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Shining a Bright Light on the Color of Wealth

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SHINING A BRIGHT LIGHT ON THE COLOR OF WEALTH

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THE WHITENESS OF WEALTH: HOW THE TAX SYSTEM IMPOVERISHES BLACK AMERICANS—AND HOW WE CAN FIX IT. By *Dorothy A. Brown*. New York: Crown. 2021. Pp. iv, 288. $27.

INTRODUCTION

Professor Dorothy A. Brown[1] boldly asserts in *The Whiteness of Wealth: How the Tax System Impoverishes Black Americans—and How We Can Fix It* that "whiteness has consistently and continually played a serious role in wealth building" (p. 20). Using stories from her life and the lives of other Black taxpayers, Brown methodically exposes how the same tax laws and policies that help whites build intergenerational wealth impoverish Blacks. Although readers who lack a business or legal background may not grasp the intricate technicalities of the Internal Revenue Code sections that Brown dissects, that does not matter. The clarity of Brown's writing, her storytelling, and vivid examples involving her parents (Miss Dottie and James) and other ordinary Black taxpayers convey complex points—think tax policy preferences for horizontal equity or the lock-in effect—with ease.

This Review examines Brown's powerful assertion that tax policies build and protect intergenerational white wealth and exacerbate the racial wealth gap by subsidizing activities and personal choices that disproportionately benefit white taxpayers. Those stunned by the enormity of this racial wealth gap will be horrified to learn that tax policies were *designed* to create white wealth. Part I describes how tax policy impacts taxpayers differently throughout their lives. It begins by discussing educational tax subsidies, followed by workforce subsidies, marriage and home ownership subsidies, and inheritance subsidies. Using *Whiteness of Wealth* as a starting point, this Review bolsters Brown's findings with additional data to illustrate the stark disparities embedded in and perpetuated by our tax policies.

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Part II explains how Brown dismantles the traditional conservative claim that the best way for Blacks to close the racial wealth gap created by "decades of historical discrimination against [B]lack taxpayers" is to mimic white behavior (p. 215). It then explores how this hard-work trope has been misused to explain ways that financially vulnerable lower- and middle-income families across races can become and remain middle class.

I. BUILDING AND PROTECTING WHITE WEALTH

Whiteness of Wealth evaluates tax policies that subsidize activities that help white taxpayers amass generational wealth and, in the process, exacerbate an already enormous racial gap. According to the Federal Reserve's 2019 Survey of Consumer Finances, white median wealth was roughly eight times the wealth of the typical Black family—$188,200 compared to $24,100.[2] This racial wealth gap has barely budged since the 1950s and 1960s,[3] has persisted even as overall household wealth increased,[4] and endures today because of the outsize share of white wealth.

Brown argues that federal tax policies exacerbate the racial wealth gap by ignoring "the reality of societal differences based on race" (p. 22), which are present throughout taxpayers' lifetimes, encompassing everything from going to college, working, marrying, and buying homes (pp. 22–26). Brown contends that the taxpayers most likely to make choices that are subsidized by tax policy are white. The following sections address each of these choices and how tax policies maintain and exacerbate racial wealth gaps.

A. *Subsidizing Elite Education*

Whiteness of Wealth argues that tax subsidies have turned the college degree, the gateway to the middle class for lower-income children, into an *un*equalizer. Brown's primary criticism is that educational tax policies allow elite[5] public and private tax-exempt colleges and universities that sit atop the educational "pyramid" (p. 99) to avoid paying federal (and often state or local)

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2. Neil Bhutta, Andrew C. Chang, Lisa J. Dettling & Joanne W. Hsu, *Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances*, BD. OF GOVERNORS OF THE FED. RSRV. SYS. (Sept. 28, 2020), https://doi.org/10.17016/2380-7172.2797.

3. Moritz Kuhn, Moritz Schularick & Ulrike I. Steins, *Income and Wealth Inequality in America, 1949–2016*, 128 J. POL. ECON. 3469, 3472 (2020).

4. Lisa J. Dettling et al., *Recent Trends in Wealth-Holding by Race and Ethnicity: Evidence from the Survey of Consumer Finances*, BD. OF GOVERNORS OF THE FED. RSRV. SYS. (Sept. 27, 2017), https://doi.org/10.17016/2380-7172.2083.

5. There is no agreed-upon definition of "elite"; however, many educational experts view the most expensive and highly competitive public and private schools listed in Barron's Profiles of American Colleges, which Brown cites (p. 111) as elite. *See* ANTHONY P. CARNEVALE & MARTIN VAN DER WERF, GEO. UNIV. CTR. ON EDUC. & THE WORKFORCE, THE 20% SOLUTION: SELECTIVE COLLEGES CAN AFFORD TO ADMIT MORE PELL GRANT RECIPIENTS (2017), https://1gyhoq479ufd3yna29x7ubjn-wpengine.netdna-ssl.com/wp-content/uploads/The-20-Percent-Solution-web.pdf [perma.cc/FXD2-CMJS].

taxes on their real property or endowment income (p. 101). These tax savings allow elite institutions to build large endowments and, as a result, spend more on financial aid and academic support.

As recent studies show, financial aid constitutes 48 percent of all endowment spending.[6] Tax policies that subsidize elite colleges have a particularly beneficial impact on the students who attend those institutions as these students receive more generous need- and merit-based[7] financial assistance than students at institutions with smaller (or no) endowments. This financial support reduces their college costs and helps them avoid crippling student loan debt. *Whiteness of Wealth* argues that these ostensibly race-neutral educational tax policies make college an unequalizer because the students who attend elite tax-subsidized universities are disproportionately white (and upper income).[8]

Black (and lower-income students) are more likely to attend schools that offer smaller (or no) financial aid awards: less-resourced, nonselective public colleges, community colleges, for-profit institutions, and chronically underfunded Historically Black Colleges and Universities (HBCUs).[9] Students must

6. NAT'L ASS'N OF COLL. AND UNIV. BUS. OFFICERS & TCHRS. INS. AND ANNUITY ASS'N OF AM., 2020 NACUBO-TIAA STUDY OF ENDOWMENTS 28 (2021) (on file with the *Michigan Law Review*) [hereinafter NACUBO-TIAA STUDY OF ENDOWMENTS].

7. Upper-income (and, thus, white) students receive disproportionate shares of merit-based financial aid. This type of assistance more than doubled (from 8% to 18%) at public colleges between 1995 and 2007 and rose from 24% to 44% at private colleges. *See* JENNIE H. WOO & SUSAN P. CHOY, NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., NCES 2012-160, MERIT AID FOR UNDERGRADUATES: TRENDS FROM 1995–96 TO 2007–08, at 6, 9 (2011), https://nces.ed.gov/pubs2012/2012160.pdf [perma.cc/CTQ2-2APS]. Aid for upper-income students is increasing while aid for low-income students *fell* from 41% to 37% between 1995 and 2007. 2 STEPHEN BURD, NEW AM. FOUND., UNDERMINING PELL: HOW COLLEGES' PURSUIT OF PRESTIGE AND REVENUE IS HURTING LOW-INCOME STUDENTS 3–4 (2014), https://www.luminafoundation.org/wp-content/uploads/2017/08/undermining-pell-vol2.pdf [perma.cc/XJW5-UTJW]; EMILY KELLY & TARA ADAM, NAT'L CTR. FOR EDUC. STAT., U.S. DEP'T OF EDUC., NCES 2019-486, TRENDS IN UNDERGRADUATE NONFEDERAL GRANT AND SCHOLARSHIP AID BY DEMOGRAPHIC AND ENROLLMENT CHARACTERISTICS: SELECTED YEARS, 2003–04 TO 2015–16 (2019), https://nces.ed.gov/pubs2019/2019486.pdf [perma.cc/CT4L-KPJ3]; WOO & CHOY, *supra*, at 6, 9.

8. Pp. 99, 102. While more Black, Indigenous, People of Color (BIPOC) students attend these institutions now and Blacks' overall college graduation rates increased in the mid-1970s, whites have higher college graduation rates (including from elite colleges) even though they are a shrinking percentage of the U.S. population. Indeed, some scholars suggest that colleges enrolled more BIPOC students because of lower white birthrates and the demographic reality that colleges needed "[B]lacks and other minorities to help fill their classrooms and to maintain enrollment." BENJAMIN P. BOWSER, THE BLACK MIDDLE CLASS: SOCIAL MOBILITY—AND VULNERABILITY 115 (2007). *See generally* Anthony P. Carnevale, *White Flight to the Bachelor's Degree*, MEDIUM (Sept. 2, 2020), https://medium.com/georgetown-cew/white-flight-to-the-bae604ee4e3967 [perma.cc/29Y8-FLMT] (noting that white students disproportionately attain bachelor's and graduate degrees, particularly at elite institutions, and that this has propelled white workers toward economic opportunities that Black, non-college workers lack).

9. Andre M. Perry, *HBCUs Are Leading Centers of Education — Why Are They Treated as Second-Class Institutions?*, BROOKINGS INST.: BROWN CTR. CHALKBOARD (Nov. 22, 2019),

borrow heavily to pay for a for-profit education and thus are saddled with student loan debt,[10] and students at HBCUs are often charged higher interest rates on student loans compared to students at elite, tax-exempt colleges.[11] Black students generally borrow more to pay for college because their parents have lower overall household income and wealth.[12] Because their parents are also less likely to invest in tax-favored college accounts like 529 savings plans (pp. 119–24), it is harder for Black parents to give their children the same level of financial support as white parents.[13] As a result, Blacks have more student loan debt than their white counterparts *particularly* because they are less likely to attend elite institutions with tax-subsidized endowments.

In addition to disparities in financial aid, elite institutions use their tax savings to provide enhanced academic support.[14] These savings also have lifelong benefits for the predominantly white students who attend colleges with large endowments because increased spending on teaching, advising, and student outreach "tend to improve key measures of student success like graduation rates and time-to-degree."[15] Educational tax policies do more than just

https://www.brookings.edu/blog/brown-center-chalkboard/2019/11/22/hbcus-are-leading-centers-of-education-why-are-they-treated-as-second-class-institutions [perma.cc/A62X-XDZL]; CJ Libassi, *The Neglected College Race Gap: Racial Disparities Among College Completers*, CTR. FOR AM. PROGRESS (May 23, 2018, 9:39 AM), https://www.americanprogress.org/issues/education-postsecondary/reports/2018/05/23/451186/neglected-college-race-gap-racial-disparities-among-college-completers [perma.cc/H7DR-3H4A]; Melanie Hanson, *College Enrollment & Student Demographic Statistics*, EDUC. DATA INITIATIVE, https://educationdata.org/college-enrollment-statistics [perma.cc/5896-664T] (last updated Jan. 22, 2021).

10. Ariel Gelrud Shiro & Richard V. Reeves, *The For-Profit College System Is Broken and the Biden Administration Needs to Fix It*, BROOKINGS INST.: HOW WE RISE (Jan. 12, 2021), https://www.brookings.edu/blog/how-we-rise/2021/01/12/the-for-profit-college-system-is-broken-and-the-biden-administration-needs-to-fix-it [perma.cc/R8GF-AZFK]. As *Whiteness of Wealth* illustrates in the heartbreaking story of Chris (who attended Argosy University), some for-profits shuttered *after* students took out student loans but before they completed their degrees. Pp. 107–10.

11. Although tuition at HBCUs is often lower than tuition at predominately white institutions (PWIs), student loan interest rates for HBCU students are often 6 percent higher than rates for students who attend elite PWIs. STUDENT BORROWER PROT. CTR., EDUCATIONAL REDLINING 10 (2020), https://protectborrowers.org/wpcontent/uploads/2020/02/Education-Redlining-Report.pdf [perma.cc/7Z78-K93N]. For reasons that cannot be explained through risk factors, some HBCUs also appear to be charged higher underwriting fees to issue bond debt. Casey Dougal, Pengjie Gao, William J. Mayew & Christopher A. Parsons, *What's in a (School) Name? Racial Discrimination in Higher Education Bond Markets*, 134 J. FIN. ECON. 570 (2019).

12. *See infra* Sections I.B, I.C, I.D, I.E.

13. *See* William R. Emmons & Lowell Ricketts, *Unequal Degrees of Affluence: Racial and Ethnic Wealth Differences Across Education Levels*, FED. RSRV. BANK OF ST. LOUIS (Oct. 12, 2016), https://www.stlouisfed.org/publications/regional-economist/october-2016/unequal-degrees-of-affluence-racial-and-ethnic-wealth-differences-across-education-levels [perma.cc/5QV3-6Y2E].

14. *See* NACUBO-TIAA STUDY OF ENDOWMENTS, *supra* note 6, at 28. This study reveals that 17 percent of endowment spending goes toward academic support. *Id.*

15. NICK HILLMAN, THIRD WAY, WHY RICH COLLEGES GET RICHER & POOR COLLEGES GET POORER: THE CASE FOR EQUITY-BASED FUNDING IN HIGHER EDUCATION (2020). *See also* pp. 99–103.

reduce students' college costs and ensure timely graduation: these policies perpetuate inequities that have far-reaching intergenerational wealth effects.

Research repeatedly confirms that workers with college degrees, particularly from elite colleges,[16] receive an earnings premium (i.e., higher current and lifetime wages relative to noncollege workers of the same age, gender, and race).[17] In contrast, students who attend for-profits receive lower earnings than both graduates of elite colleges *and* of lower-cost public two-year community colleges.[18] In addition, a recent report estimated that graduates of for-profits would need to earn as much as 60 percent more than community college graduates to have comparable disposable income given their higher monthly loan payments.[19] These intergenerational effects fall along racial lines with students who attend predominantly white, elite institutions having on average higher lifetime earnings in comparison to graduates of nonelite institutions (pp. 99–103).[20]

Further, the average wealth for white college graduates was 7.2 times the average wealth for Black college graduates between 1992 and 2013,[21] and

16. 90 percent of students do not attend elite colleges, but those who *do* receive the highest college premium. *See* HILLMAN, *supra* note 15; ANTHONY P. CARNEVALE, STEPHEN J. ROSE & BAN CHEAH, GEO. UNIV. CTR. ON EDUC. & THE WORKFORCE, THE COLLEGE PAYOFF: EDUCATION, OCCUPATIONS, LIFETIME EARNINGS (2011), https://1gyhoq479ufd3yna29x7ubjn-wpengine.netdna-ssl.com/wp-content/uploads/collegepayoff-completed.pdf [perma.cc/K3SP-FM3L]. This report helps explain why parents involved in the 2018 Varsity Blues admissions scandal were willing to pay as much as $6.5 million in bribes (and risk prison sentences) for their children to be admitted to schools like Yale, Stanford, and Georgetown. Moriah Balingit, *She Paid a College Consultant $6.5 Million to Get Her Daughter into Stanford. She Said She Was Tricked.*, WASH. POST (May 3, 2019), https://www.washingtonpost.com/education/2019/05/03/she-paid-college-consultant-million-get-her-daughter-into-stanford-she-said-she-was-tricked [perma.cc/335W-T6DL].

17. *See* CARNEVALE ET AL., *supra* note 16.

18. Rajeev Darolia et al., *Do Employers Prefer Workers Who Attend For-Profit Colleges? Evidence from a Field Experiment*, 34 J. POL'Y ANALYSIS & MGMT. 881, 895 (2015). Income is lower (but unemployment rates are higher) for graduates of for-profits compared to community college graduates because they often struggle to pass basic, required licensing exams, and they receive skills training that is so deficient that employers sometimes prefer community college graduates over them. *Id.*; U.S. GOV'T ACCOUNTABILITY OFF., GAO-12-143, POSTSECONDARY EDUCATION: STUDENT OUTCOMES VARY AT FOR-PROFIT, NONPROFIT, AND PUBLIC SCHOOLS (2011), https://www.gao.gov/assets/gao-12-143.pdf [perma.cc/LL9X-856Q].

19. Darolia et al., *supra* note 18, at 884.

20. *See* pp. 97–103. While there has been an increase in the number of BIPOC students who attend selective institutions, the increase seems to correlate with the decrease in white college-age students. *See* HILLMAN, *supra* note 15, at 7.

21. AMY TRAUB, LAURA SULLIVAN, TATJANA MESCHEDE & TOM SHAPIRO, THE ASSET VALUE OF WHITENESS: UNDERSTANDING THE RACIAL WEALTH GAP 4 (2017), https://www.demos.org/sites/default/files/publications/Asset%20Value%20of%20Whiteness_0.pdf [perma.cc/59E5-DXN6].

wealth actually *decreased* for Black college graduates compared to white college graduates during this period.[22] Worse yet, average wealth for white *noncollege* households after the Great Recession was roughly double ($64,200) that of Black households headed by *college* graduates ($37,600).[23] Perhaps college isn't the great equalizer after all.

Finally, being a white college graduate increases the likelihood that one's children will be college graduates and have higher household wealth.[24] For example, seven in ten children of non-Black college graduates also have a college degree compared to only one in three children of Black college graduates.[25] Moreover, the children of white and rich college graduates are more likely to attend elite institutions, receive an earnings premium, and amass additional household wealth than college-educated workers with noncollege parents.[26] While household wealth is generally higher for households with college degrees, having a college degree does not help Blacks accumulate wealth in the same way it helps whites.

As *Whiteness of Wealth* shows, although college degrees "generally translate into higher income," this does not occur evenhandedly for all (p. 131). The educational tax policies that subsidize elite colleges ignore the racial reality that Blacks are less likely to benefit from these subsidies and therefore are less likely to be on track to accumulate wealth.

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22. William R. Emmons & Bryan J. Noeth, *Why Didn't Higher Education Protect Hispanic and Black Wealth?*, FED. RSRV. BANK OF ST. LOUIS (Aug. 5, 2015), https://www.stlouisfed.org/publications/in-the-balance/2015/why-didnt-higher-education-protect-hispanic-and-black-wealth [perma.cc/48ZA-Y23Y].

23. *See* DEDRICK ASANTE-MUHAMMAD, CHUCK COLLINS, JOSH HOXIE & EMANUEL NIEVES, THE ROAD TO ZERO WEALTH: HOW THE RACIAL WEALTH DIVIDE IS HOLLOWING OUT AMERICA'S MIDDLE CLASS 10 (2017), https://ips-dc.org/wp-content/uploads/2017/09/The-Road-to-Zero-Wealth_FINAL.pdf [perma.cc/9D9D-667V].

24. Wealth shrunk for noncollege families between 1989 to 2016 but increased for college families and continued to increase during the COVID-19 pandemic. By the end of 2020, college graduates held almost 72 percent of total wealth. WILLIAM R. EMMONS, ANA H. KENT & LOWELL R. RICKETTS, THE FINANCIAL RETURNS FROM COLLEGE ACROSS GENERATIONS: LARGE BUT UNEQUAL 6, 13–17 (2018), https://www.stlouisfed.org/-/media/project/frbstl/stlouisfed/files/pdfs/hfs/essays/hfs_essay_1_2018.pdf [perma.cc/5JHC-BG2W]; *see Distribution of Household Wealth in the U.S. Since 1989*, BD. OF GOVERNORS OF THE FED. RSRV. SYS., https://www.federalreserve.gov/releases/z1/dataviz/dfa/distribute/chart [perma.cc/FFR2-7CJU] (last updated Dec. 17, 2021).

25. Ana Hernandez Kent, *College Education Persists Less for Blacks and Hispanics*, FED. RSRV. BANK OF ST. LOUIS (Feb. 14, 2019), https://www.stlouisfed.org/on-the-economy/2019/february/college-education-persists-less-blacks-hispanics [perma.cc/7AG6-TF36].

26. Raj Chetty et al., *Mobility Report Cards: The Role of Colleges in Intergenerational Mobility* 1 (Nat'l Bureau of Econ. Rsch., Working Paper No. 23618, 2017), https://doi.org/10.3386/w23618; Timothy J. Bartik & Brad Hershbein, *Degrees of Poverty: The Relationship Between Family Income Background and the Returns to Education* 4 (Upjohn Inst. for Emp. Rsch., Working Paper No. 18-284, 2018), https://doi.org/10.2139/ssrn.3141213.

B. *Workforce Subsidies and Wealth Building*

Similar inequities persist when Blacks enter the workforce. White workers have had significant advantages in U.S. labor markets since 1619 when white Europeans chose to enslave Black people, deprive them of their earned wages, and make it impossible for them to use their income to buy property and build wealth.[27] *Whiteness of Wealth* explores the links between the past and present and contends that "[i]n the labor market, full access to government subsidies has often been preconditioned on being white" (p. 135). As Brown notes, Black workers have *always* been segregated into jobs with weaker labor law protections and fewer employment benefits (p. 138).

Although employers can no longer "pay [B]lack workers less [and] keep them out of jobs that could be filled by white workers" (p. 138), labor market discrimination still exists.[28] *Whiteness of Wealth* illustrates how the legacy of racist employment practices, combined with ongoing labor market discrimination, leaves Blacks disproportionately less likely to have jobs that provide nonwage, tax-subsidized benefits like health insurance, paid vacation, or matching retirement funds (chapter 4). Per Brown, it's no accident that Blacks are less likely to have jobs with benefits, which constitute roughly one-third of compensation for higher paid employees.[29] She notes that "[B]lack workers were simply not considered" in the 1940s when tax laws were enacted to incentivize employers to offer retirement plans that would help workers build tax-free wealth they could use upon retirement (p. 136).

When combined with occupational segregation, tax policy contributes to disparate labor market outcomes. For example, Blacks are underrepresented in the high-wage STEM and professional occupations that typically provide tax-subsidized employee benefits[30] but are overrepresented in lower-wage

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27. Nikole Hannah-Jones, *Our Democracy's Founding Ideals Were False When They Were Written. Black Americans Have Fought to Make Them True.*, N.Y. TIMES MAG. (Aug. 14, 2019), https://www.nytimes.com/interactive/2019/08/14/magazine/black-history-american-democracy.html [perma.cc/46F5-G8U7].

28. A recent study found that Blacks even face discrimination in online job postings. David S. Pedulla, John Muñoz, Katherine E. Wullert & Felipe A. Dias, *Field Experiments and Job Posting Sources: The Consequences of Job Database Selection for Estimates of Racial Discrimination*, 7 SOCIO. RACE & ETHNICITY 1 (2021).

29. P. 134; *cf.* Kuhn et al., *supra* note 3, at 3496–500 (finding evidence of a pervasive wealth gap between Black and white households); JESSICA SEMEGA, MELISSA KOLLAR, JOHN CREAMER & ABINASH MOHANTY, U.S. CENSUS BUREAU, INCOME AND POVERTY IN THE UNITED STATES: 2018, at 5 (2021), https://www.census.gov/content/dam/Census/library/publications/2019/demo/p60-266.pdf [perma.cc/RN58-WBA6].

30. VALERIE WILSON, ETHAN MILLER & MELAT KASSA, ECON. POL'Y INST., RACIAL REPRESENTATION IN PROFESSIONAL OCCUPATIONS: BY THE NUMBERS 4 (2021), https://files.epi.org/uploads/228660.pdf [perma.cc/9VHX-TH2N]; LAURA SULLIVAN ET AL., INST. ON ASSETS & SOC. POL'Y, NOT ONLY UNEQUAL PAYCHECKS: OCCUPATIONAL SEGREGATION, BENEFITS, AND THE RACIAL WEALTH GAP 4–5 (2019), https://heller.brandeis.edu/iere/pdfs/racial-wealth-equity/asset-integration/occupational_segregation_report_40219.pdf [perma.cc/9TJQ-4VRU].

hospitality and personal health care jobs that rarely provide these benefits.[31] And although Black union members (like Brown's father) and those who work in the public sector are closer to their white counterparts in terms of employee benefits, unionized manufacturing jobs and public workforces have been shrinking for decades, blocking the main path that Black workers had to workforce benefits.[32] All told, occupational segregation and favorable tax policies mean that whites are more likely (80 percent) than Blacks (64 percent) to have retirement savings.[33]

Whiteness of Wealth exposes an additional racial reality involving retirement savings. Even Black workers with an employer-provided retirement account are more likely to withdraw funds early or borrow against their accounts to pay current expenses (pp. 153–54). Workers who withdraw retirement funds early must declare withdrawn funds as taxable income and pay a 10 percent income tax penalty on withdrawals, which may deplete income they need in the future (p. 154). Brown offers a potential solution: extending the repeal on early retirement withdrawal penalties established under the CARES Act, an economic stimulus bill passed in response to COVID-19 that authorized early tax-free withdrawals for workers who needed money to pay for coronavirus-related expenses.[34]

Brown advocates for a permanent repeal of early retirement penalties she deems paternalistic since they prevent workers from deciding how to use their

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31. SULLIVAN ET AL., *supra* note 30, at 4–5; Nicole Bateman & Martha Ross, *The Pandemic Hurt Low-Wage Workers the Most—and so Far, the Recovery Has Helped Them the Least*, BROOKINGS INST. (July 28, 2021), https://www.brookings.edu/research/the-pandemic-hurt-low-wage-workers-the-most-and-so-far-the-recovery-has-helped-them-the-least [perma.cc/EF5X-EVNH]; *see also* WILSON ET AL., *supra* note 30, at 1–2 (showing that Black people are overrepresented in other lower-paid areas like community and social services).

32. P. 134; Richard Hernandez, *The Fall of Employment in the Manufacturing Sector*, U.S. BUREAU LAB. STAT. (Aug. 2018), https://www.bls.gov/opub/mlr/2018/beyond-bls/the-fall-of-employment-in-the-manufacturing-sector.htm [perma.cc/73H8-UR8L].

33. *Report on the Economic Well-Being of U.S. Households in 2019*, BD. OF GOVERNORS OF THE FED. RSRV. SYS., https://www.federalreserve.gov/publications/2020-economic-well-being-of-us-households-in-2019-retirement.htm [perma.cc/SBT2-SVNC] (last updated May 21, 2020).

34. Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, § 2202(a)(1), 134 Stat. 281, 340 (2020) (codified at I.R.C. § 72 note); *Coronavirus-Related Relief for Retirement Plans and IRAs Questions and Answers*, IRS, https://www.irs.gov/newsroom/coronavirus-related-relief-for-retirement-plans-and-iras-questions-and-answers [perma.cc/Q9AF-VQB7] (last updated Oct. 22, 2021). Once they reach a certain age, account holders must withdraw a prescribed amount annually or face tax penalties. *See* I.R.C. § 401(a)(9) (2018 & Supp. 2019). The CARES Act waived these minimum distribution rules for 2020, so account holders (or beneficiaries who inherit these retirement funds) can let their retirement wealth continue growing tax-free. § 2203(a)(I), 134 Stat. at 343–44 (codified at 26 I.R.C. § 401); *IRS: Seniors, Retirees Not Required to Take Distributions from Retirement Accounts This Year Under New Law*, IRS, https://www.irs.gov/newsroom/irs-seniors-retirees-not-required-to-take-distributions-from-retirement-accounts-this-year-under-new-law [perma.cc/2EZL-6HL7] (last updated June 25, 2021). Because whites are disproportionately more likely to have (or inherit) tax-favored retirement accounts, Brown presumably would want this temporary rule to expire. *See* Bhutta et al., *supra* note 2.

own money (p. 159). Her main criticism of these ostensibly race-neutral penalties is that they ignore the fact that Blacks are disproportionately more likely to withdraw retirement funds early because they provide more financial assistance to their parents or poorer family members than white workers.[35] Brown's argument is particularly compelling given Black households' low emergency savings.[36] For example, a 2020 survey conducted during the early stages of the COVID-19 recession showed that almost three-quarters (73 percent) of Black adults lacked emergency funds to cover three months of expenses compared to less than half (47 percent) of white adults.[37] Repealing paternalistic withdrawal penalties would be financially beneficial for Blacks and also signal the federal government's willingness to eradicate disparate tax policies.

C. *Marriage*

Marriage is an individual choice that all couples can make, and with this choice comes the ability to file a joint tax return. But despite this formally neutral playing field, *Whiteness of Wealth* argues that policies that lower taxes for married couples ignore the reality that, across income groups, Blacks (particularly women) have lower marriage rates and are less likely to file a joint tax return.[38] The inability to file jointly is like not getting a pay raise because federal tax laws impose the highest tax rates on unmarried taxpayers and married couples with coequal earners (pp. 44–47). Tax policies that express a societal preference for marriage are yet another way to reward white choices while leaving Black people behind.

Since the 1970s, people across racial and income groups have been postponing marriage.[39] Blacks, however, have *always* had lower marriage rates—

35. *See* p. 159; *see also* Rourke L. O'Brien, *Depleting Capital? Race, Wealth and Informal Financial Assistance*, 91 SOC. FORCES 375, 391 (2012); Mel Jones, *Why So Many Minority Millennials Can't Get Ahead*, ATLANTIC (Nov. 29, 2015), https://www.theatlantic.com/business/archive/2015/11/gifts-debts-inheritances/417423 [perma.cc/J45A-885A].

36. Emily Moss, Kriston McIntosh, Wendy Edelberg & Kristen Broady, *The Black-White Wealth Gap Left Black Households More Vulnerable*, BROOKINGS INST.: UP FRONT (Dec. 8, 2020), https://www.brookings.edu/blog/up-front/2020/12/08/the-black-white-wealth-gap-left-black-households-more-vulnerable [perma.cc/9A7C-X98D].

37. Mark Hugo Lopez, Lee Rainie & Abby Budiman, *Financial and Health Impacts of COVID-19 Vary Widely by Race and Ethnicity*, PEW RSCH. CTR. (May 5, 2020), https://www.pewresearch.org/fact-tank/2020/05/05/financial-and-health-impacts-of-covid-19-vary-widely-by-race-and-ethnicity [perma.cc/B7UM-2SBS]; *see also, e.g.*, BD. OF GOVERNORS OF THE FED. RSRV. SYS., REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2018, at 21–22 (2019), https://www.federalreserve.gov/publications/files/2018-report-economic-well-being-us-households-201905.pdf [perma.cc/9D9T-7KNP] (indicating that Blacks were disproportionately unable to pay their monthly bills compared to whites even prior to the COVID-19 pandemic).

38. *See* pp. 56–57.

39. *See* YERÍS MAYOL-GARCÍA, BENJAMIN GURRENTZ & ROSE M. KREIDER, U.S. CENSUS BUREAU, U.S. DEP'T OF COM., NUMBER, TIMING, AND DURATION OF MARRIAGES AND DIVORCES: 2016, at 2 (2021), https://www.census.gov/content/dam/Census/library/publications/2021/demo/p70-167.pdf [perma.cc/66GS-DGZV].

beginning when enslaved Blacks could not legally marry at all—as emphasized in the highly-publicized "Moynihan Report."[40] This 1965 report identified persistent reasons for low Black marriage rates, including that Black males have had higher unemployment and incarceration rates than other demographic groups for decades.[41] Today, Black marriage rates still lag behind white rates across all income and educational levels with less than one-third of Blacks married in comparison to 54 percent of whites.[42] Explanations for lower rates include the perception that there are fewer "marriageable" Black males[43] and that marriage rates increase with educational level, as Blacks have lower college graduation rates.[44]

Black couples are also harmed by tax policies that lower income tax rates for married couples who earn unequal wages. This is because Black couples (like Brown's parents) are more likely to be coequal earners while white couples are more likely to have a high-earning spouse and lower-earning (or non-working) spouse (pp. 5, 9–10, 53). Although marriage is generally correlated with higher intergenerational wealth levels, Brown argues that marital tax policies that subsidize white choices actually make "[B]lack couples *poorer*" (p. 10). Her argument is bolstered by data showing that the average wealth for a *single* white person is 2.2 times the wealth of Black two-parent households, and Black children with married parents are less likely to be middle income (and more likely to live in poverty) than white children with married parents.[45]

It is no longer tenable for policymakers to bestow benefits on married couples and pretend they are unaware that white taxpayers receive disproportionate benefits from these tax policies. To mitigate this disparity, Brown urges Congress to abandon the social preference for marriage and instead exhibit "marriage neutrality" (pp. 59–61). But this recommendation, even if

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40. *See* OFF. OF POL'Y PLAN. & RSCH., U.S. DEP'T OF LAB., THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION (1965).

41. *See id.* For a contemporary exploration of the correlation between unemployment, incarceration, and marriage rates, see Harry J. Holzer, *Why Are Employment Rates So Low Among Black Men?*, BROOKINGS INST. (Mar. 1, 2021), https://www.brookings.edu/research/why-are-employment-rates-so-low-among-black-men [perma.cc/6FWH-VL64].

42. *See* p. 57.

43. Deirdre Bloome & Shannon Ang, *Marriage and Union Formation in the United States: Recent Trends Across Racial Groups and Economic Backgrounds*, 57 DEMOGRAPHY 1753, 1756–57 (2020), https://doi.org/10.1007/s13524-020-00910-7.

44. R. Kelly Raley, Megan M. Sweeney & Danielle Wondra, *The Growing Racial and Ethnic Divide in U.S. Marriage Patterns*, FUTURE CHILD., Fall 2015, at 89, 91 tbl.1, 97 tbl.3, 100–02.

45. *See Distribution of Household Wealth in the U.S. Since 1989*, BD. OF GOVERNORS OF THE FED. RSRV. SYS., https://www.federalreserve.gov/releases/z1/dataviz/dfa/distribute/chart [perma.cc/SRN3-SL54] (last updated Dec. 17, 2021); TRAUB ET. AL, *supra* note 21, at 7; STEFANO NATELLA, TATJANA MESCHEDE & LAURA SULLIVAN, CREDIT SUISSE, WEALTH PATTERNS AMONG THE TOP 5% OF AFRICAN-AMERICANS 17 (2014), https://heller.brandeis.edu/iere/pdfs/racial-wealth-equity/racial-wealth-gap/top-5-per-cent.pdf#:~:text=It%20shows%20that%20the%20top,stocks%2C%20bonds%20and%20mutual%20funds [perma.cc/EN2L-7E76].

warranted, conflicts with centuries of laws that embody this nation's commitment to (heterosexual) marriage and that view marriage as being best for families and children.[46] Indeed, in addition to explicit pro-marriage laws and policies, the nation's social welfare policies have historically penalized never-married mothers in an attempt to encourage them to marry.[47] Viewed in this light, it might seem unlikely that a departure from policies incentivizing and encouraging marriage will occur overnight. But social constructs around marriage and family life have changed dramatically over the last few decades: more people are choosing to cohabitate but not marry, to (legally) marry people of the same sex or of different races, and to have children but remain unmarried.[48] Given this seismic shift in marital preferences, laws and policies (tax or otherwise) that subsidize how people form their households should be repealed and replaced with marital-neutral policies that better reflect society today.

D. *Homeownership*

Like the decision to marry, anyone can choose to buy a home, and homeowners can decide where they want to live. However, the homeownership deck has always been stacked against Blacks, and *Whiteness of Wealth* argues that seemingly race-neutral homeownership tax policies have made it harder for Blacks to increase their housing wealth and receive the tax breaks white homeowners receive (pp. 71–72, 77).

State and federal banking and housing laws helped whites buy homes after the Depression and World War II, while redlining,[49] racist restrictive covenants,[50] and other oppressive policies made it virtually impossible for Blacks to buy homes in high-opportunity white suburban neighborhoods. For example, Blacks were denied the low-cost and low-risk federally insured mortgage loans that helped whites build housing wealth.[51] By 1950, most whites (57%) owned homes at a time where the U.S. experienced a racial homeownership

46. *See* June Carbone, *Morality, Public Policy and the Family: The Role of Marriage and the Public/Private Divide*, 36 SANTA CLARA L. REV. 267, 269–71 (1996).

47. For example, one of the explicit goals of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (which replaced the Aid to Families with Dependent Children) was to promote marriage. 42 U.S.C. § 601.

48. *See* Bloome & Ang, *supra* note 43, at 1755–56.

49. Redlining was a racist, residential color-coded mapping series that realtors and appraisers used to determine whether a home a borrower sought to buy was in a "safe" and "stable" neighborhood. Because all Black or racially mixed neighborhoods were deemed unsafe and outlined in red on the residential mapping series, Blacks were not approved to purchase homes using a low-cost federally insured loan. A. Mechele Dickerson, *Systemic Racism and Housing*, 70 EMORY L.J. 1535, 1540–41 (2021).

50. Racist restrictive covenants prevented white people from selling their homes to nonwhites. *Id.* at 1547.

51. *Id.* at 1540.

gap of 23%,[52] which widened to 26% a decade later.[53] The legacy of racist housing and lending policies and ongoing racial discrimination[54] keep Black homeownership rates low regardless of age, income group, or education level.[55] This racial homeownership gap expanded further after the 2007–2009 Great Recession, increasing to nearly 30%,[56] and will likely continue to expand as the COVID-19 pandemic has exacerbated housing insecurity for Blacks.[57]

Given these racial realities, *Whiteness of Wealth* criticizes an array of housing tax policies, including the mortgage interest deduction (MID) and tax provisions that let homeowners sell their homes but avoid paying taxes on profits from the sale (p. 89). Brown contends that such policies increase white wealth because whites are more likely to buy expensive homes and have enough mortgage interest to warrant itemizing deductions rather than taking the standard deduction on their income tax returns (pp. 71–74). Recent research analyzing census data confirms Brown's claim that whites are more likely to get housing tax breaks relative to their share of the U.S. population.[58] For example, in 2018, whites comprised 66% of U.S. households but received

52. F. JOHN DEVANEY, U.S. DEP'T OF COM., H121/94-1, TRACKING THE AMERICAN DREAM: 50 YEARS OF HOUSING HISTORY FROM THE CENSUS BUREAU: 1940 TO 1990, at 29 tbl.27 (1994).

53. *Id.*; MECHELE DICKERSON, HOMEOWNERSHIP AND AMERICA'S FINANCIAL UNDERCLASS: FLAWED PREMISES, BROKEN PROMISES, NEW PRESCRIPTIONS 181–82 (2014).

54. For example, a 2017 Robert Wood Johnson Foundation survey revealed that 45 percent of African Americans reported encountering housing discrimination after the Great Recession, and a 2019 study revealed that real estate agents still treat Blacks worse overall than white home searchers by, for example, steering them to neighborhoods with gang activity. NPR, ROBERT WOOD JOHNSON FOUND. & HARVARD SCH. OF PUB. HEALTH, DISCRIMINATION IN AMERICA: FINAL SUMMARY 11 (2018), https://cdn1.sph.harvard.edu/wp-content/uploads/sites/94/2018/01/NPR-RWJF-HSPH-Discrimination-Final-Summary.pdf [perma.cc/8XCE-XEGM]; *see* Ann Choi, Keith Herbert & Olivia Winslow, *Long Island Divided*, NEWSDAY (Nov. 17, 2019), https://projects.newsday.com/long-island/real-estate-agents-investigation [perma.cc/U7L8-42A7].

55. Jung Hyun Choi, *Breaking Down the Black-White Homeownership Gap*, URB. INST.: URB. WIRE (Feb. 21, 2020), https://www.urban.org/urban-wire/breaking-down-black-white-homeownership-gap [perma.cc/NV99-9V5P]; *see* DEVANEY, *supra* note 52, at 28–29.

56. DICKERSON, *supra* note 53, at 185.

57. *See* Julie Yixia Cai & Shawn Fremstad, *Pandemic Leads to More Precarious Housing Situation*, CEPR (Aug. 14, 2020), https://cepr.net/pandemic-leads-to-more-precarious-housing-situation [perma.cc/2GE2-WE7N] (discussing the effects of COVID-19 on housing for Blacks).

58. *See* TATJANA MESCHEDE, JAMIE MORGAN, ANDREW AURAND & DAN THREET, NAT'L LOW INCOME HOUS. COAL. & BRANDEIS UNIV., MISDIRECTED HOUSING SUPPORTS: WHY THE MORTGAGE INTEREST DEDUCTION UNJUSTLY SUBSIDIZES HIGH-INCOME HOUSEHOLDS AND EXPANDS RACIAL DISPARITIES 6 (2021), https://nlihc.org/sites/default/files/NLIHC-IERE_MID-Report.pdf [perma.cc/2DRN-WNG4]. Of the roughly $25 billion cost for the MID, whites receive $17.7 billion in benefits compared to the $1.9 billion Black households receive. *Id. See also Housing Vacancies and Homeownership*, U.S. CENSUS BUREAU (2020), https://www.census.gov/housing/hvs/data/ann20ind.html [perma.cc/S964-J2EJ].

71% of the tax breaks provided by the MID.[59] In contrast, Blacks were 13% of U.S. households but received only 8% of the homeownership tax breaks.[60]

Whiteness of Wealth rejects the notion that increasing Black homeownership rates alone will close the racial wealth gap given the challenges that Blacks face in lending, housing, and appraisal markets (chapter 2). Brown identifies a few key problems:

1. Blacks pay higher interest rates on mortgage loans (p. 86);

2. They face a higher likelihood of eventually selling their homes for a loss (pp. 80–81);

3. Their homes are valued less than white-owned comparable houses (p. 69); and

4. White avoidance or "flight" devalues Black-owned properties (p. 82).

First, a recent study found that while mortgage interest rates generally decline as the borrower's income increases, average interest rates for Blacks who earned $100,000 or more were higher than average rates for white homeowners who earned $30,000 or less.[61] In addition, the rates for higher-income white homeowners ($100,000 or more) were almost twenty-two basis points lower than the rates for Black homeowners with similar incomes; this discrepancy cannot be explained by credit or risk factors alone.[62]

Second, because of their higher home-buying costs, Blacks had greater foreclosure and delinquency rates during the Great Recession[63] and mortgage loan forbearance rates during the COVID-19 recession.[64] This created what

59. MESCHEDE ET AL., *supra* note 58, at 6.

60. *Id.*

61. Raheem Hanifa, *High-Income Black Homeowners Receive Higher Interest Rates than Low-Income White Homeowners*, HARV. JOINT CTR. FOR HOUS. STUD. (Feb. 16, 2021), https://www.jchs.harvard.edu/blog/high-income-black-homeowners-receive-higher-interest-rates-low-income-white-homeowners [perma.cc/M8AX-XQHX].

62. *Id.* In addition to higher interest rates, local property taxes for Blacks in some jurisdictions are 13 percent higher than the local taxes whites pay, further confirming Brown's assertion that taxes impoverish Blacks. Teresa Wiltz, *Black Homeowners Pay More than 'Fair Share' in Property Taxes*, PEW (June 25, 2020), https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/06/25/black-homeowners-pay-more-than-fair-share-in-property-taxes [perma.cc/25WK-GRCU]; Carlos F. Avenancio-León & Troup Howard, *The Assessment Gap: Racial Inequalities in Property Taxation*, Q.J. ECON. (forthcoming 2022), https://doi.org/10.1093/qje/qjac009.

63. Carlos Garriga, Lowell R. Ricketts & Don E. Schlagenhauf, *The Homeownership Experience of Minorities During the Great Recession*, 99 FED. RSRV. BANK ST. LOUIS REV. 139, 148–50, 160–63 (2017).

64. KRISTIN WONG, CONSUMER FIN. PROT. BUREAU, HOUSING INSECURITY AND THE COVID-19 PANDEMIC 8–10 (2021), https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf [perma.cc/B4BL-5NNN].

some have characterized as a "Black tax" on homeownership.[65] Similar to formal federal tax policies, this informal "Black tax" exacerbates the racial wealth gap and depletes liquid savings that Blacks could use to build wealth. Research concerning the challenges Black homeowners faced and losses suffered during the COVID-19 pandemic estimates that eliminating the "Black tax" could cut the racial retirement savings gap in half.[66]

Another reason that closing the homeownership gap alone will not close the racial wealth gap is because, as *Whiteness of Wealth* shows, the homes Blacks buy typically have lower appraised values than white-owned homes with comparable features (p. 69). While it is illegal for appraisers to consider the race of the neighborhood or the homeowner when valuing houses, studies consistently show that homes in white neighborhoods appreciate more than comparable homes in Black, Indigenous, People of Color (BIPOC) neighborhoods because of appraisers' "racialized assumptions" about neighborhoods.[67] This problem has actually worsened over time: Black homeowners were affected more by racially biased appraisals in 2015 than they were in 1980.[68]

Racist home appraisals continued unabated throughout the COVID-19 pandemic, as evidenced by a March 2021 housing discrimination complaint. This complaint reveals that appraisers assessed a Black-owned home for $125,000 and $110,000 but then assessed *the same home* for $259,000 when a white friend of the owner posed as her brother during the appraisal.[69] The stubborn persistence of racial bias in the appraisal industry[70] and the wealth-

65. Michelle Aronowitz, Edward L. Golding & Jung Hyun Choi, *The Unequal Costs of Black Homeownership*, *in* 2020 STATE OF HOUSING IN BLACK AMERICA: CHALLENGES FACING BLACK HOMEOWNERS AND HOMEBUYERS DURING THE COVID-19 PANDEMIC AND AN AGENDA FOR PUBLIC POLICY 2-10 (2020), https://www.nareb.com/site-files/uploads/2020/11/2020-SHIBA_Report.pdf [perma.cc/Z35A-G549].

66. *Id.*

67. Junia Howell & Elizabeth Korver-Glenn, *Neighborhoods, Race, and the Twenty-First-Century Housing Appraisal Industry*, 4 SOCIO. RACE & ETHNICITY 473, 485 (2018).

68. Junia Howell & Elizabeth Korver-Glenn, *The Increasing Effect of Neighborhood Racial Composition on Housing Values, 1980–2015*, 68 SOC. PROBS. 1051 (2021). Another study found that Black-owned homes are undervalued by $48,000 per home, amounting to $156 billion in cumulative losses of Black wealth. ANDRE PERRY, JONATHAN ROTHWELL & DAVID HARSHBARGER, BROOKINGS METRO. POL'Y PROGRAM & GALLUP, THE DEVALUATION OF ASSETS IN BLACK NEIGHBORHOODS 3 (2018), https://www.brookings.edu/wp-content/uploads/2018/11/2018.11_Brookings-Metro_Devaluation-Assets-Black-Neighborhoods_final.pdf [perma.cc/3FZN-FD7M].

69. Amended Housing Discrimination Complaint, Duffy v. Hodges, Case No. 05-21-2271-8 (U.S. Dep't of Hous. & Urb. Dev. Mar. 29, 2021), https://www.fhcci.org/wp-content/uploads/2021/05/HUD-Complaints-Citywide-Pierce.pdf [perma.cc/7339-Z4LG].

70. Howell & Korver-Glenn, *supra* note 67. In addition to racist housing appraisals, the appraisal industry uses an apprenticeship model that requires new appraisers to have a supervising appraiser before they can become certified. Safia Samee Ali, *Black Appraisers Call Out Industry's Racial Bias and Need for Systemic Change*, NBC NEWS (June 7, 2021, 11:57 PM), https://www.nbcnews.com/news/us-news/black-appraisers-call-out-industry-s-racial-bias-need-systemic-n1269452 [perma.cc/HX8V-VEVJ]. This practice, combined with occupational segregation and ongoing labor market discrimination, may make the home appraisal industry even more inequitable.

stripping consequences of those biases have now caused the Biden Administration to launch an interagency effort to combat and eradicate racial inequities in the home appraisal process.[71]

But appraisers are not the only reason Black-owned homes are devalued. As Brown explains, whites across income groups avoid living near Blacks. Though whites contend in survey results that they prefer to live in racially diverse neighborhoods,[72] their actions contradict their stated preferences. Indeed, they *consistently* choose to buy homes in non-Black neighborhoods even if the amenities in the homes in both neighborhoods are substantially similar (p. 87). They also generally flee integrating neighborhoods or refuse to buy homes in non-white neighborhoods unless those neighborhoods are gentrifying.[73] Like the wealth losses that racist appraisals create, white homeowners who avoid living near Blacks create what Brown and others[74] have identified as an "appreciation gap" that decreases home values in Black neighborhoods while increasing home values in white neighborhoods (pp. 81–82, 85).

Brown ultimately recommends that one of the best investment decisions for Blacks is to buy homes in white neighborhoods (p. 211). However, she acknowledges that Blacks may choose to avoid white neighborhoods for non-monetary reasons, namely, to reduce the times they must perform "racism triage" (pp. 82, 103, 211). A 2021 report examining stress levels for Blacks who live in higher-income and predominately white neighborhoods confirms the physical and psychological risks Blacks face when they decide to live in racially hostile neighborhoods.[75] That is, while living in higher-income neighborhoods generally gives residents increased health benefits, the racism-related stress Black homeowners experience in those neighborhoods negates many of

71. *FACT SHEET: Biden-Harris Administration Announces New Actions to Build Black Wealth and Narrow the Racial Wealth Gap*, WHITE HOUSE (June 1, 2021), https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/01/fact-sheet-biden-harris-administration-announces-new-actions-to-build-black-wealth-and-narrow-the-racial-wealth-gap [perma.cc/NE2R-W98R].

72. *Americans Say They Like Diverse Communities; Election, Census Trends Suggest Otherwise*, PEW RSCH. CTR. (Dec. 2, 2008), https://www.pewresearch.org/social-trends/2008/12/02/americans-say-they-like-diverse-communities-election-census-trends-suggest-otherwise [perma.cc/Q3CA-8ZFB].

73. Dickerson, *supra* note 49, at 1159–60; MARGERY AUSTIN TURNER, MATTHEW M. CHINGOS & NATALIE SPIEVACK, URB. INST., WHITE PEOPLE'S CHOICES PERPETUATE SCHOOL AND NEIGHBORHOOD SEGREGATION: WHAT WOULD IT TAKE TO CHANGE THEM? 4 (2021), https://www.urban.org/sites/default/files/publication/104127/white-peoples-choices-perpetuate-school-and-neighborhood-segregation_0.pdf [perma.cc/P8T7-WQBP]; Sapna Swaroop & Maria Krysan, *The Determinants of Neighborhood Satisfaction: Racial Proxy Revisited*, 48 DEMOGRAPHY 1203, 1223–27 (2011).

74. *E.g.*, Scott N. Markley et al., *The Limits of Homeownership: Racial Capitalism, Black Wealth, and the Appreciation Gap in Atlanta*, 44 INT'L J. URB. & REG'L RSCH. 310 (2020).

75. Reed T. DeAngelis, *Moving on Up? Neighborhood Status and Racism-Related Distress Among Black Americans*, SOC. FORCES (forthcoming 2022), https://doi.org/10.1093/sf/soab075 [perma.cc/9NJL-E8AH]; *see also* Courtney S. Thomas, *A New Look at the Black Middle Class: Research Trends and Challenges*, 48 SOCIO. FOCUS 191, 194–95 (2015) (discussing the "daily injustices" middle class Blacks face).

those positive health benefits.[76] So Brown's recommendation actually presents a Catch-22; it may require Blacks to choose between financial or mental well-being.

E. *Generational Wealth*

From attending elite subsidized colleges to retiring with largely tax-free pension income, throughout their lifetimes white taxpayers reap enormous wealth benefits thanks to favorable tax policies. These benefits continue even after they die as white taxpayers can take advantage of favorable tax policies that enable them to pass wealth on to future generations. Generally speaking, households build wealth through inheritances, gifts, or disposable income, and wealth lets them participate in wealth-creating activities like purchasing homes, investing in stocks, bonds, or mutual fund accounts, and starting small businesses. Whites are more likely to receive tax-free gifts or inheritances from their families compared to Blacks,[77] and the average inheritance they receive is at least twice as large as the average inheritance for Blacks.[78] As Brown quips: "[w]hiteness itself, and the legacy of advantages that come with it, is the magnet that attracts wealth."[79]

In addition to being less likely to inherit large *amounts* of wealth, Blacks usually do not have the *type* of wealth that protects them from income shocks due to the kind of income and assets that racial groups typically maintain. For example, income for Blacks (and most lower- and middle-income workers) comes from wages whereas whites and higher-income workers are more likely to have nonwage income that comes from stock dividends or revenue from small businesses (pp. 175, 261, 262). Whites and Blacks also hold wealth in different ways.

Just over a quarter of white wealth was in stocks in 2019 while Black households held just 13% of their wealth in stocks.[80] As for total stock ownership, whites owned almost 90% of corporate equity and mutual fund shares

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76. DeAngelis, *supra* note 75, at 21. Likewise, while there is a positive "association between higher educational attainment and improved health status," Blacks continue to have worse health outcomes because of "stress due to discrimination, and the impact of structural issues, such as residential segregation." Thomas, *supra* note 75, at 197–98.

77. Shelley Stewart III et al., *The Economic State of Black America: What Is and What Could Be*, MCKINSEY & CO. (June 17, 2021), https://www.mckinsey.com/featured-insights/diversity-and-inclusion/the-economic-state-of-black-america-what-is-and-what-could-be [perma.cc/WVL3-E2TH]; NATELLA ET AL., *supra* note 45, at 15.

78. P. 183; Moss et al., *supra* note 36.

79. P. 198; Stewart III et al., *supra* note 77 (observing that "almost 60 percent of federal expenditures went to taxpayers in the highest income quintile, in which Black Americans are underrepresented" and that "the largest line items benefit Americans with real estate holdings, employer benefit packages, investment portfolios, and family wealth").

80. Tim Smart, *Who Owns Stocks in America? Mostly, It's the Wealthy and White*, U.S. NEWS (Mar. 15, 2021, 10:58 AM), https://www.usnews.com/news/national-news/articles/2021-03-15/who-owns-stocks-in-america-mostly-its-the-wealthy-and-white [perma.cc/8QZD-HD6E].

while Blacks held 1.1%.[81] White households hold only 43% of their wealth in housing, compared to the roughly 60% of wealth Blacks hold in their personal residences.[82] Just before the Great Recession, the median wealth for Black households, excluding a home, was only $14,200 but was $92,950 for white households.[83] Therefore, when Blacks (even if they are higher income or college educated) lose their homes, as many did during the Great Recession, they lose the wealth they could bequeath to their children.[84]

Additionally, Blacks struggle to increase their wealth through small businesses that can be passed on to heirs: only 2 percent of small businesses are Black owned despite Blacks being roughly 13 percent of the U.S. population.[85] With lower overall income and wealth, Black entrepreneurs are more likely to seek financing in capital markets than white entrepreneurs. Unfortunately, studies reveal that lenders give comparable white applicants more assistance completing loan applications than they give Blacks,[86] require Blacks to provide more personal financial information than whites,[87] discourage Blacks from applying for credit,[88] and deny Black loan applications at twice the rate of

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81. Rakesh Kochhar & Anthony Cilluffo, *How Wealth Inequality Has Changed in the U.S. Since the Great Recession, by Race, Ethnicity and Income*, PEW RSCH. CTR. (Nov. 1, 2017), https://www.pewresearch.org/fact-tank/2017/11/01/how-wealth-inequality-has-changed-in-the-u-s-since-the-great-recession-by-race-ethnicity-and-income [perma.cc/8HMF-WH9Z]; BD. OF GOVERNORS OF THE FED. RSRV. SYS., *supra* note 45; TRAUB ET AL., *supra* note 45, at 7.

82. ALANNA MCCARGO & JUNG HYUN CHOI, URB. INST., CLOSING THE GAPS: BUILDING BLACK WEALTH THROUGH HOMEOWNERSHIP 2 (2020), https://www.urban.org/sites/default/files/publication/103267/closing-the-gaps-building-black-wealth-through-homeownership_1.pdf [perma.cc/W65M-PPD4].

83. Gillian B. White, *The Recession's Racial Slant*, ATLANTIC (June 24, 2015), https://www.theatlantic.com/business/archive/2015/06/black-recession-housing-race/396725 [perma.cc/NN98-6JJM].

84. Garriga et al., *supra* note 63, at 152–55 (showing that higher-income Black families fared worse than lower-income Black families during the Great Recession likely because their wealth was so heavily concentrated in housing); SIGNE-MARY MCKERNAN, CAROLINE RATCLIFFE, EUGENE STEUERLE & SISI ZHANG, IMPACT OF THE GREAT RECESSION AND BEYOND: DISPARITIES IN WEALTH BUILDING BY GENERATION AND RACE 14, 16 (2014), https://www.urban.org/sites/default/files/publication/22551/413102-impact-of-the-great-recession-and-beyond.pdf [perma.cc/4LJF-E2L8] (revealing that Black families' wealth fell 47.6 percent during the Great Recession while white families' wealth fell by 26.2 percent).

85. Connor Maxwell, Darrick Hamilton, Andre M. Perry & Danyelle Solomon, *A Blueprint for Revamping the Minority Business Development Agency*, CTR. FOR AM. PROGRESS (July 31, 2020, 9:02 AM), https://www.americanprogress.org/issues/race/reports/2020/07/31/488423/blueprint-revamping-minority-business-development-agency [perma.cc/4LJP-ZQVR].

86. Sterling A. Bone et al., *Shaping Small Business Lending Policy Through Matched-Pair Mystery Shopping*, 38 J. PUB. POL'Y & MKTG. 391, 395–96 (2019).

87. *Id.* at 395; AMBER LEE, BRUCE MITCHELL & ANNELIESE LEDERER, NAT'L CMTY. REINVESTMENT COAL., DISINVESTMENT, DISCOURAGEMENT AND INEQUITY IN SMALL BUSINESS LENDING 31–33 (2019), https://ncrc.org/wp-content/uploads/2019/09/NCRC-Small-Business-Research-FINAL.pdf [perma.cc/76RH-MXWA].

88. Mels de Zeeuw & Brett Barkley, *Mind the Gap: Minority-Owned Small Businesses' Financing Experiences in 2018*, CONSUMER & CMTY. CONTEXT, Nov. 2019, at 13, 18,

whites.[89] Lenders are also more likely to ask Blacks for information about their marital status even though federal fair lending laws (implicitly recognizing lower Black marriage rates) prevent lenders from considering the borrower's marital status when making credit decisions.[90] This disparate treatment, which cannot be explained solely by risk factors,[91] contributes to the lower rates of Black small business ownership, and in turn, a decreased likelihood they will pass on assets to their children.

The difficulties that Black entrepreneurs face in capital markets were on vivid display during the COVID-19 recession when Black businesses initially struggled to receive the forgivable loans offered by the Paycheck Protection Program (PPP).[92] Because they were less likely to be approved for PPP loans early in the recession, failure rates (and, thus, wealth losses) for Black-owned small businesses were significantly higher (41 percent) than for white-owned small businesses (17 percent).[93] As a result, by the end of 2020, the white share of small business ownership was larger than before the pandemic started.[94] This business wealth helped protect whites from pandemic-related income losses *and* left them with wealth that they can eventually bequeath to heirs.

Because of these financing challenges, Black entrepreneurs are disproportionately more likely to use the equity in their homes to start businesses.[95] Since, as noted above, Black-owned homes have lower appreciation values than white-owned homes, Black entrepreneurs have less housing capital to use to start a small business. Additionally, because housing is the main source of

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https://www.federalreserve.gov/publications/files/consumer-community-context-201911.pdf [perma.cc/C48F-XG7Q].

89. Gene Marks, *Black-Owned Firms Are Twice as Likely to Be Rejected for Loans. Is This Discrimination?*, GUARDIAN (Jan. 16, 2020, 5:00 AM), https://www.theguardian.com/business/2020/jan/16/black-owned-firms-are-twice-as-likely-to-be-rejected-for-loans-is-this-discrimination [perma.cc/8EH2-5LFZ].

90. Bone et al., *supra* note 86, at 395.

91. *See* de Zeeuw & Barkley, *supra* note 88, at 16.

92. Robert Fairlie, *COVID-19, Small Business Owners, and Racial Inequality*, NBER REP., Dec. 2020, at 12, https://www.nber.org/reporter/2020number4/covid-19-small-business-owners-and-racial-inequality [perma.cc/2YD5-GZXW].

93. CLAIRE KRAMER MILLS & JESSICA BATTISTO, FED. RSRV. BANK OF N.Y., DOUBLE JEOPARDY: COVID-19'S CONCENTRATED HEALTH AND WEALTH EFFECTS IN BLACK COMMUNITIES (2020), https://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy_COVID19andBlackOwnedBusinesses [perma.cc/669S-8MBZ]; *see* BD. OF GOVERNORS OF THE FED. RSRV. SYS., *supra* note 45.

94. *See* MILLS & BATTISTO, *supra* note 93; Fairlie, *supra* note 92, at 13; BD. OF GOVERNORS OF THE FED. RSRV. SYS., *supra* note 45.

95. Benjamin Whetzel, *Home Equity Used to Start Seven Percent of U.S. Businesses*, EYE ON HOUSING (Aug. 9, 2017), https://eyeonhousing.org/2017/08/home-equity-used-to-start-seven-percent-of-u-s-businesses [perma.cc/DGD3-E2HA].

Black wealth,[96] using their homes as collateral puts *all* of the Black entrepreneur's wealth at risk. Everything is connected.[97]

Brown begins *Whiteness of Wealth* by observing that "[B]lack Americans excel in spite of the roadblocks to building wealth; individual white Americans struggle in spite of their systemic advantages" (p. 23). Brown concludes the book with suggestions that could lead to more parity in federal tax policies. She calls for tax data to be published by race (pp. 202–06)—an idea that should be noncontroversial, easy to implement, and consistent with the Biden Administration's edict to federal agencies to collect disaggregated race data to measure and advance equity.[98] Brown also proposes some "radical, hold-on-to-your-seat" changes (p. 199), including a single progressive tax rate that does not favor choices that expand the racial wealth gap (p. 206) and a reparations-type tax credit, which Brown concedes may not pass constitutional muster (pp. 216–17). Congress would almost certainly reject her reparations proposal since it annually considers (but never enacts) a bill to create a commission to merely study the possibility of reparations.[99]

Before Brown proposes these radical changes, though, she eviscerates the oft-heard "blame the victim" argument that conservatives trot out, which posits that Blacks could close the racial wealth gap if they would simply "mimic white behavior" and do the same things white people do: get married, go to college, work hard, and play by the rules (p. 211). Throughout *Whiteness of Wealth*, Brown painstakingly exposes how tax policies make it virtually impossible for Blacks to mimic white behavior because tax policies are designed to subsidize choices Blacks simply do not make. Although *Whiteness of Wealth* focuses on biases against Blacks in tax laws, Brown recognizes that many of her proposed solutions (such as a wealth-based refundable tax credit for individuals with below median household wealth) could help *all* racial groups (pp. 220–22). Accordingly, her tax proposals that focus on class and not race might very well garner political support given the shared struggles faced by the American middle class that I describe in the following Part.

II. THE STRUGGLING AMERICAN MIDDLE CLASS

Many of the reasons Blacks across income groups struggle to accumulate wealth are the same reasons that lower- and middle-income families across races struggle to become and remain middle class. And the same "work hard and play by the rules" mantra regarding Black wealth that Brown debunks at

96. MCCARGO & CHOI, *supra* note 82.

97. Andre M. Perry & Carl Romer, *To Expand the Economy, Invest in Black Businesses*, BROOKINGS INST. (Dec. 31, 2020), https://www.brookings.edu/essay/to-expand-the-economy-invest-in-black-businesses [perma.cc/Y7N3-5GSJ].

98. Exec. Order No. 13,985, 86 Fed. Reg. 7,009 (Jan. 20, 2021).

99. Commission to Study and Develop Reparation Proposals for African Americans Act, H.R. 40, 117th Cong. (2021); *US: Congress Advances Slavery Reparations Bill*, HUM. RTS. WATCH (Apr. 9, 2021, 12:24 PM), https://www.hrw.org/news/2021/04/09/us-congress-advances-slavery-reparations-bill [perma.cc/JE3P-MNHM].

the end of *Whiteness of Wealth* is equally ludicrous when used to explain how lower- and middle-income Americans could close income and wealth inequality gaps. This "work hard" mantra will not close the racial wealth gap given the "decades, or in some cases centuries, of opportunity that white Americans have enjoyed" (p. 198). Likewise, it will not close income and wealth inequality gaps that prevent American families of all races from buying homes, amassing retirement savings, paying college expenses for their children, or otherwise acquiring the markers of the middle class.

Discussing the financial plight of Black Americans in tandem with that of the broader American middle class reveals ways in which the tax system is stacked against both groups. One challenge with discussing middle-class economic inequality gaps is deciding whether there actually *is* a Black middle class, especially given the racial income and wealth gaps that exist at every age regardless of factors like marital status or college attainment level.[100] There *is* a Black middle class,[101] but as scholars have observed, it is more fragile and unstable, much smaller, and "looks" different from the white middle class.[102] For example, while 59 percent of the middle class[103] is white only 12 percent is Black.[104] Unlike the stereotypical Midwest middle-class manufacturing worker, middle-class Blacks are more likely to live in the South where wages are disproportionately lower.[105] Moreover, as a result of tax policies that favor white choices and therefore create and preserve white wealth, middle-class Black children (especially sons) are much more likely to suffer downward mobility.[106]

100. TRAUB ET AL., *supra* note 45.

101. I explore the demise of the middle class in detail in my forthcoming book A. MECHELE DICKERSON, THE NEGLECTED MIDDLE CLASS: INEQUALITY, RACE, AND THE LOOMING ECONOMIC CRISIS (forthcoming 2022).

102. Thomas, *supra* note 75, at 193.

103. The middle class is defined as roughly the middle 60 percent of the household income distribution with annual incomes between $40,000 and $154,000. Jennifer M. Silva & Tiffany N. Ford, *Navigating Race and Injustice in America's Middle Class*, BROOKINGS INST.: UP FRONT (Oct. 29, 2020), https://www.brookings.edu/blog/up-front/2020/10/29/navigating-race-and-injustice-in-americas-middle-class [perma.cc/YF59-AGZT].

104. *Id.*

105. *See* Andre M. Perry & Carl Romer, *The Black Middle Class Needs Political Attention, Too*, BROOKINGS INST. (Feb. 27, 2020), https://www.brookings.edu/research/the-black-middle-class-needs-political-attention-too [perma.cc/J7E6-G3XH]; EMILY A. SHRIDER, MELISSA KOLLAR, FRANCES CHEN & JESSICA SEMEGA, U.S. CENSUS BUREAU, U.S. DEP'T OF COM., P60-273, INCOME AND POVERTY IN THE UNITED STATES: 2020, at 3 (2021), https://www.census.gov/content/dam/Census/library/publications/2021/demo/p60-273.pdf [perma.cc/YX75-5U4N]; *see also* Stewart III et al., *supra* note 77.

106. Stewart III et al., *supra* note 77; *see also* William Darity Jr., Fenaba R. Addo & Imari Z. Smith, *A Subaltern Middle Class: The Case of the Missing "Black Bourgeoisie" in America*, 39 CONTEMP. ECON. POL'Y 494, 501 (2021) ("In US society the concept of the middle class and all its associated characteristics is a White-centered narrative.").

Despite these differences, the Black middle class shares similarities with comparable whites through their collective struggle to make ends meet. Income inequality is at a record high, widening steadily since the 1980s, in part because the earning premium that college workers receive gives them a disproportionate share of earned income.[107] Wealth inequality is also at historic levels and expanded during the Recession when the top 10 percent of households had significantly smaller wealth losses than the remaining 90 percent.[108] Wealth shares for the top 10 percent actually *increased* between the start of the recession and 2013[109] while the middle class lost disproportionately more wealth during this time,[110] mirroring the way that Blacks across the board suffered greater losses relative to whites.[111] By 2016, the top 1% of Americans (which includes less than 2% of Blacks) held more wealth than the entire bottom 90% of households.[112]

The American middle class, regardless of race, also does not own the same type of assets that rich households do,[113] just as Blacks generally do not own the same type of assets as their white counterparts, discussed earlier. The data is revealing: the wealthiest Americans hold nearly half of their wealth in either businesses or real estate investments and approximately a quarter of their

107. *See* EMMONS ET AL., *supra* note 24, at 8–9; Hannah Van Drie & Richard V. Reeves, *Many Essential Workers Are in "Low-Prestige" Jobs. Time to Change Our Attitudes – and Policies?*, BROOKINGS INST.: UP FRONT (May 28, 2020), https://www.brookings.edu/blog/up-front/2020/05/28/many-essential-workers-are-in-low-prestige-jobs-time-to-change-our-attitudes-and-policies [perma.cc/3462-ULG6]; Audrey Kearney & Cailey Muñana, *Taking Stock of Essential Workers*, KAISER FAM. FOUND. (May 1, 2020), https://www.kff.org/policy-watch/taking-stock-of-essential-workers [perma.cc/J48S-LYPU].

108. *See* JOHN C. WEICHER, HUDSON INST., THE DISTRIBUTION OF WEALTH IN AMERICA, 1983-2013 (2016), https://s3.amazonaws.com/media.hudson.org/files/publications/20170111WeicherTheDistributionofWealthinAmerica19832013.pdf [perma.cc/PK3X-TQAA]; Kuhn et al., *supra* note 3; Katherine Schaeffer, *6 Facts About Economic Inequality in the U.S.*, PEW RSCH. CTR. (Feb. 7 2020), https://www.pewresearch.org/fact-tank/2020/02/07/6-facts-about-economic-inequality-in-the-u-s [perma.cc/2FBE-KP9K]; BD. OF GOVERNORS OF THE FEDERAL RSRV. SYS., *supra* note 45.

109. WEICHER, *supra* note 108; Kuhn et al., *supra* note 3; Schaeffer, *supra* note 108; BD. OF GOVERNORS OF THE FEDERAL RSRV. SYS., *supra* note 45.

110. Jesse Bricker et al., *Changes in U.S. Family Finances from 2013 to 2016: Evidence from the Survey of Consumer Finances*, FED. RSRV. BULL., Sept. 2017, at 1, 13; Kochhar & Cilluffo, *supra* note 81.

111. *See* Kuhn et al., *supra* note 3, at 3472, 3498. The number was 31 percent for white middle-income families and 47 percent for Black families. Kochhar & Cilluffo, *supra* note 81.

112. Tanzina Vega, *It's Lonely in the Black 1%*, CNN (Oct. 14, 2016, 11:03 AM), https://money.cnn.com/2016/10/14/news/economy/black-1-unstereotyped/index.html [perma.cc/HYK4-7NUJ] (reporting that 1.7 percent of the top 1 percent are Black); Christopher Ingraham, *Nation's Top 1 Percent Now Have Greater Wealth than the Bottom 90 Percent*, SEATTLE TIMES (Dec. 8, 2017, 6:11 AM), https://www.seattletimes.com/business/economy/nations-top-1-percent-now-have-greater-wealth-than-the-bottom-90-percent [perma.cc/FWL2-UUFQ].

113. *See supra* Part I (describing Blacks' housing and non-housing assets); WEICHER, *supra* note 108, at 92.

wealth in securities or personal trusts.[114] By the start of 2021, when the country was still recovering from the COVID-19 recession, the wealthiest 1 percent of Americans owned more than half of the equity in corporate stock and mutual fund shares.[115] This data confirms what economists have been saying for over a decade and what Brown hammers home in *Whiteness of Wealth*: wealth begets wealth.[116]

Just as it is impossible for Blacks to close the racial wealth gap by mimicking white behavior, middle-class families of all races cannot close the overall wealth gap by mimicking the behavior of rich people. Simply put, America's richest families have too many generational advantages. Now is the time for America's middle class to ignore the racial divisions being sown by some political leaders and instead unite in their demands. They must ask local and state authorities to find ways to ensure there is more affordable housing, either rented or owned. Because both racial and overall income gaps are at historic levels, income now predicts student achievement better than race.[117] Accordingly, lower-income parents of *all* races should join together and demand that school districts close K-12 educational gaps, laid bare during the COVID-19 pandemic, to ensure their children can obtain the gateway to the middle class: a bachelor's degree.[118] Likewise, given the number of elite colleges who now admit more students from the top 1 percent than they do from the bottom 60

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114. Kuhn et. al, *supra* note 3, at 3507–08; Josh Zumbrun, *How to Save Like the Rich and the Upper Middle Class (Hint: It's Not with Your House)*, WALL ST. J. (Dec. 26, 2014, 1:32 PM), https://www.wsj.com/articles/BL-REB-29827 [perma.cc/96VH-B2TC].

115. *DFA: Distributional Financial Accounts*, BD. OF GOVERNORS OF THE FED. RSRV. SYS., https://www.federalreserve.gov/releases/z1/dataviz/dfa/distribute/table/#quarter:123; series: Net%20worth;demographic:networth;population:1,3,5,7;units:shares [perma.cc/M4FP-TWX6] (last updated Dec. 17, 2021).

116. WILLIAM DARITY JR. ET AL., SAMUEL DUBOIS COOK CTR. ON SOC. EQUITY & INSIGHT CTR. FOR CMTY. ECON. DEV., WHAT WE GET WRONG ABOUT CLOSING THE RACIAL WEALTH GAP 1, 49 (2018), http://narrowthegap.org/images/documents/Wealth-Gap---FINAL-COMPLETE-REPORT.pdf [perma.cc/ZNX2-CD88]; Kriston McIntosh, Emily Moss, Ryan Nunn & Jay Shambaugh, *Examining the Black-White Wealth Gap*, BROOKINGS INST.: UP FRONT (Feb. 27, 2020), https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap [perma.cc/5NRE-BZ2Z]; Sandra E. Black, Paul J. Devereux, Petter Lundborg & Kaveh Majlesi, *Poor Little Rich Kids? The Role of Nature Versus Nurture in Wealth and Other Economic Outcomes and Behaviours*, 87 REV. ECON. STUD. 1683 (2020).

117. *Income, More than Race, Is Driving Achievement Gap*, NPR (Feb. 13, 2012, 1:00 PM), https://www.npr.org/2012/02/13/146816813/income-more-than-race-is-driving-achievement-gap [perma.cc/M7WB-H7R6].

118. *See* Emma Dorn, Bryan Hancock, Jimmy Sarakatsannis & Ellen Viruleg, *COVID-19 and Education: The Lingering Effects of Unfinished Learning*, MCKINSEY & CO. (July 27, 2021), https://www.mckinsey.com/industries/public-and-social-sector/our-insights/covid-19-and-education-the-lingering-effects-of-unfinished-learning [perma.cc/4N2R-25B7]; sean f. reardon et al., *Is Separate Still Unequal? New Evidence on School Segregation and Racial Academic Achievement Gaps* (Stan. Ctr. for Educ. Pol'y Analysis, Working Paper No. 19-06, 2021), https://cepa.stanford.edu/sites/default/files/wp19-06-v092021.pdf [perma.cc/754R-SNRB]; *see* Stewart III et al., *supra* note 77.

percent,[119] middle- and lower-income parents must band together to demand that federal tax policies for these entities do more than continue to privilege the privileged. Finally, Black and white workers should collectively demand that businesses provide jobs with stable income and employee benefits like health insurance and retirement plans.

A racial wealth gap that "springs from foundational sources like slavery, Jim Crow, and inheritance, and . . . grows through policy choices and racialized institutions like the Tax Code, homeownership and equity, and the workplace"[120] will not close on its own. Similarly, hard work alone will not save the American middle class given the decades of neglect by local, state, and federal laws and policies. In debunking the "work hard and play by the rules" myth for Blacks, *The Whiteness of Wealth* also does so for a broader subset of Americans.

CONCLUSION

Midway through *The Whiteness of Wealth*, Professor Brown quotes Supreme Court Justice Brandeis: "[S]unlight is said to be the best of disinfectants" (p. 129). Brown's book sheds a bright light on the ways tax laws impoverish Blacks while enriching whites, making it impossible for policymakers to pretend that they are unaware that the federal tax code is rife with provisions that increase white wealth. Although changing "[t]ax policy alone can't solve the problem" (p. 202), Brown exposes the fallacy that tax laws are race neutral and explains what Congress must do if it wants to have a just and equitable federal tax system instead of one that privileges whiteness and preexisting wealth.

119. Gregor Aisch, Larry Buchanan, Amanda Cox & Kevin Quealy, *Some Colleges Have More Students from the Top 1 Percent than the Bottom 60. Find Yours.*, N.Y. TIMES (Jan. 18, 2017) https://www.nytimes.com/interactive/2017/01/18/upshot/some-colleges-have-more-students-from-the-top-1-percent-than-the-bottom-60.html (on file with the *Michigan Law Review*).

120. SULLIVAN ET AL., *supra* note 30, at 3.