in the country as a whole.⁵⁵⁶

California

The numbers are similar for California. In 2019, the Public Policy Institute of California reported that about 17.4 percent of African American Californians were poor or near poor, compared to 12.1 percent of white people.⁵⁵⁷ In 2020, the poverty rate was 14.6 percent among African American Californians and 7.9 percent among white residents.⁵⁵⁸ Prior to the COVID-19 pandemic, Black families in California were nearly twice as likely to be in the bottom tier of income distribution than would be expected for their share of the population.⁵⁵⁹ Factors

that lead to African Americans often being first to suffer economic downturn and last to recover also persist in California. During the COVID-19 pandemic, sixty-eight percent of surveyed Black workers in Southern California who had lost their jobs reported that they were still looking for work a year after the start of the pandemic.⁵⁶⁰

African Americans are also under-represented in California's two major industries: Hollywood and Silicon Valley. In Hollywood, for ex-

cies, compared to 24 percent of white respondents.⁵⁵² Without a safety net of savings, African Americans can be more vulnerable to upheavals in the labor market and are more likely to experience homelessness, as discussed in Chapter 5. During the COVID-19 pandemic, African Americans were more likely to hold jobs that exposed them to the novel coronavirus, and more likely to lose their jobs at the same time. They were more likely to see their savings shrink and more likely to not have enough to eat. As was the case after the 2008 recession, they are experiencing the slowest recovery.⁵⁵³

ample, in films released between 2015 and 2019, Black actors were less likely to be in lead roles than white actors, and Black actors were often funneled into race-related projects, which are typically less well funded.⁵⁶¹ Emerging African American actors received six leading role opportunities early in their careers, compared with nine for white actors.⁵⁶² African American talent is even more under-represented in positions of creative control—African American directors directed six percent of films released between 2015 and 2019, African American producers produced six percent of those films, and African American

CALIFORNIANS POOR OR NEAR POOR 2019



screenwriters wrote four percent of those films.⁵⁶³ In 2020, the *Los Angeles Times* conducted a study of diversity in Hollywood studios and reported that of 230 senior corporate executives, division heads, and other senior

A 2018 report revealed that in large tech firms in Silicon Valley, African Americans made up only 4.4 percent of all employees. 1.4 percent were executives, 2.5 percent were managers, and 2.9 percent were professionals.

leaders in entertainment companies analyzed by the *Times*, 10 percent were African Americans.⁵⁶⁴ Ninety-two percent of film industry C-suite executives were white, making the industry more homogenous than the energy and finance industries.⁵⁶⁵

The disparities are worse in Silicon Valley. Although between 2004 to 2014, African American college students were more likely to major in computer science than white students,⁵⁶⁶ a 2018 report revealed that in large tech firms in Silicon Valley, African Americans made up only 4.4 percent of all employees. 1.4 percent were executives, 2.5 percent were managers, and 2.9 percent were professionals.⁵⁶⁷

A recent report also found that for every African American individual who is a direct employee of a tech company, there are 1.4 African

American contract workers, who generally earn 75 cents for every dollar made by a direct employee and are far less likely to receive health benefits or paid time off.⁵⁶⁸

VI. Conclusion

Enslavement was the nation's original disregard for African American lives and theft of African American labor. Slavery persisted for more than 200 years, and when it formally ended, the nation found new ways, from the Black Codes to Jim Crow, to keep African Americans tethered to the lowest rungs of work. Discrimination, exclusion, and devaluation never ceased. For more than 150 years since the formal end of slavery, African Americans have been denied opportunity and pathways to higher wages and been shunted into the lowest paying, least protected, and oft times most dangerous work, or they have been denied work altogether.

The few instances of affirmative effort to remedy or at least neutralize discrimination were inadequate and short-lived. Severe employment and wage disparities and attendant socioeconomic gaps never closed because the root causes of discrimination, exclusion, and subjugation were never addressed and have been sanctioned by the government and allowed to persist and entrench. Centuries of government-supported and government-protected racism have produced a labor market that is so solidly and structurally anti-Black that it can now stand on its own. It cannot and will not come undone without an affirmative dismantling and concentrated investment in creating opportunity for full participation by African Americans and full valuation of their work.

Endnotes

¹ Reskin, [The Race Discrimination System](#) (2012) 38 Ann. Rev. Sociology 17, 21.

² See, e.g., Charles & Guryan, Studying Discrimination: Fundamental Challenges and Recent Progress (2011) 3 Ann. Rev. Economics 479; Fryer et al., Racial Disparities in Job Finding and Offered Wages (2013) 56 J.L. & Econ. 633, 670.

³ Shrider et al., U.S. Census Bur., [Income and Poverty in the United States: 2020](#) (Sept. 2021) p. 13 (as of Apr. 7, 2022).

⁴ Kurt, [Corporate Leadership by Race](#), Investopedia (Feb. 28, 2022) (as of Apr. 7, 2022).

⁵ Deloitte, [Fortune 500 Boards Still Decades Away from Representation Parallel to the Presence of Women and Minorities in the US Population](#), Deloitte (June 8, 2021) (as of Apr. 7, 2022).

⁶ Trotter, *Workers on Arrival: Black Labor and the Making of America* (2019) pp. xvi, xx-xxi; see also California Task Force to Study and Develop Reparation Proposals for African Americans (October 13, 2021) [Testimony of Jacqueline Jones](#), (as of Apr. 7, 2022) (Jones Testimony) citing Berry, *The Price for their Pound of Flesh: The Value of the Enslaved, from Womb to Grave, in the Building of a Nation* (2017); Baptist, *The Half has Never Been Told: Slavery and the Making of American Capitalism* (2016); Beckert, *Empire of Cotton: A Global History* (2015); Beckert & Rockman, eds., *Slavery's Capitalism: A New History of American Economic Development* (2018).

⁷ Trotter, *Workers on Arrival*, *supra*, at fn. 6, p. xvi; Jones Testimony, *supra*, a

⁸ Jones Testimony, *supra*, at fn. 6, citing White, *Ar'n't I a Woman? Female Slaves in the Plantation South* (1985); Feinstein, *When Rape was Legal: The Untold History of Sexual Violence during Slavery* (2019); Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (2004).

⁹ See Solomon et al., Center for Am. Progress, [Systematic Inequality](#)

[and Economic Opportunity](#) (August 2019) p. 2 (as of Apr. 8, 2022).

¹⁰ Stelzner & Beckert, Wash. Center for Equitable Growth, [The Contribution of Enslaved Workers to Output and Growth in the Antebellum United States](#) (June 24, 2021) p. 2 (as of Apr. 8, 2022).

¹¹ See Einhorn, *American Taxation, American Slavery* (2006); Jones Testimony, *supra*, at fn. 6; Finkelman, [The American Suppression of the African Slave Trade: Lessons on Legal Change, Social Policy, and Legislation](#) (2015) 42 Akron L. Rev. 431, 434; Sawers, *The Poll Tax Before Jim Crow* (2017) 57 Am. J. Legal Hist. 166, 166-67.

¹² Jones, *American Work: Four Centuries of Black and White Labor* (1998) pp. 258-59.

¹³ *Ibid.*

¹⁴ Douglass, *Narrative of the Life of Frederick Douglass: An American Slave* (1968 ed.) pp. 117-18.

¹⁵ Jones, *American Work*, *supra*, at fn. 12, pp. 259-60.

¹⁶ *Id.* at p. 260.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ Smith, [California's Last Slave Case](#), N.Y. Times (Mar. 5, 2014).

²⁰ Wilkerson, *The Warmth of Other Suns: The Epic Story of America's Great Migration* (2011) p. 233; De Graaf & Taylor, *Introduction: African Americans in California History*, *California in African American History* in Seeking El Dorado: African Americans in California (De Graaf et al., eds. 2001) p. 9; Hudson, *West of Jim Crow: The Fight Against California's Color Line* (2020) pp

²¹ [Stats. 1852, ch. 33, § 1](#), pp. 67-68 (as of Apr. 8, 2021); Wills, [Slavery in a Free State: The Case of California](#), JSTOR Daily (Feb. 25, 2021) (as of Apr. 8, 2022).

²² Wilkerson, *The Warmth of Other Suns*, *supra*, at fn. 20, p. 233; Hudson, *West of Jim Crow*, *supra*, at fn. 20, pp 21-22.

²³ Wilkerson, *The Warmth of Other Suns*, *supra*, at fn. 20, p. 233. *Ibid.*

²⁴ Taylor, [African American Men in the American West, 1528-1990](#) (2000)

569 African Am. Male in Am. Life & Thought 102, 105.

²⁵ *Ibid.*

²⁶ Wills, *Slavery in a Free State*, *supra*, at fn. 21; Hudson, *West of Jim Crow*, *supra*, at fn. 20, p. 23.

²⁷ Smith, [Pacific Bound: California's 1852 Fugitive Slave Law](#) (Jan. 6, 2014) Black Past (as of Apr. 8, 2022).

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ Baradaran, *The Color of Money: Black Banks and the Racial Wealth Gap* (2017) pp. 18-22.

³¹ See Jones, *The Dispossessed: America's Underclasses from the Civil War to the Present* (1992).

³² Wilkerson, *The Warmth of Other Suns*, *supra*, at fn. 20, pp. 332-35; Jones, *Labor of Love, Labor of Sorrow: Black Women, Work, and the Family from Slavery to the Present* (2009) pp. 131-67 (discussing limited paid work options for Black women and attendant poor conditions and pay).

³³ See Jones, *American Work*, *supra*, at fn. 12, p. 342; see also Perea, [The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act](#) (2011) 72 Ohio State L.J. 95.

³⁴ Perea, *The Echoes of Slavery*, *supra*, at fn. 33; Katznelson, *Fear Itself: The New Deal and the Origins of Our Time* (2013) p. 163; Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 101; Reich, *A Working People: A History of African American Workers Since Emancipation* (2013) p. 91.

³⁵ [Freedmen's Bureau Bill](#) (Mar. 3, 1865) Chap. XC, § 2, 13 Stat. 507.

³⁶ Reich, *A Working People*, *supra*, at fn. 34, p. 13.

³⁷ See Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (2011) pp. 68-69; Gates, Jr., [The Truth Behind "40 Acres and a Mule"](#) African

Am. Hist. Blog (2013) (as of Apr. 10, 2022); see also Reich, *A Working People*, *supra*, at fn. 34, p. 11 (discussing freedmen's view of land ownership as key to economic autonomy).

³⁸ Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 16, citing Fleming, *"Forty Acres and a Mule"* (1906) 182 North Am. Rev. 721, 729.

³⁹ Reich, *A Working People*, *supra*, at fn. 34, pp. 11-12.

⁴⁰ *Id.* at p. 12.

⁴¹ *Id.* at pp. 13-15.

⁴² *Id.* at p. 12.

⁴³ Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 19; Reich, *A Working People*, *supra*, at fn. 34, p. 10.

⁴⁴ Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 19.

⁴⁵ *Id.* at p. 16, quoting Egerton, *Wars of Reconstruction: The Brief, Violent History of America's Most Progressive Era* (2014) p. 99.

⁴⁶ Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 17.

⁴⁷ Trefousse, *Andrew Johnson: A Biography* (1989) p. 236.

⁴⁸ Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 17.

⁴⁹ Reich, *A Working People*, *supra*, at fn. 34, p. 15.

⁵⁰ *Id.* at pp. 13-15; see also Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 18 (discussing President Johnson's view that capitalism, free trade, and the law of supply and demand would suffice to allow freedmen to secure remuneration and acquire land without the help of the state, even as the government was aiding private industry and after the government had given away land to white settlers).

⁵¹ Reich, *A Working People*, *supra*, at fn. 34, p. 14.

⁵² Jones Testimony, *supra*, at fn. 6; Reich, *A Working People*, *supra*, at fn. 34, p. 15.

⁵³ Trotter, *Workers on Arrival*, *supra*, at fn. 6, p. 56, quoting a

northern commander stationed in Columbia, South Carolina.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ Reich, *A Working People*, *supra*, at fn. 34, p. 15.

⁵⁷ Jones, *Labor of Love*, *supra*, at fn. 32, pp. 54-55.

⁵⁸ *Id.* at p. 62.

⁵⁹ History.com, *Freedmen's Bureau* (Jun. 1, 2010, updated Oct. 3, 2018) (as of May 31, 2023).

⁶⁰ *Ibid.*

⁶¹ Baradaran, *The Color of Money*, *supra*, at fn. 30, pp. 18-21.

⁶² Blackmon, *Slavery by Another Name: The Re-Enslavement of African Americans from the Civil War to World War II* (2008) pp. 1, 53.

⁶³ *Ibid.*

⁶⁴ *Id.* at p. 53.

⁶⁵ *Id.* at pp. 53-57.

⁶⁶ Schmidt, *Principle and Prejudice: The Supreme Court and Race in the Progressive Era. Part 2: The "Peonage Cases"* (1982) 82 Colum. L. Rev. 646, 651.

⁶⁷ *Id.* at p. 650; Reich, *A Working People*, *supra*, at fn. 34, p. 19.

⁶⁸ Schmidt, *Principle and Prejudice*, *supra*, at fn. 66, p. 651.

⁶⁹ *Id.* at p. 650; Reich, *A Working People*, *supra*, at fn. 34, p. 19. For an in-depth discussion of apprenticeship, please see Chapter 8.

⁷⁰ Wilkerson, *The Warmth of Other Suns*, *supra*, at fn. 20, p. 217.

⁷¹ Bernstein, *The Law and Economics of Post-Civil War Restrictions on Interstate Migration by African Americans* (1998) 76 Tex. L. Rev. 781, 781-82.

⁷² *Id.* at pp. 783, 786-87.

⁷³ *Id.* at 792-800.

⁷⁴ *Williams v. Fears* (1900) 179 U.S. 270; Bernstein, *The Law and Economics of Post-Civil War Restrictions on Interstate Migration by African Americans*, *supra*, at fn. 71, p. 801.

⁷⁵ Castel, *The Presidency of Andrew Johnson* (1979) p. 71; Franklin, *The Civil Rights Act of 1866 Revisited* (1989) 41 Hastings L.J. 1135, 1135-36.

⁷⁶ *Civil Rights Act of 1866* (Apr. 9, 1866) Chap. XXXI, 14 Stat. 27; see also Kaczorowski, *Enforcement Provisions of the Civil Rights Act of 1866: A Legislative History in Light of Runyon v. McCrary, The Review Essay and Comments: Reconstructing Reconstruction* (1988-89) 98 Yale L. J. 565, 579-90.

⁷⁷ Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 37.

⁷⁸ *Civil Rights Cases* (1883) 109 U.S. 3 (1883).

⁷⁹ See, e.g., Saidel-Goley & Singer, *Things Invisible to See: State Action & Private Property* (2018) 5 Tex. A&M L. Rev. 439, 452; Engelman Lado, *A Question of Justice: African-American Legal Perspectives on the 1883 Civil Rights Cases* (1995) 70 Chicago-Kent L. Rev. 1123, 1174-75.

⁸⁰ See Equal Justice Initiative, *Lynching in America: Confronting the Legacy of Racial Terror* (3d ed., 2017), pp. 5

⁸¹ *Id.* at pp. 12, 15-17.

⁸² *Id.* at pp. 16

⁸³ Trotter, *Workers on Arrival*, *supra*, at fn. 6, p. 56.

⁸⁴ *Id.* at pp. 56-57.

⁸⁵ Reich, *A Working People*, *supra*, at fn. 34, p. 58.

⁸⁶ Baradaran, *The Color of Money*, *supra*, at fn. 30, pp. 37-38; *Plessy v. Ferguson* (1896) 163 U.S. 537.

⁸⁷ See, e.g., Wilkerson, *The Warmth of Other Suns*, *supra*, at fn. 20, pp. 38-45; Wilkerson, *Caste: The Origins of Our Discontents* (2020) pp. 116-17.

⁸⁸ Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 38.

⁸⁹ Wilkerson, *The Warmth of Other Suns*, *supra*, at fn. 20, p. 41.

⁹⁰ *Id.* at p. 44; Jones Testimony, *supra*, a

⁹¹ Jones Testimony, *supra*, at fn. 6

⁹² *Ibid.*

⁹³ Wilkerson, *Caste*, *supra*, at fn. 88, pp. 132-34.

⁹⁴ Perea, *The Echoes of Slavery*, *supra*, at fn. 33, p. 101.

⁹⁵ Jones, Labor of Love, *supra*, at fn. 32, p. 61; see also [Slavery by Another Name: Sharecropping](#) (Public Broadcasting Service Movie 2012).

⁹⁶ Perea, *The Echoes of Slavery*, *supra*, at fn. 33, p. 101.

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*; see also Schmidt, *Principle and Prejudice*, *supra*, at fn. 66, pp. 654-60.

⁹⁹ Wilkerson, The Warmth of Other Suns, *supra*, at fn. 20, pp. 38-39.

¹⁰⁰ *Id.* at p. 45.

¹⁰¹ *Id.* at p. 53.

¹⁰² *Id.* at p. 54.

¹⁰³ *Ibid.*

¹⁰⁴ *Id.* at p. 418.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ Jones, Labor of Love, *supra*, at fn. 32, pp. 74, 154-56.

¹⁰⁹ Jones Testimony, *supra*, a

¹¹⁰ Hine, Black Women in White: Racial Conflict and Cooperation in the Nursing Profession, 1890-1950 (1989); Fairclough, A Class of their Own: Black Teachers in the Segregated South (2007).

¹¹¹ Jones Testimony, *supra*, a

¹¹² *Ibid.*

¹¹³ Trotter, Workers on Arrival, *supra*, at fn. 6, pp. 91-92.

¹¹⁴ Jones Testimony, *supra*, at fn. 6, Labor of Love, *supra*, at fn. 32, pp. 166-67, 205-07 (describing exploitative conditions of long hours and grueling domestic work for little pay).

¹¹⁵ Wilkerson, The Warmth of Other Suns, *supra*, at fn. 20, p. 333.

¹¹⁶ *Id.* at p. 334.

¹¹⁷ Welch, Black Litigants in the Antebellum American South (2018) pp. 64-81.

¹¹⁸ Avins, [The Right to be a Witness and the Fourteenth Amendment](#) (1966) 31 Mo. L. Rev. 471, 473-74.

¹¹⁹ Hoag, [An Unbroken Thread: African American Exclusion from Jury Service, Past and Present](#) (2020) 81 La. L. Rev. 55, 56-57; see also Forman, [Juries and Race in the Nineteenth Century](#) (2004) 113 Yale L.J. 895.

¹²⁰ Hoag, [An Unbroken Thread](#), *supra*, at fn. 120, at pp. 58-59.

¹²¹ *Strauder v. West Virginia*, 100 U.S. 303 (1880); Hoag, [An Unbroken Thread](#), *supra*, at fn. 120, pp. 61-62.

¹²² See, e.g., Higginbotham, *Racism in American and South African Courts: Similarities and Differences* (1990) 65 NYU L. Rev. 479, 521-45.

¹²³ Lewan & Barclay, [When They Steal Your Land, They Steal Your Future](#), LA Times (Dec. 1, 2001) (as of Apr. 8, 2022).

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

¹²⁷ See Sternberg Greene, [Race, Class, and Access to Civil Justice](#) (2016) 101 Iowa L.R. 1263, 1268

¹²⁸ *Ibid.*; see also Myrick et al., [Race and Representation: Racial Disparities in Legal Representation for Employment Civil Rights Plaintiffs](#) (2012) 15 N.Y.U. J. Legislation & Pub. Policy 705, 751-52.

¹²⁹ Sternberg Greene, [Race, Class, and Access to Civil Justice](#), *supra*, at fn. 128, pp. 1268, 1275-79.

¹³⁰ Myrick et al., *Race and Representation*, *supra*, at fn. 129, p. 722.

¹³¹ *Id.* at p. 724.

¹³² Green Coleman, [Disrupting the Discrimination Narrative: An Argument for Wage and Hour Laws' Inclusion in Antisubordination Advocacy](#) (2018) 14 Stanford J. Civ. Rights & Civ. Liberties 49, 75-76; Green Coleman, *Rendered Invisible: African American Low-Wage Workers and the Workplace Exploitation Paradigm* (2016) 60 Howard L.J. 61, 64.

¹³³ Myrick et al., *Race and Representation*, *supra*, at fn. 129, p. 707.

¹³⁴ Blasi & Doherty, UCLA-RAND Center for L. & Pub. Policy, [California Employment Discrimination Law and Its Enforcement: The Fair Employment Housing Act at 50](#) (2010) p. 12.

¹³⁵ Eyer, [That's Not Discrimination: American Beliefs and the Limits of Anti-Discrimination Law](#) (2012) 96 Minnesota L.R. 1275, 1276.

¹³⁶ Myrick et al., *Race and Representation*, *supra*, at fn. 129, pp. 707-08.

¹³⁷ Wilkerson, The Warmth of Other Suns, *supra*, at fn. 20, p. 317.

¹³⁸ Jones, American Work, *supra*, at fn. 12, pp. 294-96, 305-15.

¹³⁹ Reedy, Brief History of the American Labor Movement (1951) p. 1.

¹⁴⁰ *Id.* at p. 3.

¹⁴¹ *Id.* at p. 29.

¹⁴² *Id.* at p. 30.

¹⁴³ Jones, American Work, *supra*, at fn. 12, pp. 213, 216, 221-22, 248-53.

¹⁴⁴ Wilkerson, The Warmth of Other Suns, *supra*, at fn. 20, p. 316.

¹⁴⁵ Jones, Labor of Love, *supra*, at fn. 32, p. 128 (providing example of 1897 protest of the hiring of two African American female spinners at an Atlanta textile mill, where union staged a walk-out and the company fired the two African American women).

¹⁴⁶ History.com, [Labor Movement](#) (Mar. 31, 2020)

¹⁴⁷ Cassidy, [African Americans and the American Labor Movement](#) (Summer 1997) Prologue Magazine

¹⁴⁸ *Ibid.*

¹⁴⁹ Rothstein, The Color of Law: A Forgotten History of How our Government Segregated America (2017) pp. 155-56, 158.

¹⁵⁰ *Id.* at p. 156.

¹⁵¹ *Ibid.*

¹⁵² Reich, A Working People, *supra*, at fn. 34, pp. 58-59.

¹⁵³ Wilkerson, The Warmth of Other Suns, *supra*, at fn. 20, p. 317.

¹⁵⁴ Kersten, Labor's Home Front: The American Federation of Labor During World War II (2006) p. 77; Greene, Pure and Simple Politics: The American Federation of Labor and Political Activism, 1881-1917 (2006) p. 19.

¹⁵⁵ Greene, Pure and Simple Politics, *supra*, at fn. 155, p. 39.

¹⁵⁶ Kersten, Labor's Home Front, *supra*, at fn. 155, 78.

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*

¹⁵⁹ *Id.* at p. 79.

¹⁶⁰ Reich, A Working People, *supra*, at fn. 34, pp. 58-59.

¹⁶¹ Jones Testimony, *supra*, at fn. 6

¹⁶² *Ibid.*

¹⁶³ *Ibid.*

¹⁶⁴ *Ibid.*

¹⁶⁵ See, e.g., Little Hoover Com., [Jobs for Californians: Strategies to Ease Occupational Licensing Barriers](#) (Oct. 2016) p. 5 (as of Apr. 29, 2022); Dept. Treas. Off. Economic Policy et al., [Occupational Licensing: A Framework for Policymakers](#) (Jul. 2015) p. 6 (as of Apr. 29, 2022).

¹⁶⁶ Freeman, [The Effect of Occupational Licensure on Black Occupational Attainment](#) in Occupational Licensure and Regulation (Rottenberg edit., 1980) pp. 165-66; Dept. Treas. Off. Economic Policy et al., Occupational Licensing, *supra*, at fn. 166, p. 41 (noting that "licensing policy falls in the purview of individual States").

¹⁶⁷ Bernstein, [Licensing Laws: A Historical Example of the Use of Government Regulatory Power Against African-Americans](#) (1994) 31 San Diego L. Rev. 89, 90.

¹⁶⁸ Klein et al., [Was Occupational Licensing Good for Minorities? A Critique of Marc Law and Mindy Marks](#) (2012) 9 Econ J. Watch 210, 222-23, citing Williams, The State Against Blacks (1982) pp. 90-91.

¹⁶⁹ Freeman, [The Effect of Occupational Licensure on Black Occupational Attainment](#), *supra*, at fn. 167, p. 166, quoting Greene & Woodson, The Negro Wage Force (1969) p. 192.

¹⁷⁰ Bernstein, [Licensing Laws](#), *supra*, at fn. 168, p. 94-97.

¹⁷¹ *Id.* at p. 94.

¹⁷² *Id.* at p. 94, fn. 29, citing Bloch, [Craft Unions and the Negro in Historical Perspective](#) (1958) 43 J. Negro Hist. 10, 23.

¹⁷³ *Ibid.*, citing Williams, The State Against Blacks (1982) p. 94-95.

¹⁷⁴ See generally Bernstein, [Licensing Laws](#), *supra*, at fn. 168 (describing the efforts to exclude Black workers from professions including medicine and barbering); Freeman, [The Effect of Occupational Licensure on Black Occupational Attainment](#), *supra*, at fn. 167, p. 166 (describing the efforts in Georgia to exclude Black workers from becoming firemen on locomotives by way of licensure); Crawford & Das, D.C. Fiscal Policy Inst., [Black Workers Matter: How The District's History of Exploitation & Discrimination Continues to Harm Black Workers](#) (2020) p. 3 (as of Apr. 9, 2022) (describing occupational licensing bans written into Black Codes that prevented Black workers from working in any trade other than driving carts or carriages).

¹⁷⁵ Bernstein, [Licensing Laws](#), *supra*, at fn. 168, p. 92 (noting that "lower courts universally accepted the general proposition that licensing statutes were constitutiona

¹⁷⁶ *Id.* at p. 97.

¹⁷⁷ *Id.* at pp. 96-97.

¹⁷⁸ *Id.* at p. 97.

¹⁷⁹ *Id.* at p. 98.

¹⁸⁰ Williams, Race and Economics: How Much Can Be Blamed on Discrimination (2013) p. 94, citing Shimberg et al., Occupational Licensing (1973) pp. 112-13.

¹⁸¹ Bernstein, [Licensing Laws](#), *supra*, at fn. 168, p. 98.

¹⁸² U.S. Bur. Lab. Statistics, [Labor Force Statistics from the Current Population Survey](#) (2021) (as of Apr. 9, 2022).

¹⁸³ Decker, [Occupational Licensing as a Barrier for People with Criminal Records: Proposals to Improve Anti-Discrimination Law to Address Adverse Employment Impacts](#)

[from the Criminal Legal System](#) (2021) 49 Fordham Urban L.J. 189, 197.

¹⁸⁴ *Ibid.*

¹⁸⁵ See Dept. Treas. Off. Economic Policy et al., Occupational Licensing, *supra*, at fn. 166, pp. 19-22; Decker, [Occupational Licensing](#), *supra*, at fn. 184, p. 197.

¹⁸⁶ See, e.g., Equal Employment Opportunity Commission, [Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act](#) (2012) pt. V(A)(2).

¹⁸⁷ For example, while people with criminal records are half as likely to get a callback to get an interview than those without a record, African American men with records are one-third as likely to get a callback as those without records. Natividad Rodriguez & Avery, Nat. Employment L. Project, [Unlicensed & Untapped: Removing Barriers to State Occupational Licenses for People with Records](#) (2016) p. 8.

¹⁸⁸ *Id.* at pp. 1, 5 fn. 12, 10.

¹⁸⁹ *Id.* at pp. 1, 5 fn. 10, 14

¹⁹⁰ Petersilia, When Prisoners Come Home: Parole and Prisoner Reentry (2003) p. 114.

¹⁹¹ Ewald, [Barbers, Caregivers, and the "Disciplinary Subject": Occupational Licensure for People with Criminal Justice Backgrounds in the United States](#) (2019) 46 Fordham Urban L.J. 719,

¹⁹² See generally Alexander, The New Jim Crow: Mass Incarceration in the Age of Colorblindness (2012 ed.) pp. 140-177; Natividad Rodriguez & Avery, Unlicensed & Untapped, *supra*, at fn. 188; Dept. Treas. Off. Economic Policy et al., Occupational Licensing, *supra*, at fn. 166, pp. 35-37.

¹⁹³ Nerbovig, [License to Clip](#) (Jul. 10, 2018) The Marshall Project; see also Love & Schluskel, Collateral Consequences Resource Center, [From Reentry to Reintegration: Criminal Records Reform in 2021](#) (2022) pp. 8-11 (describing legislative efforts in 2021 to reform licensure schemes).

¹⁹⁴A search of the National Inventory of Collateral Consequences of Conviction database for “Business licensure and participation” in the “Consequence Type” field yielded 12,989 consequences. See Nat. Reentry Resource Center, [Nat. Inventory of Collateral Consequences of Conviction](#) (as of Apr. 9, 2022).

¹⁹⁵Jones, *American Work*, *supra*, at fn. 12, p. 319.

¹⁹⁶Trotter, *Workers on Arrival*, *supra*, at fn. 6, p. 78. Adjusting for the higher cost of living in the North, “increases in migrant earnings ranged from a low of about 56% to a possible high of 130 percent.” *Ibid.*

¹⁹⁷*Ibid.*

¹⁹⁸*Id.* at p. 86.

¹⁹⁹*Id.* at pp. 86–87.

²⁰⁰*Id.* at p. 88.

²⁰¹*Ibid.*

²⁰²Thomas, *Life for Us is What We Make it: Building Black Community in Detroit, 1915–1945* (1992) pp. 106–107.

²⁰³*Ibid.*

²⁰⁴*Ibid.*

²⁰⁵Jones, *American Work*, *supra*, at fn. 12, p. 367.

²⁰⁶Geschwender, *Class, Race, & Worker Insurgency: The League of Revolutionary Black Workers* (1977) p. 91.

²⁰⁷California Task Force to Study and Develop Reparation Proposals for African Americans (October 13, 2021) [Testimony of William Spriggs](#), (as of Apr. 7, 2022) (Spriggs Testim).

²⁰⁸U.S. Bur. Labor Statistics, [Consumer Price Index Inflation Calculator](#) (comparing Jan. 1950 dollars with Jan. 2022 dollars) (as of Apr. 9, 2022).

²⁰⁹Spriggs Testimony, *supra*, at fn. 207.

²¹⁰Jones Testimony, *supra*, at fn. 6.

²¹¹Stasch, [The Creation and Destruction of the Great American Middle Class \(1930–2010\)](#) (2018) pp. 26–27.

²¹²Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 101.

²¹³Walker & Brechin, [The Living New Deal: The Unsung Benefits of the New Deal for the United States and California](#), IRLE Working Paper No. 220-10 (2010) Inst. Research on Labor & Employment, pp. 23–28.

²¹⁴*Id.* at pp. 15–17.

²¹⁵Baradaran, *The Color of Money*, *supra*, at fn. 30, p. 101; Perea, *The Echoes of Slavery*, *supra*, at fn. 33, pp. 102–03.

²¹⁶Perea, *The Echoes of Slavery*, *supra*, at fn. 33, pp. 103–04; Jones Testimony, *supra*, at fn. 33, pp. 102–03; 120–21.

²¹⁷Perea, *The Echoes of Slavery*, *supra*, at fn. 33, pp. 102–03; 120–21.

²¹⁸Jones Testimony, *supra*, at fn. 6.

²¹⁹Jones Testimony, *supra*, at fn. 6.

²²⁰See, e.g., DeWitt, [The Decision to Exclude Agricultural and Domestic Workers from the Social Security Act](#) (2010) 70 Soc. Sec. Bulletin 4.

²²¹Perea, *The Echoes of Slavery*, *supra*, at fn. 33, p. 104.

²²²Jones Testimony, *supra*, at fn. 6.

²²³*Ibid.*

²²⁴Social Welfare History Project, [The National Industrial Recovery Act of 1933](#) (2011) Va. Commonwealth Univ. (as of Apr. 9, 2022).

²²⁵Perea, *The Echoes of Slavery*, *supra*, at fn. 33, p. 104.

²²⁶*Id.* at p. 106.

²²⁷*Ibid.*

²²⁸*Ibid.*

²²⁹Dubal, [The New Racial Wage Code](#), UC Hastings Research Paper Forthcoming (May 28, 2021) Harvard L. & Policy Rev., pp. 15–16.

²³⁰Perea, *The Echoes of Slavery*, *supra*, at fn. 33, p. 107, citing Caldwell, *What the NRA is Doing to the Race!*, Chi. Defender (May 26, 1934) p. 10.

²³¹Rothstein, *The Color of Law*, *supra*, at fn. 150, p. 158.

²³²*Id.* at 155–56, 158–59.

²³³*Id.* at 158–61.

²³⁴Walker & Brechin, *The Living New Deal*, *supra*, at fn. 214, p. 33.

²³⁵McNicholas et al., Economic Policy Inst., [Why Unions Are Good for Workers—Especially in a Crisis Like COVID-19](#) (Aug. 25, 2020) (as of Apr. 9, 2022).

²³⁶*Ibid.*

²³⁷*Ibid.*

²³⁸Perea, *The Echoes of Slavery*, *supra*, at fn. 33, pp. 123–24.

²³⁹Jones, *American Work*, *supra*, at fn. 12, p. 343.

²⁴⁰Perea, *The Echoes of Slavery*, *supra*, at fn. 33, p. 122.

²⁴¹Rothstein, *The Color of Law*, *supra*, at fn. 150, p. 158.

²⁴²*Ibid.*

²⁴³*Steele v. Louisville & Nashville R.R. Co.* (1944) 323 U.S. 192; Meltzer, [The National Labor Relations Act and Racial Discrimination: The More Remedies the Better?](#) (1974) 42 U. Chi. L. Rev. 1, 4; Jones, [Race, Economic Class, and Employment Opportunity](#) (2009) 72 L. & Contemporary Problems 57, 78.

²⁴⁴*Independent Metal Workers Local 1 (Hughes Tool Co.)* (1964) 147 N.L.R.B. 1573; Meltzer, *The National Labor Relations Act and Racial Discrimination*, *supra*, at fn. 244, pp. 5–6.

²⁴⁵*Emporium Capwell Co. v. Western Addition Community Organization* (1975) 420 U.S. 50; Jones, *Race, Economic Class, and Employment Opportunity*, *supra*, at fn. 244, p. 78.

²⁴⁶Rothstein, *The Color of Law*, *supra*, at fn. 150, p. 161.

²⁴⁷Section 210(b) of the Social Security Act excludes agricultural service and domestic labor in a private home from old-age benefits; and Section 907(c) defines “employment” to exclude agricultural labor and domestic service in a private home for purposes of unemployment benefits. See [Social Security Act](#) (Aug. 14, 1935) Chap. 531, tit. II, § 210(b) (1)–(2), 49 Stat. 620, 625; Chap. 531, tit. IX, § 907(c)(1)–(2), 49 Stat. 620, 643.

²⁴⁸See DeWitt, *The Decision to Exclude Agricultural and Domestic Workers from the Social Security Act*, *supra*, at fn. 221.

²⁴⁹ Martin & Weaver, [Social Security: A Program and Policy History](#) (2005) 66 Soc. Sec. Bull.

²⁵⁰ Perea, *The Echoes of Slavery*, *supra*, at fn. 33, pp. 111-12.

²⁵¹ Economic Security Act, [Hearings before House Com. on Ways & Means on H.R. No. 4120](#), 74th Cong., 1st Sess., p. 798 (1935), testimony of Charles H. Houston, NAACP.

²⁵² Economic Security Act Hearings, *supra*, at fn. 252, p. 602, testimony of George Haynes, Federal Council of Churches of Christ in America.

²⁵³ Economic Security Act, [Hearings before Sen. Com. on Finance on Sen. No. 1130](#), 74th Cong., 1st Sess., p. 646 (1935), statement of Charles H. Houston, NAACP.

²⁵⁴ Dubal, *The New Racial Wage Code*, *supra*, at fn. 230, p. 18.

²⁵⁵ See, e.g., Walters & Briggs, [The Family Economy, Child Labor, and Schooling: Evidence from the Early Twentieth-Century South](#) (1993) 58 Am. Sociological Rev. 163, 164.

²⁵⁶ 82 Cong. Rec. 1404 (1937)

²⁵⁷ 82 Cong. Rec. App'x 442 (1937).

²⁵⁸ Perea, *The Echoes of Slavery*, *supra*, at fn. 33, p. 117.

²⁵⁹ Dubal, *The New Racial Wage Code*, *supra*, at fn. 230, p. 18.

²⁶⁰ Li, Economic Security & Opportunity Initiative, Georgetown L. Center on Poverty & Inequality, [A Civil Rights Issue: The Tipped Minimum Wage & Working People of Color](#) (2018) p. 1.

²⁶¹ *Ibid.*

²⁶² *Ibid.*

²⁶³ *Ibid.*

²⁶⁴ *Ibid.*

²⁶⁵ *Ibid.*

²⁶⁶ *Ibid.* See also U.S. Dept. Labor, [Minimum Wages for Tipped Employees](#) (Jan. 1, 2022) (as of Apr. 9, 20

²⁶⁷ See U.S. Dept. Labor, [Tips](#) (as of Apr. 9, 2022).

²⁶⁸ Li, *A Civil Rights Issue*, *supra*, at fn. 261, p. 2.

²⁶⁹ *Ibid.*

²⁷⁰ Deeben, [Family Experiences and New Deal Relief: The Correspondence Files of the Federal Emergency Relief Administration, 1933-1936](#) (Fall 2012) Prologue Magazine.

²⁷¹ Rothstein, *The Color of Law*, *supra*, at fn. 150, p. 156.

²⁷² Baradaran, *The Color of Money*, *supra*, p. 102, quoting Katznelson, When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth Century America (2005) p. 37.

²⁷³ Jones, *Labor of Love*, *supra*, at fn. 32, p. 182

²⁷⁴ *Ibid.*

²⁷⁵ *Id.* at p. 218.

²⁷⁶ *Id.* at pp. 219-220.

²⁷⁷ Hoak, [The Men in Green: African Americans and the Civilian Conservation Corps, 1933-1942](#), William & Mary Theses, Dissertations, & Master Projects (2002) p. 2.

²⁷⁸ *Ibid.*; see also Rothstein, *The Color of Law*, *supra*, at fn. 150, p. 157.

²⁷⁹ Hoak, *The Men in Green*, *supra*, at fn. 278, pp. 14-15.

²⁸⁰ Reuters, [Factbox: Largest U.S. Electric Companies by Megawatts, Customers](#) (April 29, 2014).

²⁸¹ Rothstein, *The Color of Law*, *supra*, at fn. 150, pp. 156.

²⁸² *Ibid.*

²⁸³ Perea, *The Echoes of Slavery*, *supra*, at fn. 33, p. 107

²⁸⁴ Linder, [Farm Workers and the Fair Labor Standards Act: Racial Discrimination in the New Deal](#) (1986) 65 Tex. L. Rev. 1335, 1361.

²⁸⁵ Perea, *The Echoes of Slavery*, *supra*, at fn. 33, p. 108.

²⁸⁶ *Ibid.*

²⁸⁷ *Ibid.*

²⁸⁸ *Ibid.*

²⁸⁹ *Id.* at p. 107, citing Caldwell, *What the NRA is Doing to the Race!*, Chi. Defender (May 26, 1934) p. 10.

²⁹⁰ Trotter, *Workers on Arrival*, *supra*, at fn. 6, pp. 134-35.

²⁹¹ *Ibid.*

²⁹² Jones, *American Work*, *supra*, at fn. 12, p. 351; [March on Washington for Jobs and Freedom](#), Stanford Martin Luther King, Jr., Research & Education Inst. (as of Apr. 23, 2022).

²⁹³ Trotter, *Workers on Arrival*, *supra*, at fn. 6, p. 135.

²⁹⁴ Engstrom, [The Lost Origins of American Fair Employment Law: Regulatory Choice and the Making of Modern Civil Rights, 1943-1972](#) (2011) 63 Stan. L. Rev. 1071, 1073; Rothstein, *The Color of Law*, *supra*, at fn. 150, p. 162.

²⁹⁵ Trotter, *Workers on Arrival*, *supra*, at fn. 6, p. 136.

²⁹⁶ *Ibid.*

²⁹⁷ *Ibid.*

²⁹⁸ Chamberlain, *Victory at Home: Manpower and Race in the American South during World War II* (2003) p. 57.

²⁹⁹ Jones, *American Work*, *supra*, at fn. 12, p. 354.

³⁰⁰ 42 U.S.C. § 2000e, et. seq.

³⁰¹ 42 U.S.C. § 2000e-2(a). The statute also prohibits discrimination by employment agencies, labor organizations, and training programs. 42 U.S.C. § 2000e-2(b)-(d).

³⁰² Henson, [Purposes of Title VII](#) (2019) 33 Notre Dame J.L., Ethics, and Pub. Pol'y 221, p. 233, quoting 110 Cong. Rec. 7213 (1964).

³⁰³ *Id.* at pp. 233-34.

³⁰⁴ *Id.* at pp. 233-34.

³⁰⁵ Comment, [The Inevitable Interplay of Title VII and the National Labor Relations Act: A New Role for the NLRB](#) (1974) 123 U. Pa. L. Rev. 158, 162-63.

³⁰⁶ *Int'l Bhd. of Teamsters v. United States* (1977) 431 U.S. 324, 353-54.

³⁰⁷ *Id.* at p. 335 fn. 15.

³⁰⁸ *Ibid.*

³⁰⁹ 42 U.S.C. § 2000e-2(k)(1)(A)(i).

³¹⁰ *Griggs v. Duke Power Co.* (1971) 401 U.S. 424, 425-26, 431.

³¹¹ *Id.* at p. 435-36.

³¹² 42 U.S. Code §§ 2000e-2, 2000e-3, 2000e-5.

³¹³ U.S. Equal Employment Opportunity Com., [Chapter II Remedies](#) (as of Apr. 11, 2022).

³¹⁴ Barnes, [Is the EEOC Protecting Workers or Discriminatory Employers?](#) (Sept. 4, 2019) Forbes; Jones, American Work, *supra*, at fn. 12, p. 362; Linderman, [At the EEOC, harassment cases can languish for years](#) (Apr. 9, 2018) AP N

³¹⁵ Gilway, [The Persistent Black-White Unemployment Gap is Built into the Labor Market](#) (Sept. 28, 2020) Housing Today.

³¹⁶ Jones, American Work, *supra*, at fn. 12, pp. 361-62.

³¹⁷ [Affirmative Action Policies Throughout History](#) (2022) Am. Ass'n for Access, Equity and Diversity.

³¹⁸ Jones, American Work, *supra*, at fn. 12, p. 362.

³¹⁹ Menand, [The Changing Meaning of Affirmative Action](#) (Jan. 13, 2020) The New Yorker.

³²⁰ See, e.g., Donohue & Heckman, [Continuous Versus Episodic Change: The Impact of Civil Rights Policy on the Economic Status of Blacks](#) (1991) 29 J. Econ. Lit. 1603, 1640-41, citing Leonard, *The Impact of Affirmative Action on Employment* (1984) 2 J. Lab. Econ. 439.

³²¹ Menand, *The Changing Meaning of Affirmative Action*, *supra*, at fn. 320.

³²² Chatterji, et al., [The Impact of City Contracting Set-Asides on Black Self-Employment and Employment](#) (2014) 32 J. of Labor Economics 507, 510.

³²³ Iheukwumere & Aka, *Title VII, Affirmative Action, and the March Toward Color-Blind Jurisprudence* (2001) 11 Temp. Policy & Civ. Rights L. Rev. 1, 7-9.

³²⁴ *Regents of Univ. of Calif. v. Bakke* (1978) 438 U.S. 265, 318-319

³²⁵ Trotter, Workers on Arrival, *supra*, at fn. 6, p. 166.

³²⁶ *Id.* at pp. 140-44; Jones Testimony, *supra*, at fn. 6.

³²⁷ Trotter, Workers on Arrival, *supra*, at fn. 6, p. 141; Jones Testimony, *supra*, a

³²⁸ Trotter, Workers on Arrival, *supra*, at fn. 6, p. 141; Jones Testimony, *supra*, a

³²⁹ Spieler, [Racism Has Shaped Public Transit, and It's Riddled with Inequities](#) (2020) Kinder Inst. for Urban Research, Rice University; Sánchez et al., [Moving to Equity: Addressing Inequitable Effects of Transportation Policies on Minorities](#) (2003) The Civil Rights Project: Harvar

³³⁰ Spieler, *Racism Has Shaped Public Transit*, *supra*, at fn. 330.

³³¹ *Ibid.*

³³² Miller, [When Work Moves: Job Suburbanization and Black Employment](#) (2018) Nat'l Bureau of Economic Research Working Paper Series, pp. 3-4.

³³³ Trotter, Workers on Arrival, *supra*, at fn. 6, p. 141.

³³⁴ *Id.*

³³⁵ Reich, *A Working People*, *supra*, at fn. 34, p. 164.

³³⁶ Trotter, Workers on Arrival, *supra*, at fn. 6, p. 162.

³³⁷ De Graaf & Taylor, Introduction in *Seeking El Dorado*, *supra*, at fn. 20, p. 36.

³³⁸ *Ibid.*

³³⁹ Jack Rosenthal, [Large Suburbs Overtaking Cities in Number of Jobs They Provide](#) (Oct. 15, 1972) N.Y. Times.

³⁴⁰ *Ibid.*

³⁴¹ Keita Cha-Jua, [The New Nadir: The Contemporary Black Racial Formation](#) (2010) 40 The Black Scholar 38, 40.

³⁴² *Ibid.*

³⁴³ *Id.* at pp. 40-41.

³⁴⁴ Lusane, *Race in the Global Era: African Americans at the Millenium* (1997) p. 12.

³⁴⁵ Zessoules, [Trade and Race: Effects of NAFTA 2.0 and Other Low-Road Approaches to Trade on Black Communities](#) (July 18, 2019) Center for Am. Progr

³⁴⁶ *Ibid.*; Rangel & Wallach, [Trade Discrimination: The Disproportionate, Underreported Damage to U.S. Black and Latino Workers From U.S. Trade Policies](#) (Jan. 8, 2021) pp. 13-15. See Chapter 6 for discussion of the discrimination

that has shaped educational outcomes for African Americans.

³⁴⁷ Zessoules, *Trade and Race*, *supra*, at fn. 346; Rangel & Wallach, *Trade Discrimination*, *supra*, at fn. 347, pp. 13-15; Scott et al., [Botched Policy Responses to Globalization Have Decimated Manufacturing Employment with Often Overlooked Costs for Black, Brown, and Other Workers of Color](#) (Jan. 31, 2022) Economic Policy I

³⁴⁸ Scott et al., *Botched Policy Responses*, *supra*, at fn. 348.

³⁴⁹ *Ibid.*

³⁵⁰ Zessoules, *Trade and Race*, *supra*, at fn. 346.

³⁵¹ Rangel & Wallach, *Trade Discrimination*, *supra*, at fn. 347, p. 14, citing Gould, *Torn Apart? The Impact of Manufacturing Employment Decline on Black and White Americans*, CEPR Discussion Paper No. DP12992 (2018).

³⁵² Overton, [Black to the Future: Will Robots Increase Racial Inequality?](#), State of Black Am.

³⁵³ Jones, American Work, *supra*, at fn. 12, p. 314; Jones Testimony, *supra*, a

³⁵⁴ Quillian et al., [Meta-Analysis of Field Experiments Shows No Change in Racial Discrimination in Hiring Over Time](#) (2017) Proceedings of the Nat. Academy of Sciences (PNAS).

³⁵⁵ *Ibid.*

³⁵⁶ Bertrand & Mullainathan, [Are Emily and Greg More Employable than Lakisha and Jamal? A Field Experiment on Labor Market Discrimination](#), NBER Working Paper No. 9873 (2003), Nat. Bur. of Economic Research, pp. 2-4.

³⁵⁷ Kang et al., [Whitened Résumés: Race and Self-Presentation in the Labor Market](#) (2016) 61 Admin. Science Quarterly, pp. 22

³⁵⁸ Segall, [Mass Incarceration, Ex-Felon Discrimination & Black Labor Market Disadvantage](#) (2011) 14 U. Pa. J. L. & Soc. Change pp. 159-60.

³⁵⁹ Shannon et al., [The Growth, Scope, and Spatial Distribution of People With Felony Records in the United States, 1948-2010](#) (2018) Demography.

³⁶⁰Segall, Mass Incarceration, *supra*, at fn. 359, p. 168-70.

³⁶¹Jones & Schmitt, [A College Degree Is No Guarantee](#) (2013) Center for Economic & Policy Research, p. 11.

³⁶²Agan & Starr, [Ban the Box, Criminal Records, and Statistical Discrimination: A Field Experiment](#) (2016) U. Mich. L. & Econ. Research Paper Series, p. 4.

³⁶³See, e.g., Fyre, [Racism and Sexism Combine to Shortchange Working Black Women](#) (Aug. 22, 2019) Center for Am. Progress; Banks, [Black Women's Labor Market History Reveals Deep-Seated Race and Gender Discrimination](#) (Feb. 19, 2019) Working Economics Blog; Cohen, [Black Women Were Half as Likely to Be Hired for State or Local Jobs Than White Men, a Report Says](#) (Mar. 18, 2021) N.Y. Times; Dill & Duffy, [Structural Racism And Black Women's Employment In The US Health Care Sector](#) (Feb. 2022) 41 Health Affairs 265; [Study Highlights Barriers Black Women Face in Corporate America](#) (Aug. 18, 2020) Philanthropy News Digest.

³⁶⁴Breaking the Cycle: Overcoming Challenges Faced by Black Boys and Men (Nov. 19, 2020), Webinar Materials, The Brookings Inst., pp. 10-11,

³⁶⁵Moss & Tilly, ["Soft" Skills and Race: An Investigation of Black Men's Employment Problems](#) (1996) 23 Work & Occupations, p. 260.

³⁶⁶Pager et al., [Employment Discrimination and the Changing Landscape of Low-Wage Labor Markets](#) (2009) 2009 U. Chi. Legal Forum, pp. 321-322.

³⁶⁷Darity & Mullen, From Here to Equality: Reparations for African Americans in the Twenty-First Century (2020) pp. 45-46.

³⁶⁸Jones & Schmidt, A College Degree Is No Guarantee, *supra*, at fn. 362, p. 1.

³⁶⁹*Id.* at pp. 1, 10-11.

³⁷⁰*Id.* at p. 11.

³⁷¹Kitroeff, [Business School Is Worth \\$22,000 More If You're White or Asian](#) (Jan. 7, 2016) Bloomberg.

³⁷²Cal. Employment Development Dept., Labor & Workforce Dev. Agency,

[California Labor Market Review, March 2022](#) (as of Apr. 27, 2022).

³⁷³De Graaf & Taylor, Introduction in Seeking El Dorado, *supra*, at fn. 20, p. 10.

³⁷⁴*People v. Hall* (1854) 4 Cal. 399, 403-405 (quoting civil and criminal provisions barring testimony).

³⁷⁵De Graaf & Taylor, Introduction in Seeking El Dorado, *supra*, at fn. 20,

³⁷⁶Terrell, [African Americans and the Gold Rush](#) (Feb. 2, 2021), Inside Adams, Science, Technology & Bus.

³⁷⁷See Cal. Dept. of Education, [Key Points in Black History and the Gold Rush](#) (as of Apr. 8, 2022); Savage, [The Influence of William Alexander Leidesdorff on the History of California](#) (1953) 38 J. Negro History 322, 322.

³⁷⁸[A History of African Americans in California: Industry](#) (2004) Five Views: An Ethnic History Site Survey for California (as of Apr. 11, 2022).

³⁷⁹*Ibid.*

³⁸⁰Cal. Dept. of Education, [Key Points in Black History and the Gold Rush](#), *supra*, at fn. 378.

³⁸¹[A History of African Americans in California: Industry](#), *supra*, at fn. 379.

³⁸²[Negro Bar, Folsom Lake State Recreation Area](#), Cal. Dept. of Parks and Recreation (as of Apr. 11, 2022).

³⁸³*Ibid.*

³⁸⁴[A History of African Americans in California: Industry](#), *supra*, at fn. 379.

³⁸⁵*Ibid.*

³⁸⁶*Ibid.*

³⁸⁷*Ibid.*

³⁸⁸*Ibid.*

³⁸⁹*Ibid.*

³⁹⁰Loewen, Sundown Towns: A Hidden Dimension of American Racism (2005),

³⁹¹Trotter, Workers on Arrival, *supra*, at fn. 6, p. 80.

³⁹²*Ibid.*

³⁹³Reparations Task Force Meeting – October 2021, *supra*, at fn. 6, testimony

of Jacqueline Jones, citing Weaver, Negro Labor: A National Problem (1946) p. 109.

³⁹⁴*Ibid.*

³⁹⁵*Ibid.*

³⁹⁶Walker & Brechin, *The Living New Deal*, *supra*, at fn. 214, p. 53.

³⁹⁷*Id.* at p. 47

³⁹⁸*Id.* at p. 48.

³⁹⁹*Ibid.*

⁴⁰⁰Loewen, Sundown Towns, *supra*, pp. 100,

⁴⁰¹*Id.* at p. 239.

⁴⁰²[Labor History Timeline: California and the United States](#), Cal. Assembly Com. on Pub. Employees, Retirement & Soc. Sec. (as of Apr. 11, 2022).

⁴⁰³Oxfam, [The Best States to Work Index: A Guide to Labor Policy in US States](#), Oxfam Research Report (2018) p. 3.

⁴⁰⁴Assem. Bill No. 2100 (Jan. 22, 1937) (“An act to establish a Labor Code, thereby consolidating and revising the law relating to labor and employment relations . . .”).

⁴⁰⁵[Assem. Bill No. 1066](#) (2015-2016 Reg. Sess.), as filed on Sept. 12, 2016).

⁴⁰⁶[Domestic Worker Bill of Rights \(AB 241\)](#), Calif. Dept. of Industrial Relations.

⁴⁰⁷[Sen. Bill No. 1257](#) (2019-2020 Reg. Session).

⁴⁰⁸Broussard, *In Search of the Promised Land: African American Migration to San Francisco, 1900-1945* in Seeking El Dorado, *supra*, at fn. 20, p. 198.

⁴⁰⁹Reparations Task Force Meeting – October 2021, *supra*, at fn. 6, testimony of Jacqueline Jones, citing Rothstein, The Color of Law, *supra*, at fn. 150, p. 5.

⁴¹⁰Rothstein, The Color of Law, *supra*, at fn. 150, pp. 162-66 (describing instances of inaction by the Federal Employment Practices Committee and disregard for limited efforts by the Committee).

⁴¹¹Broussard, *In Search of the Promised Land* in Seeking El Dorado, *supra*, at fn. 20, p. 199, citations omitted.

⁴¹²Rothstein, The Color of Law, *supra*, at fn. 150, p. 160.

⁴¹³Trotter, *Workers on Arrival*, *supra*, at fn. 6, p. 113.

⁴¹⁴Rothstein, *The Color of Law*, *supra*, at fn. 150, p. 165.

⁴¹⁵Leonard, *In the Interest of All Races: African Americans and Interracial Cooperation in Los Angeles During and After World War II in Seeking El Dorado*, *supra*, at fn. 20, p. 311; Alvarez, *The Power of the Zoot: Youth Culture and Resistance during World War II* (2008) p. 20.

⁴¹⁶Alvarez, *The Power of the Zoot*, *supra*, at fn. 416, pp.

⁴¹⁷Rothstein, *The Color of Law*, *supra*, at fn. 150, p. 162.

⁴¹⁸Reparations Task Force Meeting – October 2021, *supra*, at fn. 6, testimony of Jacqueline Jones, citing Self, *American Babylon: Race and the Struggle for Postwar Oakland* (2005), pp. 54–57, 83.

⁴¹⁹*Ibid.*

⁴²⁰De Graaf & Taylor, *Introduction in Seeking El Dorado*, *supra*, at fn. 20, p. 32.

⁴²¹Arax & Warzmann, *The King of California: J.G. Boswell and the Making of a Secret American Empire* (2003) p. 264.

⁴²²*Id.* at pp. 117, 161, 257, 283–84.

⁴²³*Ibid.*

⁴²⁴Cal. Dept. of Fair Employment & Housing, *Legal Records and Reports* (2022) (as of Apr. 11, 2022).

⁴²⁵*Cal. Gov. Code, § 12940.*

⁴²⁶*Ibid.*; Cal. Dept. of Fair Employment & Housing, *Employment Discrimination* (2022) (as of Apr. 11, 2022).

⁴²⁷Cal. Dept. of Fair Employment & Housing, *About DFEH* (2022) (as of Apr. 11, 2022).

⁴²⁸Korber & Adkisson, *Department of Fair Employment and Housing: Underfunding and Misguided Policies Compromise Civil Rights Mission* (Dec. 18, 2013) Cal. Sen. Off. Oversight & Outcomes, pp. 1–2.

⁴²⁹*Id.* at p. 1.

⁴³⁰*Id.* at p. 2.

⁴³¹*Department of Fair Employment and Housing*, AllGov: California (as of Apr. 11, 2022); Cal. Dept. of Fair Employment & Housing, *Report to the Joint Legislative Budget Committee: March 2015* (Mar. 2015) p. 18; Cal. Dept. of Fair Employment & Housing, *2020 Annual Report* (2020), p. 11.

⁴³²Tierney, *Affirmative Action in California: Looking Back, Looking Forward in Public Academe* (1996) 65 J. Negro Education 122, 126.

⁴³³Trotter, *Workers on Arrival*, *supra*, at fn. 6, pp. 165–66. In order to avoid loss of federal funding to state or to run afoul of the courts, Proposition 209 included four exceptions: to keep the state or local governments eligible to receive money from the federal government; to comply with a court order in force as of the effective date of this measure (the day after the election); to comply with federal law or the United States Constitution; and to meet privacy and other considerations based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting. *Proposition 209: Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities* (Nov. 1996) Cal. Legislative Analyst's Off.

⁴³⁴Trotter, *Workers on Arrival*, *supra*, at fn. 6, pp. 165–66; *Proposition 209*, *supra*, at fn. 434; Bleemer, *Affirmative Action, Mismatch, And Economic Mobility After California's Proposition 209* (2020) U.C. Berkeley, Research and Occasional Paper Series: CSHE.10.2020, pp. 6–7; Cal. Const., art. I,

⁴³⁵Oppenheimer, *Color-Blindness, Racism-Blindness, and Racism-Awareness: Revisiting Judge Henderson's Proposition 209 Decision* (2011) 13 Berkeley J. African Am. L. & Policy 101, 106.

⁴³⁶Sumner et al., *Proposition 209 and Public Employment in California: Trends in Workforce Diversity* (2008) Thelton E. Henderson Center for Soc. Justice, Berkeley Law, pp. 5–6; *Equal Opportunity: The Evidence from California* (2012) Thelton E. Henderson Center for Soc. Justice, Berkeley Law, p. 9.

⁴³⁷*Equal Opportunity: The Evidence from California*, *supra*, at fn. 437, p. 9.

⁴³⁸*Id.* at p

⁴³⁹*Ibid.*

⁴⁴⁰Morris et al., *Free to Compete? Measuring the Impact of Proposition 209 on Minority Business Enterprises* (2006) Discrimination Research Center, pp. 2, 20–21.

⁴⁴¹Lohrentz, *The Impact of Proposition 209 on California's MWBEs* (2015) Equal Justice Soc., p. 2.

⁴⁴²Conrad et al., *African Americans in the U.S. Economy* (2005) p. 3; Stoll et al., *Why Are Black Employers More Likely than White Employers to Hire Blacks?* (2001) Inst. For Research on Poverty, pp. 1–2.

⁴⁴³Cal. Sec. of State, *California Statement of Vote, General Election November 3, 2020*, p. 14.

⁴⁴⁴See Little Hoover Com., *Jobs for Californians*, *supra*, at fn. 166, pp. 15–16.

⁴⁴⁵*Gurrola v. Duncan* (E.D. Cal. 2021) 519 F. Supp. 3d 732, 736, appeal pending at *Gurrola v. Duncan*, Case No. 21-15414 (9th Cir.) (“[I]n 2017, 650 incarcerated individuals assisted in suppressing the Pocket, Tubbs, and Atlas Fires. A.B. No. 2147 § 1(c). In 2018, close to 800 incarcerated individuals assisted with the Camp Fire in Butte County. *Id.* § 1(d). And, in 2019, over 400 incarcerated individuals helped battle the Kincade Fire. *Id.* § 1(e).”).

⁴⁴⁶Romo, *California Bill Clears Path For Ex-Inmates to Become Firefighters* (Sept. 11, 2020) NPR.

⁴⁴⁷Cal. Code Regs., tit. 22, § 100214.3(c) (6) (“The medical director shall deny or revoke an EMT [certificate] if . . . the applicant . . . [h]as been convicted and released from incarceration for said offense during the preceding ten (10) years for any offense punishable as a felony.”) EMT certification can be denied for several other types of criminal records as well. See generally Cal. Code Regs., tit. 22, § 100214.3(c).

⁴⁴⁸*Gurrola*, *supra*, 519 F.Supp.3d at 736–37.

⁴⁴⁹*Assem. Bill. No. 2138*, Licensing boards: denial of application: revocation or

suspension of licensure: criminal conviction (2017-2018 Reg. Sess.); Cal Bus. & Prof. Code § 7.5 et

⁴⁵⁰ See, e.g., [Assem. Bill 3039 – Dept. of Social Services Occupational Licensing – Summary](#). At least one non-profit determined that 55.5 percent of its clients seeking exemptions from the Department of Public and Social Services were African American women who were “hit especially hard by DSS’s restrictive criminal record screening rules, given the disproportionate rate of arrests and low-level criminal convictions in communities of color.” *Ibid.*

⁴⁵¹ U.S. Postal Service, [Postal History: African American Postal Workers in the 20th Century](#) (as of Apr. 11, 2022); [Wilson and Race](#), President Wilson House (as of Apr. 11, 2022).

⁴⁵² U.S. Postal Service, [Postal History](#), *supra*, at fn. 452.

⁴⁵³ *Ibid.*; Jones, [American Work](#), *supra*, at fn. 12, p. 259.

⁴⁵⁴ Little, [How Woodrow Wilson Tried to Reverse African American Progress](#) (Jul. 14, 2020) History.com.

⁴⁵⁵ U.S. Postal Service, [Postal History](#), *supra*, at fn. 452.

⁴⁵⁶ *Ibid.*

⁴⁵⁷ *Id.* at fn. 3.

⁴⁵⁸ [William Howard Taft, Inaugural Address](#) (March 4, 1909) U. of Cal., American Presidency Project.

⁴⁵⁹ Little, [How Woodrow Wilson Tried to Reverse African American Progress](#), *supra*, at fn. 455; see also Baradaran, [The Color of Money](#), *supra*, at fn. 30, p. 66 (“Wilson purged the federal bureaucracy of any blacks who had managed to secure a government job. He prohibited the hiring of any black employees and fired those his predecessor had hired.”).

⁴⁶⁰ Little, [How Woodrow Wilson Tried to Reverse African American Progress](#), *supra*, at fn. 455.

⁴⁶¹ Yellin, [Racism in the Nation's Service: Government Workers and the Color Line in Woodrow Wilson's America](#) (2013), p. 135; [On this Day, Apr. 11, 1913](#),

[President Wilson Authorizes Segregation Within Federal Government](#), Equal Justice Initiative (as of Apr. 11, 2022).

⁴⁶² Little, [How Woodrow Wilson Tried to Reverse African American Progress](#), *supra*, at fn. 455.

⁴⁶³ MacLaury, [The Federal Government and Negro Workers Under President Woodrow Wilson](#) (2000), U.S. Dept. of Labor.

⁴⁶⁴ [The Post Office Department and Jim Crow](#) (Dec. 31, 2005) The American Postal Worker Magazine, Am. Postal Workers U

⁴⁶⁵ Aneja & Xu, [The Costs of Employment Segregation: Evidence from the Federal Government under Woodrow Wilson](#), NBER Working Paper No. 27798 (Sept. 2020) Nat. Bur. of Economic Research, pp. 2, 11-12.

⁴⁶⁶ Lehr, [The Racist Legacy of Woodrow Wilson](#) (Nov. 27, 2015) The Atlantic.

⁴⁶⁷ Little, [How Woodrow Wilson Tried to Reverse African American Progress](#), *supra*, at fn. 455.

⁴⁶⁸ [Race in America](#), U.S. Government Accountability Off.

⁴⁶⁹ [Federal Employment Examinations: Do They Achieve Equal Opportunity And Merit Principle Goals?](#) (May 15, 1979) Report to the Congress by the Comptroller General of the United States, p. 24.

⁴⁷⁰ Frank Greve, [Federal Study Confirms Link of Race, Firings](#) (Oct. 20, 1994), Seattle Times.

⁴⁷¹ *Ibid.*

⁴⁷² [Executive Branch Employment by Gender and Race/National Origin](#), Policy, Data, Oversight: Data, Analysis & Documentation, U.S. Off. of Personnel Management; [QuickFacts, United States](#), U.S. Census Bur.

⁴⁷³ [Senior Executive Service, Fiscal Year 2014-2018](#), U.S. Off. of Personnel Management, Office of Strategy and Innovation Data Analysis Group at p. 7.

⁴⁷⁴ [The Army and Diversity](#), U.S. Army Center of Military History.

⁴⁷⁵ *Ibid.*

⁴⁷⁶ [Timeline: From the Beginning](#), Black Am. in the U.S. Army; Jones, [American Work](#), *supra*, at fn. 12, pp. 103-04.

⁴⁷⁷ Frey, [Water from the Rock: Black Resistance in a Revolutionary Age](#) (1991) p. 170.

⁴⁷⁸ Hine & Jenkins, [A Question of Manhood, Volume 1: A Reader in U.S. Black Men's History and Masculinity](#), “Manhood Rights”: [The Construction of Black Male History and Manhood, 1750-1870](#) (1999), pp. 197-98, quoting Hessian captain Johann E

⁴⁷⁹ Jones, [American Work](#), *supra*, at fn. 12, p. 104.

⁴⁸⁰ [The Militia Act of 1792](#), Second Congress, Session I. Chapter XXVIII; Nat. Guard, [About the Guard, How We Began](#) (as of Apr. 11, 2022).

⁴⁸¹ Nat. Museum of the Marine Corps., [African Americans in the United States Marine Corps Timeline](#).

⁴⁸² Am. Battlefield Trust, [War of 1812 Facts: What roles did African Americans Play in the War of 1812?](#) (as of Apr. 11, 2022).

⁴⁸³ Smith, [Wedged Between Slavery and Freedom: African American Equality Deferred](#) (Aug. 14, 2017) Nat’l Park Service.

⁴⁸⁴ Brockell, [The Ugly Reason ‘The Star-Spangled Banner’ Didn’t Become our National Anthem for a Century](#) (Oct. 18, 2020) Washington Post.

⁴⁸⁵ Trotter, [Workers on Arrival](#), *supra*, at fn. 6, p. 48.

⁴⁸⁶ Jones Testimony, *supra*, a

⁴⁸⁷ Trotter, [Workers on Arrival](#), *supra*, at fn. 6, p. 49.

⁴⁸⁸ [Timeline: From the Beginning](#), *supra*, at fn. 477.

⁴⁸⁹ Jones, [American Work](#), *supra*, at fn. 12, p. 288.

⁴⁹⁰ *Id.* at pp. 286-87.

⁴⁹¹ Freeman et al., [The Fight for Equal Rights: A Recruiting Poster for Black Soldiers in the Civil War](#) (1992) 56 Soc. Education 2, pp. 118-120.

⁴⁹² [The Civil War by the Numbers](#), Am. Experience, PBS; Lee, [Socioeconomic Differences in the Health of Black Union Army Soldiers](#) (2009) Soc. Sci. History, p. 427-57.

⁴⁹³ Berlin et al., *Freedom: A Documentary History of Emancipation, 1861-1867, Series II: The Black Military Experience* (1982) p. 725, citing an Anonymous Virginia Black Soldier to an Unidentified Washington Official, December 1865.

⁴⁹⁴ Trotter, *Workers on Arrival*, *supra*, at fn. 6, p. 51.

⁴⁹⁵ Jones, *American Work*, *supra*, at fn. 12, pp. 288-89.

⁴⁹⁶ Berlin et al., *Freedom*, *supra*, at fn. 494, Army Engineer to the Headquarters of the Department of the South, p. 56.

⁴⁹⁷ [Lincoln's Proclamation to Establish a "Bureau of Colored Troops"](#), African Am. Civil War Memorial, Nat. Park Service (as of Apr. 11, 2022).

⁴⁹⁸ Nat. Museum of African Am. History & Culture, [Buffalo Soldiers, Legend and Legacy](#) (as of Apr. 11, 2022).

⁴⁹⁹ *Ibid.*

⁵⁰⁰ *Ibid.*

⁵⁰¹ *Ibid.*; Nat. Park Service, [Buffalo Soldiers](#) (as of Apr. 11, 2022).

⁵⁰² Nat. Museum of African Am. History & Culture, *Buffalo Soldiers*, *supra*, at fn. 499.

⁵⁰³ *Ibid.*

⁵⁰⁴ *Ibid.*

⁵⁰⁵ *Ibid.*

⁵⁰⁶ Jones, *American Work*, *supra*, at fn. 12,

⁵⁰⁷ *Ibid.*

⁵⁰⁸ *Ibid.*

⁵⁰⁹ *Ibid.*; Jack D. Foner, *Blacks and the Military in American History: A New Perspective* (1974) p. 121, quoting a black officer.

⁵¹⁰ Jones, *American Work*, *supra*, at fn. 12,

⁵¹¹ *Ibid.*

⁵¹² *Timeline: From the Beginning*, *supra*, at fn. 477.

⁵¹³ *Ibid.*

⁵¹⁴ Dalfiume, [The "Forgotten Years" of the Negro Revolution](#), 55 J. Am. History, 90, 90, quoting James Baldwin as quoted in Yinger, A Minority Group in American Society (1

⁵¹⁵ Brown, *The Whiteness of Wealth: How the Tax System Impoverishes African Americans—And How We Can Fix It* (2021), pp. 15-16; Callahan, [How the GI Bill Left Out African Americans](#) (Nov. 11, 2013) Demos.

⁵¹⁶ Nat. Museum of the Marine Corps., *African Americans in the United States Marine Corps Timeline*, *supra*, at fn. 482.

⁵¹⁷ [Executive Order 9981](#), Establishing the President's Committee on Equality of Treatment and Opportunity in the Armed Services (July 26, 1948).

⁵¹⁸ Korb, [History of Integration in the U.S. Armed Services](#) (Jul. 13, 2021) MilitaryTime.

⁵¹⁹ Conde, [For Many Black families, Military Service is a Chance at Upward Mobility](#) (Nov. 11, 2021) NBC News; Wilcox et al., [Black Men Making it in America: The Engines of Economic Success for Black Men in America](#), Inst. for Family Studies, p. 16.

⁵²⁰ [African-Americans in Combat](#), History Detectives, Public Broadcasting Service.

⁵²¹ Murray, [Blacks and the Draft: A History of Institutional Racism](#) (1971) 2 J. Black Studies 57, 69-70.

⁵²² *African-Americans in Combat*, *supra*, at fn. 521.

⁵²³ *Ibid.*

⁵²⁴ *Ibid.*

⁵²⁵ *Ibid.*

⁵²⁶ Cooper, [African-Americans Are Highly Visible in the Military, but Almost Invisible at the Top](#) (May 25, 2020) Wash. Post.

⁵²⁷ Christensen & Tsilker, [Racial Disparities in Military Justice: Findings of Substantial and Persistent Racial Disparities Within the United States Military Justice System](#), Protect Our Defenders, pp.

⁵²⁸ Stafford, et al., [Deep-Rooted Racism, Discrimination Permeate US Military](#) (May 27, 2021) AP News.

⁵²⁹ Cramer, [Confederate Flag an Unnerving Sight in Capitol](#) (Jan. 9, 2021) N.Y. Times.

⁵³⁰ Romey, [Decoding the Hate Symbols Seen at the Capitol Insurrection](#) (Jan. 12, 2021), Nat'l Geographic.

⁵³¹ Watson & Legare, [Over 80 of Those Charged in the January 6 Investigation](#)

[Have Ties to the Military](#) (Dec. 15, 2021) CBS News.

⁵³² Gibson & Jung, [Historical Census Statistics on Population Totals by Race, 1790 to 1990, and by Hispanic Origin, 1970 to 1990, for the United States, Regions, Divisions, and States](#) (Sept. 2002) U.S. Census Bureau, Population Division: Working Paper No. 56, Table 19, at p. 47; *A History of African Americans in California: Industry*, *supra*, at fn. 379.

⁵³³ Broussard, *In Search of the Promised Land in Seeking El Dorado*, *supra*, at fn. 20, p. 198.

⁵³⁴ Rothstein, *The Color of Law*, *supra*, at fn. 150, p. 165.

⁵³⁵ *Id.* at p. 168.

⁵³⁶ *Id.* at pp. 168-69.

⁵³⁷ *Id.* at p. 168.

⁵³⁸ Hudson, *West of Jim Crow: The Fight Against California's Color Line* (2020) p. 234, quoting Ruby Williams; see also Rampersad, *Jackie Robinson: A Biography* (1997) p. 22 ["By 1940, a year before Jack Robinson's departure from Pasadena, the city had not yet hired, as one editorial indignantly put it, 'a single [African American] policeman, fireman, regular day-time school teacher, meter-reader, or any other type of employee for the utilities; no, not even a janitor or an elevator boy in the City Hall.' Pasadena employed some African Americans in the part, street, and refuse departments, and then only as laborers, never as clerks. At some point, the post office began to hire African Americans, and a county office gingerly broke the Jim Crow rule; but most businesses did not, and all trade unions scorned African Americans as members. The result was chronic unemployment and a growing despair. In 1924, after the city rebuffed a petition to appoint an African American policeman (by then Los Angeles had an African American detective and several African American patrolmen and firemen), the *Eagle* summed up its concern: 'The condition of affairs surrounding the racial issues in Pasadena is nothing less than nauseating.'"]

⁵³⁹ *Spangler v. Pasadena City Board of Education* (C.D. Cal. 1970) 311 F. Supp. 501, 504.

⁵⁴⁰ *AB 3121 Meeting Materials*, pp. 258-259; Jones Testimony, *supra*, at fn. 6

⁵⁴¹ *United States v. City and County of San Francisco* (N.D. Cal. 1988) 696 F. Supp. 1287, 1290.

⁵⁴² Madowitz et al., *Public Work Provides Economic Security for Black Families and Communities* (Oct. 2020) Center for Am. Progress.

⁵⁴³ *2018 Annual Census of Employees in State Civil Service: Report to the Governor and Legislature* (Mar. 2020) Cal. Dept. of Human Resources, pp. 10, 19.

⁵⁴⁴ Semega, *Income and Poverty in the United States: 2019* (Sept. 15, 2020) United States Census.

⁵⁴⁵ Manduca, *Income Inequality and the Persistence of Racial Economic Disparities* (2018) 5 Sociological Science 182, pp. 182, 190.

⁵⁴⁶ Darity & Mullen, *From Here to Equality*, *supra*, at fn. 368, p. 44.

⁵⁴⁷ *Poverty Rate by Race/Ethnicity (CPS)* (2020) Kaiser Family Found., State Health Fa

⁵⁴⁸ Mason, *Moments of Disparate Peaks: Race-Gender Wage Gaps Among Mature Persons, 1965-2007* (2011) Rev. Black Political Econ. 38, p. 1-25.

⁵⁴⁹ Jones Testimony, *supra*, a

⁵⁵⁰ Whitehead, *Support from Family Does Not Replace the Social Safety Net* (Apr. 2016) Center for Poverty Research, U.C. Davi.

⁵⁵¹ Bhutta, et al., *Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances* (2020)

FEDS, Board of Governors of the Federal Reserve System.

⁵⁵² Akabas, et al., *New BPC Survey Shows Americans Need Better Ways to Save for Emergencies* (Feb. 25, 2021) Bipartisan Policy Center.

⁵⁵³ Bohn et al., *Black Californians Struggle within a Challenging Job Market* (Feb. 24, 2021) Pub. Policy Inst. of Calif.; Smart, *COVID-19 Job Market Wreaks Havoc on Black Women* (Apr. 15, 2021) U.S. News & World Report; Goldman et al., *Racial and Ethnic Differentials in COVID-19-Related Job Exposures by Occupational Standing in the US* (2021) 16 PLoS ONE; Gould & Wilson, *Black Workers Face Two of the Most Lethal Preexisting Conditions for Coronavirus—Racism and Economic Inequality* (June 1, 2020) Econ. Policy Inst.; *Tracking the COVID-19 Economy's Effects on Food, Housing, and Employment Hardships* (Sept. 23, 2021) Center on Budget and Policy Priorities; Williams, *Laid Off More, Hired Less: Black Workers in the Covid-19 Recession* (Sept. 29, 2020) Rand Corp., the Rand Blog.

⁵⁵⁴ Jan, *The Striking Race Gap in Corporate America* (Dec. 15, 2021) Wash. Post.

⁵⁵⁵ *Ibid.* These companies are Walmart, Nvidia, Cisco, Pfizer, T-Mobile, Costco, Honeywell and Qualcomm.

⁵⁵⁶ Reed, *The Surprising Cross-Racial Saga of Modern Wealth Inequality* (Jun. 29, 2020) The New Republic.

⁵⁵⁷ Jones Testimony, *supra*, a

⁵⁵⁸ *Poverty Rate by Race/Ethnicity (CPS)*, *supra*, at fn. 548.

⁵⁵⁹ Bohn et al., *Black Californians Struggle within a Challenging Job Market*, *supra*, at fn. 554.

⁵⁶⁰ Kaplan & Hoff, *Almost 70% of Black workers in Southern California who lost their jobs said they were still looking for work a year after the start of the pandemic* (Mar. 2, 2022) Business Insider; *Essential Stories: Black Worker COVID-19 Economic Health Impact Survey* (Feb. 2022) UCLA Ctr. For the Advancement of Racial Equality at Work, pp. 18-19.

⁵⁶¹ Dunn et al., *Black Representation in Film and TV: The Challenges and Impact of Increasing Diversity* (March 11, 2021) McKinsey & Company.

⁵⁶² *Ibid.*

⁵⁶³ *Ibid.*

⁵⁶⁴ Faughnder & James, *Hollywood's C-suites Are Overwhelmingly White. What Are Studios Doing About It?* (July 1, 2020) Los Angeles Times.

⁵⁶⁵ Dunn et al., *Black Representation in Film and TV*, *supra*, at fn. 562.

⁵⁶⁶ Spriggs. Testimony, *supra*, at fn. 207.

⁵⁶⁷ *Is Silicon Valley Tech Diversity Possible Now?* (Jun. 26, 2019) Center for Employment Equity, U. Mass-Amhe

⁵⁶⁸ *Shining a Light on Tech's Shadow Workforce*, Contract Worker Disparity Project (as of Apr. 29, 2022).