

## BOOK REVIEW

### POVERTY, THE UNDERCLASS, AND THE ROLE OF RACE CONSCIOUSNESS: A NEW AGE CRITIQUE OF *BLACK WEALTH/WHITE WEALTH\** AND *AMERICAN APARTHEID\*\**

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The outcome of any particular experiment no longer seems to depend only upon the “laws” of the physical world, but also upon the consciousness of the observer. . . . [W]e must replace the term “observer” with the term “participator.” We cannot observe the physical world, for as the new physics tell us, there is no one physical world. We participate within a spectrum of all possible realities.<sup>1</sup>

Children believe everything adults say. We agree with them, and our faith is so strong that the belief system controls our whole dream of life. We didn’t choose these beliefs, and we may have rebelled against them, but we were not strong enough to win the rebellion. The result is surrender to the beliefs with our *agreement*. . . . I call this process *the domestication of humans*.<sup>2</sup>

Poverty is an abnormal condition. Poverty is the result of inefficiency. Poverty is not the result of the lack of opportunity. Not in yourself, not

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\* MELVIN L. OLIVER & THOMAS M. SHAPIRO, *BLACK WEALTH/WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY* (1995).

\*\* DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1993).

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1. MICHAEL TALBOT, *MYSTICISM AND THE NEW PHYSICS* 3 (1993).

2. DON MIGUEL RUIZ, *THE FOUR AGREEMENTS—A PRACTICAL GUIDE TO PERSONAL FREEDOM: A TOLTEC WISDOM BOOK* 5-6 (1997) (emphasis in original).

anywhere. Poverty is the result of inefficiency, or ignorance. And if you and I can learn to deal with the only Mind there is, we will no longer be poor. We can attract to ourselves people and things which will obliterate that poverty. It will be a law of gravity, no other thing but principle. When you set into motion a power of mind, don't you be surprised what happens.<sup>3</sup>

### INTRODUCTION

Who brings our thoughts into reality?<sup>4</sup> According to Michael Talbot, we all do. Nothing of us simply watches or observes an experience. Rather, we proactively co-create experiences.<sup>5</sup> We co-create in at least two ways: *deliberately* or *by default*.<sup>6</sup> By deliberate, I mean that we can self-consciously intend our experiences; or by default, we can allow others to influence what we intend and thus what we experience.<sup>7</sup> In this way, social experiences like

3. ERNEST HOLMES, *LOVE & LAW: THE UNPUBLISHED TEACHINGS* 39-40 (Marilyn Leo ed. 2001).

4. See BARBARA MARCINIAK, *BRINGERS OF THE DAWN: TEACHINGS FROM THE PLEIADIANS* 10 (1992) (“[T]hought creates. No matter what situation you find yourself in, it is the power of your thoughts that got you there. It is also the impeccable belief that thought creates that will transform your experience and the planetary existence.”); JANE ROBERTS, *THE NATURAL OF PERSONAL REALITY—SPECIFIC, PRACTICAL TECHNIQUES FOR SOLVING EVERYDAY PROBLEMS AND ENRICHING THE LIFE YOU KNOW: A SETH BOOK* xvi (1994) [hereinafter cited as *SETH, PERSONAL REALITY*] (“Experience is the product of the mind, the spirit, conscious thoughts and feelings, and unconscious thoughts and feelings. These together form the reality that you know. You are hardly at the mercy of a reality, therefore, that exists apart from yourself, or is thrust upon you.”).

5. I first introduced the concept of co-creation into the law review literature in 1996. See Reginald Leamon Robinson, *Race, Myth, and Narrative in the Social Construction of the Black Self*, 40 *HOWARD L.J.* 1, 55 n.240 (1996).

6. See generally JERRY HICKS & ESTHER HICKS, *ABRAHAM SPEAKS: A NEW BEGINNING I—HANDBOOK FOR JOYOUS SURVIVAL* (1996) [hereinafter cited as *HICKS & HICKS, ABRAHAM SPEAKS I*].

7. 3 LEE CARROLL, *KRYON—ALCHEMY OF THE HUMAN SPIRIT: A GUIDE TO HUMAN TRANSITION INTO THE NEW AGE* 76 (1995). The Kryon writes:

For to co-create means that you and Spirit and those around you create your own reality. This may seem like a paradox to you, for you have been told only to co-create for yourselves. But what happens when you start to co-create for yourself is that those around you are affected in a positive way. . . . As you co-create for yourself, others are touched and helped; some are even enlightened! . . . and all because you co-create for yourself.

*Id.* See Reginald Leamon Robinson, *The Shifting Race-Consciousness Matrix and the Multiracial Category Movement: A Critical Reply to Professor Hernandez*, 20 *B.C. THIRD WORLD L.J.* 231 (2000). In this essay, I described co-creation in the context of race and white supremacy.

By co-creation, I mean that each of us has been socially conditioned, principally in our primary environments, to accept that race, race consciousness (i.e., thinking of ourselves

poverty, wealth, and residential segregation do not simply happen. Some of us play the role of the wealthy, and some the poor. But we actively intend or passively allow all of these experiences (e.g., poverty).<sup>8</sup> According to Don Miguel Ruíz, earth and personal dreams work concertedly to reinforce larger social practices and to limit how individuals might re-imagine what a world could be.<sup>9</sup> For Ruíz, earth dreams approximate macro- or social structures. And for him, personal dreams constitute personal experiences or realities. Together, they serve as the basis for parents (or the state) to shape our beliefs.<sup>10</sup> According to Ruíz, our parents “hook” our *attention*,<sup>11</sup> and in so doing they shape how we think<sup>12</sup>. And how we think reinforces what is “reality.”<sup>13</sup> By focusing our attention, parents and society play profoundly important roles in shaping our

in racial terms), racism, and white supremacy are naturally occurring (i.e., human nature) and socially inevitable [i.e., human history]. Once we accept that this inevitable social reality is upon us, we consciously and unconsciously focus our minds on race. This focus alone is sufficient to create and maintain race and race consciousness. However, despite this focus, each of us experiences race and race consciousness differently. . . . It is this difference that creates the opportunity for new thinking with each generation on race and race consciousness, and it is this difference that will eventually give so-called black people the courage to think of themselves without any veil of race and without any overlay of race consciousness.

*Id.* at 232-33 n.2 (citations omitted).

8. SETH, PERSONAL REALITY, *supra* note 4, at 31 (“If you are poor you may feel quite self-righteous in your financial condition, looking with scorn upon those who are wealthy, telling yourself that money is wrong and so reinforcing the condition of poverty.”).

9. See RUÍZ, *supra* note 2, at 7-8 (“We pretend to be what we are not because we are afraid of being rejected. The fear of being rejected becomes the fear of not being good enough. Eventually we become someone that we are not. We become a copy of Mamma’s beliefs, Daddy’s beliefs, society’s beliefs, and religion’s beliefs.”).

10. *Cf.* Moe v. Dinkins, 533 F. Supp. 623 (S.D.N.Y. 1981), *aff’d*, 669 F.2d 67 (2d Cir. 1982) (“Although the possibility for parents to act in other than the best interest of their child exists, the law presumes that the parents ‘possess what the child lacks in maturity’ and that ‘the natural bonds of affection lead parents to act in the best interest of their children.’”).

11. RUÍZ, *supra* note 2, at 3 (“*Attention* is the ability we have to discriminate and to focus only on that which we want to perceive. We can perceive millions of things simultaneously, but using our attention, we can hold whatever we want to perceive in the foreground of our mind. The adults around us hooked our attention and put information into our minds through repetition. That is the way we learned everything we know.”).

12. See HICKS & HICKS, ABRAHAM SPEAKS I, *supra* note 6, at 42 (“As you enter physical experience, you are surrounded by beings who have already arrived at many conclusions. They have created within themselves many beliefs based upon the life experience that they have lived – or upon the stories that they have heard from those who surrounded them at the time that they were born.”).

13. I NEALE DONALD WALSCH, CONVERSATIONS WITH GOD: AN UNCOMMON DIALOGUE 107 (1996) (“We make real that to which we pay attention. The Master knows this. The Master places himself *at choice* with regard to that which she chooses to make real.”).

thoughts, our reality (e.g., poverty).<sup>14</sup>

By thought, I mean *consciousness*,<sup>15</sup> and consciousness produces a *material reality* (or material privations).<sup>16</sup> Consciousness influences how we think, talk, and act.<sup>17</sup> By *think*, I mean the manner in which people process their inner beliefs, a thinking that gets governed by how people believe and thus perceive "reality."<sup>18</sup> By *talk*, I mean the manner in which people use words. According to Ruíz,

the word is not just a sound or a written symbol. The word is a force; it is the power you have to express and communicate, to think, and thereby to create the events in your life. . . . The word is the most powerful tool you have as a human; it is the tool of magic.<sup>19</sup>

By *act*, I mean daily living (e.g., physical action and dynamic interaction) that

14. See C. WRIGHT MILLS, *THE SOCIOLOGICAL IMAGINATION* 3-4 (1999). Mills argues: Seldom aware of the intricate connection between the patterns of their own lives and the course of world history, ordinary men do not usually know what this connection means for the kinds of men they are becoming and for the kinds of history-making in which they might take part. They do not possess the quality of mind essential to grasp the interplay of man and society, of biography and history, of self and world. They cannot cope with their personal troubles in such ways as to control the structural transformations that usually lie behind them.

*Id.*

15. Consciousness has many different and competing definitions. Some definitions lend themselves to the esoteric, while some harbor a scientific basis that is no less esoteric. See, e.g., 1 JANE ROBERTS, *THE "UNKNOWN" REALITY: A SETH BOOK* 42 (1988) ("Consciousness is composed of energy, with everything that implies. The psyche, then, can be thought of as a conglomeration of highly charged 'particles' of energy, following rules and properties, many simply unknown to you."). See also GERALD M. EDELMAN & GIULIO TONONI, *A UNIVERSE OF CONSCIOUSNESS: HOW MATTER BECOMES IMAGINATION* 18 (2000) ("[E]ach conscious state is experienced as a whole that cannot be subdivided into independent components . . . . [E]ach conscious state is selected from a repertoire of billions and billions of possible conscious states, each with different behavioral consequences. . . . This [approach] expands on William James' prescient notion of consciousness as a *process*—one that is private, selective, and continuous yet continually changing.").

16. Cf. TALBOT, *supra* note 1, at 102 ("Consciousness can act on Matter and transform it. This ultimate conversion of Matter into Consciousness and perhaps one day even of Consciousness into Matter is the aim of the *supramental yoga*.").

17. See generally Reginald Leamon Robinson, "Expert" Knowledge: *Introductory Comments on Race Consciousness*, 20 B.C. THIRD WORLD L.J. 145 (2000); Robinson, *supra* note 7, at 231.

18. See HICKS & HICKS, *ABRAHAM SPEAKS I*, *supra* note 6, at 42 ("As you are stimulated to think about beliefs that others offer, very often you attract life experience that 'proves' to you that it is just as they have said that it is. For as you believe that it is, it is, and for that reason, beliefs change very slowly.").

19. RUÍZ, *supra* note 2, at 26.

depends on how a person believes and talks.<sup>20</sup> By acting, we confirm that our beliefs and our narrative must be true. Few of us act against our spoken or internalized beliefs. In effect, thinking, talking, and acting form overlapping concentric circles, all of which intensify what is actually or potentially real, and they determine how we might probably act.<sup>21</sup> We do not act against our thoughts, and we speak in a matter that reinforces what we already believe or know.<sup>22</sup> In sum, our beliefs (i.e., thinking) inform how we declare to others and reinforce in ourselves (i.e., talking) why we live as we do (i.e., acting). Therefore, in this essay, I will simply use the term “consciousness,” and when I do, the reader should recall thinking, talking, and acting.

In America, race and racism color our consciousness.<sup>23</sup> A *race consciousness* operates like *thinking*, *talking*, and *acting*. By race consciousness, I adopt Janet E. Helm’s definition: “Race consciousness refers to the awareness that (socialization due to) racial-group membership can influence one’s intrapsychic dynamics as well as interpersonal relationships. Thus, one’s racial awareness may be subliminal and not readily admitted into consciousness or it may be conscious and not readily repressed.”<sup>24</sup> By constructing our experiences through a race consciousness, we deliberately poison our personal worlds, not realizing that we also sicken, injure, and destroy ourselves.<sup>25</sup> By living through a “race-

20. *Id.* at 4. Ruiz states: “The outside dream hooks our attention and teaches us what to believe, beginning with the language that we speak. Language is the code for understanding and communication between humans. Every letter, every word in each language is an agreement.” *Id.*

21. *Cf.* EDELMAN & TONONI, *supra* note 15, at 201. Thinking and language play a crucial role in perception.

[W]e must review the relationship between internalist and externalist views of the mental. The internalist view (a first-person view) is that as we interact with the world to establish our beliefs, their content is determined by particular kinds of brain activity that are reachable by introspection. The externalist view (a third-person view) is that mental life is a construct that is mainly dependent on the interpersonal or social exchanges that are based on language. According to this view, the whole system of language is essential to thought; it is the public aspect of language that gives thought its meaning and that is the basis of mental content.

*Id.*

22. SETH, PERSONAL REALITY, *supra* note 4, at 19. Seth states:

Each person experiences a unique reality, different from any other individual’s. This reality springs outward from the inner landscape of thoughts, feelings, expectations and beliefs. If you believe that the inner self works against you rather than for you, then you hamper its functioning – or rather, you force it to behave in a certain way because of your beliefs.

*Id.*

23. *See generally* DOCUMENTS OF AMERICAN PREJUDICE: AN ANTHOLOGY OF WRITINGS ON RACE FROM THOMAS JEFFERSON TO DAVID DUKE (S. T. Joshi ed., 1998).

24. Janet E. Helms, *Introduction: Review of Racial Identity Terminology*, in BLACK AND WHITE RACIAL IDENTITY: THEORY, RESEARCH, AND PRACTICE 3, 7 (Janet E. Helms ed., 1990).

25. *See, e.g.*, PATRICIA RAYBON, MY FIRST WHITE FRIEND: CONFESSIONS ON RACE, LOVE,

focused consciousness,” we reinforce America’s notion of blacks,<sup>26</sup> and we pay homage to the vested limitation that prior black family generations have passed on too.<sup>27</sup> Yet, with such a “race-focused consciousness,” we shut ourselves off from other probable realities.<sup>28</sup> By shutting ourselves off, we resist change, oppression, or injustice, thus assuming that oppression for example must be a true, external reality.<sup>29</sup> As we learned from Seth, all realities are probable, and as we change our thinking, we co-create new probable realities and new probable selves.<sup>30</sup> In this way, race does not use us. Rather, we experience race if and only if we give our attention to race and its consciousness. That is, we co-create reality from the inside out,<sup>31</sup> and in this way as Ruíz pointed out, society—media,

AND FORGIVENESS 2 (1996) (“And I thought my soul would die from [hating]. [Hate] was killing me anyway—this race-focused consciousness—because it confined my spirit and my vision and sanity too. And I felt pathological—as confused and mixed up as some white sociologists have always claimed African Americans naturally are.”).

26. See, e.g., MASSEY & DENTON, *supra* note \*\*, at 94 (“White apprehensions about racial mixing are associated with the belief that having black neighbors undermines property values and reduces neighborhood safety.”). See also Janet E. Helms, *Toward a Model of White Racial Identity Development*, in BLACK AND WHITE RACIAL IDENTITY, *supra* note 24, at 54 (“[S]ignificant persons in one’s life (e.g., media, parents, peers) inform one of the existence of Blacks as well as how one ought to think about them.”).

27. See generally RAYBON, *supra* note 25. See also Clarence Page, *Showing My Color: Biracial Kids Face Burdens of Two Worlds*, HOUS. CHRON., Mar. 14, 1996, at 1 (“Black Americans who have internalized white supremacist attitudes and values become agents of those attitudes and values, enforcing them in others and passing them on to new generations more effectively than the Ku Klux Klan ever could.”).

28. See Janet E. Helms, *An Overview of Black Racial Identity Theory*, in BLACK AND WHITE RACIAL IDENTITY, *supra* note 24, at 9, 24 (“[S]tatements like ‘You talk like you’re White’ imply that the speaker has the right to judge what constitutes Black speech whereas the person addressed does not and, at the same time, that the person does not measure up to Black behavioral standards in some important way.”).

29. I WALSCH, *supra* note 13, at 102 (“You cannot resist something to which you grant no reality. The act of resisting a thing is the act of granting it life. When you resist any energy, you place it there. The more you resist, the more you make it real—*whatever you are resisting*.”).

30. See generally I ROBERTS, *supra* note 15, at 66. According to Seth:

The body that you have is a probable body. It is the result of one line of “development” that could be taken to your particular earth personality in flesh. All of the other possible lines of development also occur, however. They occur at once, but each one simultaneously affects every other. There is actually far greater interaction here than you realize, because you are not used to looking for it. The harder you work to maintain the *official* accepted idea of the self in conventional terms, the more of course you block out any kind of unpredictability.

*Id.*

31. See R.D. LAING, *THE POLITICS OF EXPERIENCE* 21 (1968) (“The ‘inner,’ then, is our personal idiom of experiencing our bodies, other people, the animate and inanimate world; imagination, dreams, fantasy, and beyond that to even further reaches of experiences.”).

parents, and peers—work exceedingly long and hard to “hook” our attention, so that we can reinforce the dominant social narrative.<sup>32</sup> We reinforce this narrative by thinking, talking, and acting as if social reality (e.g., poverty) must be real, external, and inevitable.<sup>33</sup> Once we give mental intent to select a racialized lens by which to construct experiences, we—all of us—make race and its consciousness real, and by making it “real,” we limit our agency and others.<sup>34</sup>

Given Talbot’s, Ruíz’s, and Seth’s positions, poverty begins within our consciousness. Unfortunately, we have racialized poverty, and in so doing, we co-create and reinforce the idea that blacks suffer poverty because they lack morality (e.g., sex), because they ignore middle-class values (e.g., thrift), and because they refuse to work (e.g., lazy).<sup>35</sup> Fortunately, poverty *ignores* morality.

32. See Ruíz, *supra* note 2, at 3. Ruiz asserts that:

By [hooking] our attention we learn a whole reality, a whole dream. We learned how to behave in society: what to believe and what not to believe; what is acceptable and what is not acceptable; what is good and what is bad; what is beautiful and what is ugly; what is right and what is wrong. It was all there already—all that knowledge, all those rules and concepts, about how to behave in the world.

*Id.*

33. Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2413-14 (1989). Delgado aptly argues:

Stories, parables, chronicles, and narratives are powerful means for deploying mindset—the bundle of presuppositions, received wisdoms, and shared understandings against a background of which legal and political discourse takes place. These matters are rarely focused on. They are like eyeglasses we have worn a long time. They are nearly invisible; we use them to scan and interpret the world and only rarely examine them for themselves. Ideology—the received wisdom—makes current social arrangements seem fair and natural. Those in power sleep well at night—their conduct does not seem to them like oppression.

*Id.*

34. See generally Paul Hoggett, *Agency, Rationality, and Social Policy*, 30 J. SOC. POL’Y 37 (2001) (In discussing and critiquing Anthony Giddens’ theory of structuration and human agency, Hoggett argues that we must prepare a robust account of active welfare subjects so that we can “confront the real experiences of powerlessness and psychic injury which result from injustice and oppression and [so that we can] acknowledge human capacities for destructiveness towards self and others.”). For an indepth discussion of structuration and human reflective agency, see ANTHONY GIDDENS, *THE CONSTITUTION OF SOCIETY: OUTLINE OF THE THEORY OF STRUCTURATION* (1984) [hereinafter cited as GIDDENS, *CONSTITUTION*]; ANTHONY GIDDENS, *CENTRAL PROBLEMS IN SOCIAL THEORY: ACTION, STRUCTURE, AND CONTRADICTION IN SOCIAL ANALYSIS* (1979).

35. See, e.g., James Jennings, *Persistent Poverty in the United States: Review of Theories and Explanations*, in *A NEW INTRODUCTION TO POVERTY: THE ROLE OF RACE, POWER, AND POLITICS* 13-38 (Louis Kushnick & James Jennings eds., 1999) (providing a general overview cultural, moral, genetic, racial, and family structure explanation for the persistent of poverty). In Jennings’ essay, he cites George Gilder, who writes: “Their problem is not poverty but a collapse of family discipline and sexual morality.” *Id.* at 18.

Whether black or white, whether good or bad, people succeed.<sup>36</sup> These people simply (but not without sustained intent and effort) focus their mental and spiritual energy. More than likely, they do not squander their time blaming racism, capitalism, or God.<sup>37</sup> In this way, Ted Turner, Reginald Lewis, Michael Millken, Madame C. Walker, or Ivan Bosky can garner wealth. Similarly, Maxine Waters, a citizen who haled from a poor, working-class community, can achieve her dream by becoming an important member of the United States House of Representatives. Today, regardless of socio-economic status, people still "succeed" and "fail." In any event, "external" reality dynamically reflects our collective (but ever changing) inner thoughts, our impoverished self images,<sup>38</sup> and as such, society co-creates poverty and wealth.<sup>39</sup> Without us and our thinking, poverty could not sustain itself. Poverty's existence depends exclusively on the *attention* to which we give it.

As between rich and poor, black and white, what might explain the difference? Although liberal and conservative sociologists have provided us with many factors and explanations,<sup>40</sup> the variables are too many, too probable. What is certain, however, is that we co-create all of our experiences, including poverty, the underclass, and the wealthy. We exist to have power over others. Without wealth or poverty, we have no identity. We have no external basis by which to evaluate our inherent value. We have forgotten that we are "gods."<sup>41</sup> We have instead enslaved ourselves to the thinking, talking, and acting of an apparent "external," objective force over which we claim no power.

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36. See, e.g., THOMAS J. STANLEY & WILLIAM D. DANKO, *THE MILLIONAIRE NEXT DOOR: THE SURPRISING SECRET OF AMERICA'S WEALTH* (1996).

37. See, e.g., RALPH WILEY, *WHY BLACK PEOPLE TEND TO SHOUT: COLD FACTS AND WRY VIEWS FROM A BLACK MAN'S WORLD* (1991).

38. See KEN KEYES, JR., *HANDBOOK TO HIGHER CONSCIOUSNESS*, at xiv (5th ed. 1975).

39. See Lee Rainwater, *Neutralizing the Disinherited: Some Psychological Aspects of Understanding the Poor*, in *PSYCHOLOGICAL FACTORS IN POVERTY* 9, 10 (Vernon L. Allen ed., 1970) ("[I]n every society individuals have a conception of how their system operates and why it operates that way that is parallel to, but not identical with, an adequate sociological understanding of the social system.").

40. See, e.g., David R. Quammen, *Poverty in America: Progress Interrupted*, *METRO HERALD*, July 21, 1995, at 8 ("A few months ago, Edwin J. Fuelner, President of the Heritage Foundation, wrote in a *Washington Times* article that even with the trillions of dollars spent on the poor, poverty in 1993 is essentially the same as in 1963 (15.3 percent then versus 15.1 percent in 1993), laying blame on the personal failings of the poor."). See also Hermon George, Jr., *Black America, the "Underclass," and the Subordination Process*, in *A NEW INTRODUCTION TO POVERTY*, *supra* note 35, at 197-98 (discussing liberal and conservative explanations for the persistent of poverty and the underclass, noting that some conservative thinkers simply wish to abandon the adult black underclass "while trumpeting the virtues of low-wage work as an enforcer of social obligation").

41. *Psalms* 82:6 (King James) ("Ye are gods; and all of you are children of the most High."). See also RUIZ, *supra* note 2, at xviii ("It is true. I am God. But you are also God. We are the same, you and I. We are images of light. We are God.").

Liberal poverty studies *fault* “external,” objective forces (i.e., social structure).<sup>42</sup> They premise that social structure robs citizens of equal opportunities,<sup>43</sup> and without equal opportunities, many citizens cannot attain access to material goods.<sup>44</sup> By social structure, I mean the manner in which social systems distribute resources like wealth, income, and property.<sup>45</sup> Some early poverty studies looked at individual behavior and choices.<sup>46</sup> Some studies focused on “learned helplessness.”<sup>47</sup> Others have framed their analysis on the “culture of poverty” theory.<sup>48</sup> Unfortunately, the work by sociologists or other scholars who look critically at “learned helplessness” or “culture of poverty” has

42. See, e.g., JIM SLEEPER, *LIBERAL RACISM: HOW FIXATING ON RACE SUBVERT'S THE AMERICAN DREAM* 39-40 (1998) (“Liberals must admit that their charges of ‘racism’ are often so extenuated and exotic that they reinforce racism by making blacks seem an exotic appendage to the polity. . . . Since most liberals have qualms about saying this, they grasp at other explanations: ‘Blame the economy as well as racism; blame class as well as race.’”).

43. See generally MANNING MARABLE, *HOW CAPITALISM UNDERDEVELOPED BLACK AMERICA* (1983); DOUGLAS G. GLASGOW, *THE BLACK UNDERCLASS: POVERTY, UNEMPLOYMENT, AND ENTRAPMENT OF GHETTO YOUTH* (1981); WILLIAM K. TABB, *THE POLITICAL ECONOMY OF THE BLACK GHETTO* (1970).

44. See OLIVER & SHAPIRO, *supra* note \*.

45. ALLAN G. JOHNSON, *THE BLACKWELL DICTIONARY OF SOCIOLOGY: A USER'S GUIDE TO SOCIOLOGICAL LANGUAGE* 295 (2d ed. 2000) (defining social structure in part as “a crucial defining concept for sociology as a way of thinking about social life”). Johnson also writes that: “The second structural characteristic of a social system includes various kinds of distributions. . . . In similar ways we can describe the structural distribution of various other products and resources of social life, from wealth and income and property to prestige and access to education and health care.” *Id.* See OLIVER & SHAPIRO, *supra* note \*, at 73-80 (discussing the social distribution of wealth).

46. See, e.g., Susan Saegert & Gary Winkel, *Paths to Community Empowerment: Organizing at Home*, 24 AM. J. COMMUNITY PSYCHOL. 517, 517 (1996), available at 1996 WL 12870927 (“Social scientists’ debates about the role of behavior in perpetuating the poor life chances of those who live in the worst inner-city neighborhoods are as persistent as the poverty that characterizes these areas.”).

47. See, e.g., George Gilder, *The Collapse of the American Family*, 89 PUB. INT. 20 (1987) (attacking females who head families and government welfare programs as deteriorating the family structure and contributing to successive cycles of poverty and destructive values).

48. See, e.g., WILLIAM A. KELSO, *POVERTY AND THE UNDERCLASS: CHANGING PERCEPTIONS OF THE POOR IN AMERICA* 5 (1994) (“In the early 1960s, academics on the right like Edward Banfield had insisted that the poor were afflicted by a ‘culture of poverty,’ which made it impossible for them to ever compete successfully in the workplace.”). See also William J. Wilson, *The Ghetto Underclass and the Social Transformation of the Inner City*, 19 BLACK SCHOLAR 10 (1988). Wilson argues against “culture of poverty” which asserts that a person’s “basic values and attitudes have been internalized and thereby influence behavior.” *Id.* at 16. Rather, Wilson prefers the theory of “social isolation.” Under this theory, the lack of social contact between blacks and whites and between classes “enhances the effects of living in a highly concentrated poverty area.” *Id.*

been framed as conservative by liberal thinkers. As Melvin Oliver and Thomas Shapiro and as Douglas Massey and Nancy Denton do, liberal thinkers perhaps focus less on individuals and more on social structural context. It is not that these liberal thinkers lack a familiarity with these so-called conservative approaches.<sup>49</sup> Rather, they find them less analytically tasty for the project that they undertake: *faulting* social structure (e.g., *white structural racism*).<sup>50</sup>

By ignoring the degree to which race consciousness works intimately and interdependently with social structures, studies by sociologists like Melvin Oliver, Thomas Shapiro, Douglas Massey, and Nancy Denton miss the ultimate point. By focusing only on social structures as explanatory variables (e.g., *white structural racism*) for the persistent of poverty, we become fixated on raw data.<sup>51</sup> We spend lots of time and money describing a world that could never exist without us. We may even look to political economy and the internationalization of domestic economies to explain structural shifts that deposit the respected poor permanently into the underclass. Unfortunately, these data, descriptions, and theories rarely if ever uncover profoundly new factors that might better explain why poverty persists. Any explanation, data, or description that ignores human agency and race consciousness must fail. Such meta-models hover over the problem, and at base the problem emanates from the manner in which we dream our possibilities. By focusing on social structures, we implicitly forgive the manner in which institutional forces (e.g., parents) convince citizens to accept limitation or to transcend astounding heights. By conjoining social structure and psychological factors in the co-creation and maintenance of poverty, we recognize that we can alter our reality, principally because reality pulses and

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49. See, e.g., MASSEY & DENTON, *supra* note \*\*, at 5-6 (discussing the poverty theories by Oscar Lewis, Daniel Patrick Moynihan, Edward Banfield, Charles Murray, and Lawrence Mead).

50. See JOE R. FEAGIN & HERNÁN VERA, *WHITE RACISM: THE BASICS* 16 (1995). In attributing most socio-psychological phenomena to white racism, Feagin and Hernán argue that:

Racism in thought and practice destroys the feelings of solidarity that people normally feel toward each other. A target of discrimination is no longer seen as "one of us." The other becomes less than human, a nonperson. White racism transforms the black self, the other-outsider into something less than the white self and reduces the black individual's humanity. Black individuals become "they" or "you people." Black men, women, and children become hated objects instead of subjects. White racism involves a massive breakdown of empathy, the human capacity to experience the feelings of members of an outgroup viewed as different. Racial hostility impedes the capacity to realize that "it could have been me."

*Id.*

51. Cf. Raymond S. Franklin, *White Uses of the Black Underclass*, in *A NEW INTRODUCTION TO POVERTY*, *supra* note 35, at 119, 136 ("'Hard' data suggest that the 'facts' of crime must be caused by the absence of 'mental' traits or enduring intergenerational 'cultural' transmissions; this, moreover, cannot be changed, even under favorable environmental conditions."); *id.* ("My point is that these are old beliefs dressed in new garb. There are other ways of presenting crime data that enhance our perspectives rather than feed our preexisting racial inclinations.") (citation omitted).

shifts constantly.<sup>52</sup> Reality lives like virgin, unmolded clay, and in the hands of the skilled artist, reality flows from the minds of its handler. Poverty thus becomes an aspect of social reality and flows from social structures because the structures have achieved one or more of their explicit or implicit probable goals.<sup>53</sup> By assuming that social structures like the relatively autonomy of state can operate without us, we fatally and falsely assume that external, objective forces constructed poverty and then selected blacks, minorities, and women as necessary victims. By examining the interrelationship between social structure and human agency, sociologists can begin to ask different questions, *viz.*, *who co-creates poverty?*

In addressing *who* co-creates poverty, I posit a troubling, uncompromising premise. This premise grows out of an empowering philosophy. *We co-create our own personal worlds and manifold social realities.*<sup>54</sup> Based on this philosophy, every human being *is* a very powerful reality creator,<sup>55</sup> and this premise cognizes no *victimizer* or *victimized*.<sup>56</sup> As such, whites do not victimize

52. See generally 1 ROBERTS, *supra* note 15.

53. Cf. DAVID BOHM, WHOLENESS AND THE IMPLICATE ORDER 148-49 (1995). As the late quantum physicist David Bohm wrote,

Consider, for example, how on looking at the night sky, we are able to discern structures covering immense stretches of space and time, which are in some sense contained in the movements of light in the tiny space encompassed by the eye (and also how instruments, such as optical and radio telescopes, can discern more and more of this totality, contained in each region of space).

There is the germ of a new notion of order here. This order is not to be understood solely in terms of a regular arrangement of *objects* (e.g., in rows) or as a regular arrangement of *events* (e.g., in a series). Rather, a *total order* is contained, in some *implicit* sense, in each region of space and time.

Now, the world 'implicit' is based on the verb 'to implicate.' This means 'to fold inward' (as multiplication means 'folding many times'). So we may be led to explore the notion that in some sense each region contains a total structure 'enfolding' within it.

*Id.*

54. See, e.g., Barbara Marciniak, *Pleiadians Book: Sage of Family of Light* 3 (Sept. 11, 1991), (visited May 23, 2001), available at <http://www.spiritweb.com/Spirit/pleiadians-part13.html>. Marciniak writes: "Many of you have been practicing the art of projection. That means that you blame someone else for what you have created. That is acting completely against all that we have taught you. No one else does anything to you ever. *You create your reality*. In order for you to get the body ready to move into the multi-dimensional version of self, you must stop judging it." *Id.* (emphasis added).

55. See 1 WALSCH, *supra* note 13, at 103 ("Have I told you *all thought is creative?*").

56. *Id.* at 75. According to Walsch,

The promise of God is that you are His son. Her offspring. Its likeness. His equal.

Ah . . . here is where you get hung up. You can accept "His son," "offspring," "likeness," but you recoil at being called "His equal." It is too much to accept. Too much bigness, too much wonderment—too much *responsibility*. For if you are God's *equal*, that means nothing is being done *to* you—and all things are created *by* you.

blacks. Likewise, blacks do not victimize whites. Blacks, whites, and others embrace a “race-focused consciousness,” and thus they lend their mental energies to poverty and residential segregation.<sup>57</sup> Once blacks, whites, and others have been steeped in the dominant social narrative, they work collectively, mostly unconsciously, to co-create poverty and residential segregation. In fact, the persistence of poverty and residential segregation depends on blacks, whites, and others thinking, talking, and acting in very narrow, limited, and disempowered ways.

Accordingly, we must vitiate and condemn words like *victims* and *victimization*. In this way, notwithstanding Massey and Denton’s thesis, *white racism* cannot explain extant poverty and residential segregation.<sup>58</sup> By looking to white structural racism, by projecting our thinking, talking, and acting onto others, we absolve ourselves of the degree to which our inner consciousness fuels personal worlds and manifold social realities. In these worlds and realities, blacks, whites, and others expect to face poverty, wealth, and residential segregation, and by so expecting, they actively, even if a meditative unconscious narrative, co-create them. By rejecting concepts like *victimizer* and *victimized*, we can choose to acknowledge that we are *powerful reality creators*. As powerful reality creators, blacks play active, co-creative roles in why poverty and residential segregation persist, and therefore in addressing *who co-creates poverty*, we must ask why very powerful reality creators like blacks and whites believe that poverty and residential segregation serve the grandest vision of angelic humans?<sup>59</sup>

Part I discusses and presents the foundational concepts on which these sociologists have premised *Black Wealth/White Wealth* and *American Apartheid*. Part II critically evaluates why these books rely heavily on social structure to explain the manner in which we have co-creatively racialized vast wealth, abject poverty, and racial segregation.<sup>60</sup> In so doing, *Black Wealth/White Wealth* and *American Apartheid* dismiss blacks from the race consciousness in which they must perform key players. As a corollary, we—all of us—can alter our personal

*There can be no more victims and no more villains—only outcomes of your thought about a thing.*

*I tell you this: all you see in your world is the outcome of your idea about it.*

*Id.* (emphasis in original).

57. See, e.g., SHELBY STEELE, *A DREAM DEFERRED* 3-4 (1998) (“[B]lack American leaders were practicing a politics that drew the group into a victim-focused racial identity that, in turn, stifled black advancement more than racism itself did.”).

58. See generally MASSEY & DENTON, *supra* note \*\*, at 1-16 (discussing and describing white racism as the missing link in the persistent of ghettos and the urban underclass).

59. See generally 3 CARROLL, *supra* note 7.

60. See, e.g., OLIVER & SHAPIRO, *supra* note \*, at 68 (“[W]e contend that the buried fault line of the American social system is who owns financial wealth—and who does not. The existence of such a wealthy class ensures that no matter the skills and talents, the work ethic and character of its children, the latter will inherit wealth, property, position, and power.”).

worlds and manifold social realities if we *choose* to do so.<sup>61</sup> By looking to social structure (e.g., *white structural racism*) as a juggernaut over which our race consciousness has very little immediate influence, we must patiently await a *deus ex machina* to save us from the poverty and residential segregation that we co-created. We may lay blame at God's feet, but the dirty hand that does so belongs to us. Part III invites the reader to consider if a New Age critical legal theory can enable us to change poverty and residential segregation.

I. "EXTERNAL," OBJECTIVE STRUCTURAL REALITY: WHITE RACISM AND THE PERSISTENCE OF POVERTY AND RESIDENTIAL SEGREGATION

A. *Introduction: Poverty and the Problem of Social Structure*

What is *poverty*? Is it material privations? Is it the absence of support, money, or goods? Does it connote that one lacks the material means for a proper existence?<sup>62</sup> If so, what does "material" mean? What does "support" mean? How little "money" must I have? What too few "goods" amounts to an absence? What is a "proper existence"? To whom should we look for these terms' meaning? Assuming that we can garner clear, uncontested meanings, who should provide what "material" means? Should it be the state? Should it be subject citizens? Should we look to the "free" market? Can we combine these probable sources? And if so, does one carry more weight than others? If as classic liberalism would argue that the state exists to provide a safe public sphere in which citizens can maximize their private preferences, then can a citizen's wealth maximizing behavior become the predominant factor of an analysis of poverty?<sup>63</sup> By thinking of poverty as an effect of political economy,<sup>64</sup> are we suggesting that we can only understand poverty by looking to the state?

In *Black Wealth/White Wealth* and *American Apartheid*, both authors ignored *who* co-created poverty. Likewise, by glossing over the human source to poverty, liberals ignore the concomitant question: *who is the poor?*<sup>65</sup> Rather, they, like

61. See generally ROBERT M. PIRSIG, *ZEN AND THE ART OF MOTORCYCLE MAINTENANCE: AN INQUIRY INTO VALUES* (1981).

62. See WEBSTER'S ENCYCLOPEDIA UNABRIDGED DICTIONARY OF THE ENGLISH LANGUAGE 1127 (1994) (defining poverty).

63. See, e.g., JOHN LOCKE, *TWO TREATISES OF GOVERNMENT* (Peter Laslett ed., 1965).

64. See, e.g., HENRY GEORGE, *PROGRESS AND POVERTY—THE REMEDY: AN INQUIRY INTO THE CAUSE OF INDUSTRIAL DEPRESSIONS AND OF INCREASE OF WANT WITH INCREASE OF WEALTH* (1898).

65. See KELSO, *supra* note 48, at 15 (In defining the poor, Mollie Orshansky of the Social Security Administration "argued that poverty was essentially a problem of absolute rather than relative deprivation. She believed that people should be considered poor if their income fell below some acceptable minimum dollar amount."); *id.* at 25-26 (In defining the underclass, and while noting that the underclass constitutes a heterogenous group, "all commentators agree that if there is any one trait that seems to characterize the underclass it is their unwillingness to flout the traditional norms of what society generally considers acceptable behavior. . . . Similarly, the public

other scholars<sup>66</sup> looked to “external,” objective reality, *viz.*, the state. By emphasizing the state’s role as if *Structure* existed independently from the manner in which we collectively think,<sup>67</sup> these scholars have missed the larger point.<sup>68</sup> Nevertheless, the state has played, and continues to play, a vital but non-exclusive role in the persistence of poverty. By state, I mean social structure, which in part means the manner in which social systems distribute resources like wealth, income, and property.

In *Black Wealth/White Wealth*, Melvin Oliver and Thomas Shapiro defined poverty by looking to racialized material inequality, and for these scholars, racialized material inequality originated in “external,” objective reality. They began by defining wealth and income. Wealth meant an individual’s and family’s access to life chances. Wealth constituted “a stock of assets owned at a particular time. Wealth is what people own.” Wealth indicates a family’s “command over financial resources that [the family] has accumulated over its lifetime along with those resources that have been inherited across generations.”<sup>69</sup> Wealth embraced two concepts: *net worth* and *net financial assets*. Net worth represented a complete inventory of all assets less debts. Net financial assets meant the “flow of money over time.” Income referred to a person’s wages, retirement, and social welfare. Wealth and income conjoined to

often finds the underclass to be strangers [alluding to Albert Camus’ existential work, *The Stranger* in the sense that they are at a loss for explaining their often self-destructive behavior.”).

66. See, e.g., Michael B. Katz, *Race, Poverty, and Welfare: Du Bois’s Legacy for Policy*, 568 ANNALS 111 (2000).

67. See Rainwater, *supra* note 39, at 11. Rainwater correctly argues:

In fact, one of the most interesting sources of latent patterns should be in the gap between the publicly accepted Theory and the actual structure found by an observer. The Theory generates as its main result an object of public definition which we have called a “way of life,” but which might be called in a more abstract vein the Theoretical structure, or even the ideal structure . . . [I]t will be called the Structure.

*Id.*

68. See Anthony Giddens, *A Reply to My Critics*, in SOCIAL THEORY OF MODERN SOCIETIES: ANTHONY GIDDENS AND HIS CRITICS 249, 256 (David Held & John B. Thompson eds., 1989) [hereinafter cited as Giddens, *A Reply*]. On the issue of whether social structure operates outside of human agency, Anthony Giddens aptly writes:

In criticizing my viewpoint, [Zygmunt] Bauman and [John] Thompson, in somewhat varying ways, pose the question: “what are the rules which *comprise* social structure?”; but this is not a question which makes any sense in terms of the notion I have proposed. I usually avoid using the term “social” structure, because this conforms too closely to a position I want to avoid, in terms of which structure appears as something “outside”, or “external”, to human action. In my usage, structure is what gives *form* and *shape* to social life, but it is not *itself* that form and shape – nor should “give” be understood in an active sense here, because structure only exists in and through the activities of human agents.

*Id.*

69. OLIVER & SHAPIRO, *supra* note \*, at 2.

create opportunities to “secure the ‘good life’ in whatever form is needed—education, business, training, justice, health, comfort, and so on.”<sup>70</sup> At base, Oliver and Shapiro defined wealth and income in this manner not only because they focused on racialized material inequality or poverty, but also because they placed wealth accumulation in its *historic* context.<sup>71</sup> In brief, *Black Wealth/White Wealth* examined that manner in which America’s social systems predicated wealth accumulation on racialized material inequality (or black poverty).<sup>72</sup>

In *Black Wealth/White Wealth*, state policies and white supremacy operated as “external,” objective reality, and in order to show why racialized material inequality (i.e., racialized poverty) originated out of a larger, dominant social narrative, one that still bears out present-day effects, Oliver and Shapiro analyzed wealth accumulation in the three contexts: racialization of state policy, economic detour, and sedimentations of racial inequality.<sup>73</sup> By looking at racialized material inequality in this context, they posited that wealth inequality flowed not only from sedimentation, but also from failed black entrepreneurship. This sedimentation and failure were birthed by state-sanctioned policies that favored white over black. In this way, these three contexts underwrote wealth inequality as officially sanctioned racialized state policies. Regardless of black-white inequality, these policies concentrated vast wealth in very small numbers. Ultimately, Oliver and Shapiro asserted forcefully that we must appreciate how wealth inequality created two worlds,<sup>74</sup> and without specific policies that will help blacks, that create asset accumulation opportunities, and that secure racial equality, we may face heightened conflict and social violence.<sup>75</sup>

In *American Apartheid*, Douglas S. Massey and Nancy A. Denton also focused on “external,” objective reality when they studied poverty (i.e., the black

70. *Id.*

71. *Id.*

72. See Valerie Polakow, *Savage Distributions: Welfare Myths and Daily Lives*, in A NEW INTRODUCTION TO POVERTY, *supra* note 35, at 241, 242-43. Polakow writes:

In 1993, 14.6 million children lived in poverty in the United States—nearly 9 million white children, 4.9 million black children, and 3.1 million Latino children, according to the Children’s Defense Fund. Although there are more white children actually living in poverty, the child poverty rates are far higher for children of color (46.6 percent for black children, 39.9 percent for Latino children, who may be of any race, and 16.9 percent for white children).

*Id.*

73. OLIVER & SHAPIRO, *supra* note \*, at 3-5.

74. *Id.* at 3-5.

75. *Id.* at 10 (“We can choose to let racial inequality fester and risk heightened conflict and violence. Americans can also make a different choice, a commitment to equality and to closing the gap as much as possible.”); MASSEY & DENTON, *supra* note \*\*, at 235-36 (“If segregation is permitted to continue, poverty will inevitably deepen and become more persistent within a large share of the black community, crime and drugs will become more firmly rooted, and social institutions will fragment further under the weight of deteriorating conditions.”).

underclass). Like Oliver and Shapiro, they looked to social structure—*white racism and prejudice*. Consider the Kerner Commission's conclusion, which Massey and Denton cited favorably: "white society is deeply implicated in the ghetto. White institutions created it, white institutions maintained it, and white society condones it."<sup>76</sup> In this way, black underclass life originated not necessarily from a culture of poverty,<sup>77</sup> but more than likely from structural mechanisms like residential segregation (e.g., "social isolation").<sup>78</sup> Put more emphatically, Massey and Denton assert that "[r]esidential segregation is the institutional apparatus that supports other racially discriminatory processes and binds them together into a coherent and uniquely effective system of racial subordination."<sup>79</sup> At base, without residential segregation, we would not have black ghettos. As a social system, residential segregation forms an American organizing principle that creates the urban underclass.<sup>80</sup>

In *Black Wealth/White Wealth* and *American Apartheid*, neither author treated poverty and the black underclass as jurisprudential or theoretical questions. They did not ask broad questions: "What is poverty?" or "Who creates poverty?" Rather, they addressed: "Why racialized material inequality?", and "Why the rise and continuance of the black underclass?"<sup>81</sup> Unfortunately, *Black Wealth/White Wealth* and *American Apartheid* overlooked human agency.<sup>82</sup> They implicitly rejected any notion that race consciousness fueled racialized wealth inequality and residential segregation. As a result, we must peer into the confined spaces between the data on which sociological treatments of poverty have relied to find different answers, while avoiding the narrow arguments that focus on morality, family structure, genetics, and social welfare policies.<sup>83</sup> By relegating dominant social structures *and* race consciousness to either conservatives or to non-traditional approaches, *Black Wealth/White Wealth* and *American Apartheid* more than suggest that "external," objective reality like white supremacy or white prejudice served as a better way to explain the persistence of racialized wealth inequality and the black underclass. In so doing, *Black Wealth/White Wealth* and *American Apartheid* constructed poverty so that

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76. MASSEY & DENTON, *supra* note \*\*, at 4.

77. *Id.* at 3-5.

78. See Wilson, *supra* note 48, at 16 ("'[S]ocial isolation' does not mean cultural traits are irrelevant in understanding behavior in highly concentrated poverty areas. Rather it highlights the fact that culture is a response to social structural constraints and opportunities.").

79. MASSEY & DENTON, *supra* note \*\*, at 8.

80. *Id.* at 9.

81. *Id.*

82. See Giddens, *A Reply*, *supra* note 68, at 256. Giddens, in arguing in favor of accounting for human agency, writes: "'Structure' has no descriptive qualities of its own as a feature of social life, because it exists only in a virtual way, as memory traces and as the instantiation of rules in the situated activities of agents. . . . The structural properties of social systems, however, are not themselves rules, and cannot be studied as rules." *Id.*

83. See generally Gilder, *supra* note 47.

we continually avoid asking different, difficult questions,<sup>84</sup> inquiries that would invite all of us to acknowledge that poverty exists because we believe in wealth and poverty and because we believe a maldistribution of wealth so long as we garner our personal chance to get rich.

Although these scholars avoid questions that I find more compelling, *Black Wealth/White Wealth* and *American Apartheid* broaden our horizons on poverty and residential segregation. While not jurisprudential, these scholars seek out the etiology of racialized material inequality (i.e., poverty) and the black underclass (i.e., urban poverty and residential segregation). Thus, when we consider both books, we must conclude that *Black Wealth/White Wealth* and *American Apartheid* occupy a special place in the sociological literature. Due to their clarity of insight, their judicious use of data, and their narrative force, these books should shift the manner in which we have traditionally discussed poverty and the black underclass, thus giving us a new way to understand persistent social problems—wealth inequality and residential segregation.

In so doing, Oliver and Shapiro in *Black Wealth/White Wealth* and Massey and Denton in *American Apartheid* offer us a soberly woeful sociological tale. It suggests that our laws may be insufficient.<sup>85</sup> At present, federal statutes and court rulings have barred many discriminatory practices.<sup>86</sup> Yet, Oliver and Shapiro illustrate how state-sponsored policies of racialized inequality and its resulting sedimentation of inequality will at this juncture persist even if we completely abandoned our conscious or unconscious racist practices.<sup>87</sup> Equally important, Massey and Denton reveal that racial segregation, the key to racialized isolation for urban blacks, will persist because whites self-consciously engage in practices that not only frustrate integration, but also make hypersegregation a social reality.<sup>88</sup> In *Black Wealth/White Wealth*, Oliver and Shapiro have clear goals. They wish to help blacks. They wish to encourage policies that promote asset accumulation opportunities at society's bottom. Ultimately, they wish to secure broad racial equality in the Twenty-first Century.<sup>89</sup> In *American Apartheid*, Massey and Denton urge us not only to commit to end black ghettos, all of which symbolize the effect of racial oppression, but also to better enforce the Fair Housing Act and to prosecute white racists vigorously when they harass

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84. For legal literature on the social construction of gender, sexual identity, and disability, see NANCY LEVIT, *THE GENDER LINE: MEN, WOMEN, AND THE LAW* (1998); John G. Culhane, *Uprooting the Arguments Against Same-Sex Marriage*, 20 *CARDOZO L. REV.* 1119 (1999); Robert L. Hayman, Jr., *Presumptions of Justice: Law, Politics, and the Mentally Retarded Parent*, 103 *HARV. L. REV.* 1201 (1990).

85. See, e.g., *United States v. McInnis*, 976 F.2d 1226 (9th Cir. 1992).

86. See, e.g., *Latimore v. Citibank, F.S.B.*, 979 F. Supp. 662 (N.D. Ill. 1997) (finding that plaintiff failed to make out a prima facie case of lending discriminatory based on a real estate appraisal that allegedly controlled for the racial composition of the neighborhood regardless of the favorable comparables).

87. See OLIVER & SHAPIRO, *supra* note \*, at 37-42.

88. See MASSEY & DENTON, *supra* note \*\*, at 10-11.

89. See OLIVER & SHAPIRO, *supra* note \*, at 9.

and intimidate blacks.<sup>90</sup>

In reviewing these books, I evaluate them separately, principally because while they both ultimately study poverty, each book has a different analytical focus. After this separate evaluation, I critically argue what I think is the central difficulty with *Black Wealth/White Wealth* and *American Apartheid*. That is, poverty and the underclass originate from social structures and institutional practices, and these structures and practices exist in an "external," objective reality over which the people, regardless of race, unless the person happens to be relatively rich and powerful, have little or no control. Without meaningful power, people, especially the poor, suffer constraints, all of which have their operating source outside of a poor person's purview. As a result, the poor live without meaningful choices, and without choices, the poor cannot attain equal opportunities not only for asset accumulation, but also for upward economic mobility. In all of these structures and practices, neither sociologists' accounts for human agency, for the role of race consciousness, or for meaningful thinking, talking, acting that informs, shapes, and influences not only what a person may expect to experience, but also how she experiences the reality that only she can absolutely co-create. Notwithstanding my critique, I endorse both books' sociological mission and their aspirational goals for racial equality.<sup>91</sup>

In the end, these scholars essentially posited that poverty originated from "external," objective reality (i.e., social structural policies). In so doing, they placed poverty beyond our personal control and outside of our human agency. By illustrating how thinking and experience are inextricably linked, *Black Wealth/White Wealth* and *American Apartheid* continue to construct poverty as traditional sociological treatments of poverty have done in the past. Unfortunately, we remain unaware that we co-create personal worlds and social realities in which we victimized ourselves unwittingly, not violently with the proverbial gun, but perennially with our minds.

### *B. Black Wealth/White Wealth: State-Sponsored Racialized Wealth Inequality*

1. *The Centrality of Wealth over Income.*—In *Black Wealth/White Wealth*, Oliver and Shapiro clearly argue that black wealth inequality originates in American Negro Slavery. It was in this state-sponsored institution that blacks were exploited by the state and white masters not only for their labor, but also for wealth maximization. After slavery, blacks fared little better, moving from *de jure* enslavement to *de facto* discrimination. Reconstruction relieved some of the odious black suffering, but it did not effectively end this inequality. At Reconstruction's demise, a Jim Crow world, backed by the state, denied blacks equal treatment, trapping them in poverty. In addition to poverty, blacks had

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90. See MASSEY & DENTON, *supra* note \*\*, at 217-18.

91. See generally Reginald Leamon Robinson, *The Racial Limits of the Fair Housing Act: The Intersection of Dominant White Images, the Violence of Neighborhood Purity, and the Master Narrative of Black Inferiority*, 37 WM. & MARY L. REV. 69 (1995).

fewer opportunities than whites. It is not just the absence of social and economic opportunities. Rather, it is the amassed wealth that whites acquired. During the Jim Crow era, blacks could not have had equal asset accumulation opportunities.

With the aid of the Fair Housing Administration, the HOLC, and financial institutions, whites acquired wealth producing assets like real property, and at the same time, these federal agencies worked purposely to prevent blacks from living in white neighborhoods. By not owning homes with equity, blacks were negatively impacted. They could not use their homes to accumulate wealth. Even if blacks owned homes, they could not maintain the home's fair market value and equity if banks refused to lend them money, especially for basic upkeep and major improvements. And when banks did lend, they practiced reverse redlining, forcing blacks to borrow at almost usurious rates from second and tertiary lending markets. When they could not afford to pay, banks foreclosed, forcing blacks to lose what asset accumulation could have been gained by leveraging their homes. In the end, Oliver and Shapiro posited that it is racialized state policies that permitted not all citizens but whites to maximize their wealth.<sup>92</sup>

By looking critically at slavery, white suburbs, and institutionalized racism in the banking industry,<sup>93</sup> Oliver and Shapiro simply began to make clear their focus: the fundamental material aspect of inequality.<sup>94</sup> It is not the story that blacks have not materially improved. Since 1930 to early 1970s, blacks have made material gains. Civil rights also ushered in the end of legal segregation, and as a result, blacks did improve their social station. Blacks also began to graduate for high school at the same rate as whites. Blacks and whites shared similar rates of attending college. However, since the mid-1970s, black college enrollment declined.<sup>95</sup> This decline correlated with 1970s economic shift, a recession that impacted blacks harder than whites. This impact difference revealed the value of Oliver and Shapiro's wealth focus. Since the 1970s, black economic gains have either deteriorated or stagnated. In addition to falling behind white wealth accumulation, blacks still suffered higher unemployment and residential segregation. Even if blacks had achieved income parity with whites, they tended to live in overcrowded and substandard housing. These persistent material differences move Oliver and Shapiro to conclude that *full equality* did not exist between blacks and whites.<sup>96</sup>

In *Black Wealth/White Wealth*, Oliver and Shapiro mandated that full equality must mean wealth equality. Full equality would help blacks; it would promote equal asset accumulation opportunity for this nation's bottom, no doubt including poor blacks, whites, and others.<sup>97</sup> Without full material equality, blacks suffered wealth decline at steeper rates than whites. Since the mid-

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92. See OLIVER & SHAPIRO, *supra* note \*, at 1-21.

93. See *id.* at 13-21.

94. See *id.* at 23.

95. *Id.* at 23-24.

96. *Id.* at 24-25.

97. *Id.* at 9.

1970s, the story has been bleak for blacks. Prior to this period, blacks were wage earners, but they simply were not accumulating wealth but earning incomes. And while they could escape some of the worst aspect of urban poverty, they still depended mainly on wage income. Accordingly, since the mid-1970s, with corporations coping with a slowing world economy and seeking to cut production costs, blacks faced slow wage growth and growing inequality between them and whites. In addition to slowing wage growth, young black men lost their jobs at a rate greater than young white men. As a result of this economic recession, the material inequality between blacks and whites increased, allowing the rich to reconcentrated wealth. During this period, the income gap between blacks and whites increased. In addition, the state cut social programs, truly hurting the already economically disadvantaged at society's bottom. For Oliver and Shapiro, this labor market and wage inequality cannot be explained by traditional culture of poverty argument, in which natural difference account for poverty.<sup>98</sup> They also did not truly embrace the idea that the current welfare state can redress this inequality.<sup>99</sup> Regardless, since the mid-1970s, a weak economy exposed the core effect of racialized state policies—the growing gap in black and white material inequality.

Given the history of racialized state policies, Oliver and Shapiro recognize that income studies will not enable us to promote full wealth equality between black and white families.<sup>100</sup> First, wages and salaries do not perforce become immediate wealth. Rather, they can create opportunities for asset accumulation.<sup>101</sup> For one reason, the top twenty percent received forty-three percent of all income, and the nation's poorest one-fifth earned about four percent of the total income.<sup>102</sup> Traditionally, sociologists and economists have studied income when they wanted to measure well-being, social justice, and equality.<sup>103</sup> Although income has been historically unequally distributed, wealth has been an even more unevenly distributed resource. Thus, we arrive at *Black Wealth/White Wealth's* analytical focal point—wealth. In studying wealth, Oliver and Shapiro wished to show that not income but wealth created and reinforced early racialized state policies,<sup>104</sup> approaches that we designed to benefit whites and to keep blacks economically dependent and financially impoverished.<sup>105</sup>

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98. *Id.* at 26-28.

99. *See* George, *supra* note 40, at 197-98.

100. *See* DALTON CONLEY, BEING BLACK, LIVING IN THE RED: RACE, WEALTH, AND SOCIAL POLICY IN AMERICA 118 (1999) ("Given that the large differences in net worth by race appear to overlay onto wealth disparities by family type, it is reasonable to suspect that assets may be playing a causal role in generating black-white differences in family structure.").

101. OLIVER & SHAPIRO, *supra* note \*, at 31.

102. *See id.* at 29.

103. *See id.* at 29-30.

104. *See id.* at 37-45.

105. *See id.* at 176 ("The shadow of race falls darkly, however, on the black underclass, whose members find themselves at the bottom of the economic hierarchy.").

By starting with racialized state policies, Oliver and Shapiro linked wealth to this nation's historical economic oppression of blacks and other racial minorities. In this regard, it would appear that Oliver and Shapiro's *Black Wealth/White Wealth* served as an excellent precursor to a reasonably palatable reparations argument.<sup>106</sup> Beyond this point, wealth and income differ. Wealth meant a person's total accumulated assets and access to resources. Wealth also referred to a person's net value of assets, viz., real estate, minus debt held at one time. Fundamentally, wealth meant real or intangible asset of economic value that can be brought, sold, traded, or invested, a thing that carried an economic return. Income meant the flow of money like salaries and wages over a set period, typically one year.<sup>107</sup> Given this difference, Oliver and Shapiro proffered three criticisms of income. First, only a presumed relationship existed between income and wealth. Second, without data on wealth, income cannot reveal the inequality of life chances between blacks and whites. Third, we can get wealth data, and so we do not have to rely on income distributions. By looking beyond income so that we can truly appreciate the degree to which racialized state policies have benefitted whites, Oliver and Shapiro examined the implications of studying wealth. While income allowed a person to manage day-to-day needs, wealth granted a person not only income but also power, leisure, and independence. While income has become an outgrowth of wealth so that a person may invest in commercial and industrial ventures, wealth conferred power on its owner,<sup>108</sup> and with wealth, one could transfer assets from generation to generation.<sup>109</sup> This intergenerational transfer can ensure "economic outpatient care"<sup>110</sup> to beneficiaries and devisees.

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106. *See id.* at 178 (suggesting that reparations talk following naturally as a "wholly defensible strategy" for dealing with racialized wealth inequality, especially because this inequality originates in the racialization of state policy that centered in and around slavery and Jim Crow practices). The authors state:

Given the historical nature of wealth, monetary reparations are, in our view, an appropriate way of addressing the issue of racial inequality. . . . This initial inequality has been aggravated during each new generation, as the artificial head start accorded to practically all whites has been reinforced by racialized state policy and economic disadvantages to which only blacks have been subject. We can trace the sedimented material inequality that now confronts us directly to this opprobrious past. Reparations would represent both a practical and a moral approach to the issue of racial injustice.

*Id.* at 88. *See also* RANDALL ROBINSON, *THE DEBT: WHAT AMERICA OWES TO BLACKS* (2000); Robert Westley, *Many Billions Gone: Is It Time to Reconsider the Case for Black Reparations?*, 40 B.C. L. REV. 429 (1998).

107. *See* OLIVER & SHAPIRO, *supra* note \*, at 30.

108. STANLEY & DANKO, *supra* note 36, at 2 ("Wealth is not the same as income. If you make a good income each year and spend it all, you are not getting wealthier. You are just living high. Wealth is what you accumulate, not what you spend.").

109. OLIVER & SHAPIRO, *supra* note \*, at 32, 67-90.

110. *See generally* STANLEY & DANKO, *supra* note 36, at 175-219 (defining "economic outpatient care" as intergenerational economic assistance from parents to children or beyond, and

2. *Racialization of State Policy and Wealth Inequality.*—Even if the state endorsed American Negro slavery and underwrote Jim Crow politics, how do we explain current disparity in wealth accumulation between blacks and whites? In address this question, Oliver and Shapiro critiqued “sedimentation of inequality” and “economic detour.” As in the foregoing section, Oliver and Shapiro focused on social systems, ones that favored whites over blacks, ones in which whites easily retreated to violence, ones from which blacks lacked sufficient means of escape. Alas, dominant social narrative not only determined historical movement, but also dictated an end from well-drawn beginning.<sup>111</sup>

Do slavery’s economic privations and Jim Crow’s institutional racism explains material equality between blacks and whites? In *Black Wealth/White Wealth*, Oliver and Shapiro must address this question, and they do. They must do so, especially if they advocated material equality. After reading this book, I suspect that it served as a vanguard to a complex race/class analysis to reparations talk.<sup>112</sup> Anyway, by focusing on wealth, we can appreciate not only racialized state policies that gave advantages to whites, but also placed this wealth advantage in historical context. In this context, we can account for race, class, and other historical factors, and in so doing, we avoid limiting our focus on race or class. According to Oliver and Shapiro, race and class alone cannot explain why whites have amassed more material wealth than blacks. By looking to wealth as the predominant methodological vehicle for explaining wealth inequality, Oliver and Shapiro targeted the source of racial inequality. With wealth as their focal point, we can conclude that historical and structural factors accounted for this wealth inequality between blacks and whites.<sup>113</sup>

Given the racialized state policies that involved not only slavery and Jim Crow politics, but also white prejudice and racial segregation, what currently

positing that most ordinary citizens who become millionaires do not receive intergenerational assistance).

111. See Peter Brooks, *The Law as Narrative and Rhetoric*, in *LAW’S STORIES: NARRATIVE AND RHETORIC IN THE LAW* 14, 19 (Peter Brooks & Paul Gewirtz eds., 1996) (“For our literary sense of how stories go together—of their beginnings, middles, and ends—may govern life as well as literature more than [Alan Dershowitz] is willing to allow.”).

112. See OLIVER & SHAPIRO, *supra* note \*, at 176. Oliver and Shapiro revealed this complexity of race and class when they argued:

[O]ur investigation of wealth has revealed deeper, historically rooted economic cleavages between the races than were previously believed to exist. The interaction of race and class in the wealth accumulation process is clear. Historical practices, racist in their essence, have produced class hierarchies that, on the contemporary scene, reproduce wealth inequality. As important, contemporary racial disadvantages deprive those in the black middle class from building their wealth assets at the same pace as similarly situated white Americans. The shadow of race falls most darkly, however, on the black underclass, whose members find themselves at the bottom of the economic hierarchy.

*Id.*

113. See *id.* at 33-36, 127-70.

explains the material inequality between blacks and whites? Traditionally, one could argue that socioeconomic factors like age, education, and income could account for this material difference. Yet, Oliver and Shapiro disagreed. They relied on SIPP wealth data, and after standardizing the data into four categories and after eliminating households headed by those under age sixty-five, they reached one conclusion: black and white income differences were insufficient to “explain the large racial wealth gap.”<sup>114</sup> Moreover, when blacks have incomes and wealth near whites, they have less than one-half the net worth and net financial assets of whites. As Oliver and Shapiro argued, blacks and whites “with equal incomes possess very unequal shares of wealth. More so than income, wealth holding remains very sensitive to the historically sedimenting effects of race.”<sup>115</sup>

3. *Economic Detour*.—America frustrated black entrepreneurship,<sup>116</sup> especially because private economic enterprises would threaten existing white interest. States adopted policies that created hostile economic climates in which blacks had to grow their business, and by which blacks sought to survive and feed their families.<sup>117</sup> Thus, state policies that barred blacks from lucrative markets, even though black businesses tried to provide services and goods comparable to larger markets against which they were required to compete for black consumers. With these barriers, blacks were required to take an “economic detour.” Based on Merah Stuart’s 1940 work, he defined “economic detour.”

This [exclusion from the market] is not his preference. Yet it seems to be his only recourse. It is an economic detour which no other racial group in this country is required to travel. Any type of foreigner, Oriental or “what not,” can usually attract to his business a surviving degree of patronage of the native American. No matter that he may be fresh from foreign shores with no contribution to the national welfare of his credit; no matter that he sends every dollar of his American-earned profit back to his foreign home . . . yet he can find a welcome place on the economic Broadway to America.<sup>118</sup>

According to Oliver and Shapiro, “[r]acist state policy, Jim Crow segregation, discrimination, and violence have punctuated black entrepreneurial efforts of all kinds. Blacks have faced levels of hardship in their pursuit of self-employment that have never been experienced as fully by or applied as consistently to other ethnic groups, even other nonwhite ethnics.”<sup>119</sup> For

114. *Id.* at 100-01.

115. *Id.* at 101.

116. *See id.* at 45 (“In American society one of the most celebrated paths to economic self-sufficiency, both in reality and in myth, has been self-employment.”).

117. *See id.* at 4-5. “When businesses were developed that competed in size and scope with white businesses, intimidation and ultimately, in some cases, violence were used to curtail their expansion or get rid of them altogether.” *Id.* at 5.

118. *Id.* at 46-47.

119. *Id.* at 45.

example, in the *Red Record*, Ida B. Wells Barnett chronicled how blacks were lynched after they opened a general goods store across the street from a white stores. Within no time, they prospered, and rather than compete more efficiently, whites used trumped charges and a charged moment to gun down the three black male owners.<sup>120</sup> This postbellum era tale typified how black self-employment faced hurdles well into the 1900s.<sup>121</sup> In recent years, scholars have expressed renew interest in the Tulsa, Oklahoma's Black Wall Street,<sup>122</sup> the Greenwood residential and commercial district that whites destroyed based on the flimsiest tale that a black man had attacked a white woman.<sup>123</sup> Given the Jim Crow era in which these ugly tales of white racial violence took place, it must be understood that official state policies created hostile business environments for black self-employment. They had to serve black markets. By restricting access to mainstream markets, a denial that the state did not foist on whites and other ethnic groups,<sup>124</sup> black entrepreneurs had to settle for minorities markets that had limited by size and resources. By restricting the degree to which black businesses could expand and by constricting the financial stream into these businesses, the state effectively limited "the wealth-accumulating ability of African Americans."<sup>125</sup>

For Oliver and Shapiro, we have the wrong image of black self-employment, principally because racialized state policies and because successful ethnic immigrants. Despite the racialization of state policies, blacks historically have pursued self-employment, the road to economic independence and self-sufficiency. In fact, they worked like any other immigrant groups. Yet, notwithstanding the hostility that they faced, immigrant groups were still accorded better economic treatment than blacks by whites. In the traditional literature, white scholars have looked favorably at Jewish and Japanese immigrants, treating them as successful ethnic entrepreneurs. In this literature,

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120. See OLIVER & SHAPIRO, *supra* note \*, at 49 ("Black business success in [Wilmington and Tulsa] both threatened white business competitors and provoked racial fears of poor whites."); IDA B. WELLS-BARNETT, *ON LYNCHINGS* (August Meier ed., 1969).

121. See OLIVER & SHAPIRO, *supra* note \*, at 4.

122. See *id.* at 49.

123. See *id.* at 50.

124. See OLIVER & SHAPIRO, *supra* note \*, at 46. Oliver and Shapiro effectively point out that: Immigrant groups like the Japanese in California and the Chinese in Mississippi responded to the societal hostility (e.g., discrimination) against them by immersing themselves in small business enterprises. But unlike blacks, as John Butler states in his *Entrepreneurship and Self-Help Among Black Americans*, "they were able to enter the open market and compete." They faced few restrictions to commerce. They could penetrate as much of a market as their economic capacity and tolerance for risk could accommodate. They thus carved comfortable economic niches and were able to succeed, albeit on a moderate scale.

*Id.*

125. *Id.* at 5.

these positive ethnics have been juxtaposed against black failure.<sup>126</sup> The literature treats blacks as “socially deficient and constitutionally impaired when it comes to creating flourishing businesses.” Now, native blacks fare poorly against new arriving immigrants from Cuba, Jamaica, and Korea.<sup>127</sup>

Notwithstanding these comparisons and the misunderstood history of black self-employment, Oliver and Shapiro tied any spotty track record to racialized state policies.<sup>128</sup> First, they pointed out that blacks have succeeded despite such policies. They illustrated this success by looking to Philadelphia and Cincinnati. “In 1840 half of Cincinnati’s black population were freedman who had begun acquiring property and building businesses. By 1852 they held a half million dollars worth of property.”<sup>129</sup> Second, black also created capital formation opportunities. They formed mutual aid societies and “an independent black banking system.” Unfortunately, these antebellum wealth-creating opportunities suffered as “economic detour” arrived, producing laws that frustrated black investment opportunities, that denied blacks access to the stock market, and that prevented blacks and former slaves from practicing their artisan skills as a trade.<sup>130</sup> Nevertheless, between 1867 to 1917, blacks still pursued self-employment, even though they were relegated to providing goods and services to an all black clientele.<sup>131</sup> In the 1940s, blacks prospered commercially and financially in Durham, North Carolina.<sup>132</sup> Whether the spotty success of black businesses, they threatened whites, and invariably racial conflict destroyed early foundations for wealth accumulation. After the Wilmington Riots of 1898 and the Tulsa Riots of 1921, white businesses filled the commercial void, effectively benefitting from racialized state policies that encouraged not only violence and massacre, but also market restrictions and legal constraints. In the end, Oliver and Shapiro would correctly argue that deeply rooted (or sedimented) racial ignorance, fear, and hatred undermined black self-employment by detouring them from lucrative mainstream markets and from equal wealth maximizing opportunities.

4. *Sedimentation of Wealth Inequality.*—For Oliver and Shapiro, sedimentation of inequality analytically grounded their claim that blacks cannot reach material parity with whites. As such, it is not enough that Oliver and Shapiro clearly showed that the middle class and the wage earning class possessed vastly different amounts of material wealth.<sup>133</sup> For example, they

126. *But see, e.g.*, KATHERINE S. NEWMAN, *NO SHAME IN MY GAME: THE WORKING POOR IN THE INNER CITY* (1999).

127. *See, e.g.*, MARY C. WATERS, *BLACK IDENTITIES: WEST INDIAN IMMIGRANT DREAMS AND AMERICAN REALITIES* (1999).

128. OLIVER & SHAPIRO, *supra* note \*, at 48 (“The overwhelming odds that black business owners faced render all the more resounding the victories that they were able to achieve.”).

129. *Id.* at 47.

130. *Id.* at 48.

131. *See id.*

132. *See id.* at 49.

133. *See id.* at 67-90.

stated that the "top 1 percent of America's families control two-thirds of the wealth. The top 1 percent collected over 4 times their proportionate share of income, but hold over 11 times their share of net worth and over 11 times their share of the net financial assets."<sup>134</sup> Although it is not clear why Oliver and Shapiro used "their share," it is clear that the middle class lacked the same financial assets of the elite economic cohort.<sup>135</sup> They must also then argue that despite this very precarious state of the middle class, the wealth difference between blacks and whites was staggering. They did, and it was a tale of two nations, one in which the black middle class rested on an economic footing that was precarious, marginal, and fragile.<sup>136</sup> This poor economic footing depended not on financial assets but on income. As such, the black middle class's net worth rested on home equity because the income-dependent and white-collar middle class only controlled petty financial assets (e.g., a car). "Without wealth reserves, especially liquid assets, the black middle class depends on income for its standard of living. Without the asset pillar, in particular, income and job security shoulder a greater part of the burden."<sup>137</sup> It was the white-collar occupations that disclosed real inequality. The "black middle class owns fifteen cents for every dollar owned by the white middle class."<sup>138</sup> Owing to this difference, whites can survive longer with a sudden income lost.<sup>139</sup> Although 1984 blacks owned three percent of all the accumulated wealth and received 7.6 percent of the total money earned, making up eleven percent of the households, the black-white wealth inequality still remained.<sup>140</sup>

Can sedimentation of inequality explain this wealth gap? If we would begin with slavery and Jim Crow politics, Oliver and Shapiro contended that blacks cannot close this wealth gap. This inequality sediment carried with it a cumulative effect. It cemented blacks at our society's material bottom. They

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134. *Id.* at 68-69.

135. *Id.* at 70. Of the three middle-class groups, income-determined, college-educated, and occupationally-defined, Oliver and Shapiro argue that:

[T]he income-determined middle class possesses \$39,700 in net worth and \$5,399 in net financial assets. It also surveys the capacity of net financial reserves to support (1) present middle-class living standards and (2) poverty living standards. In the event of a financial nightmare in which incomes were suddenly shut off, families in the income-defined middle class could support their present living standards out of existing financial resources for only two months. They could endure at the poverty level [of \$968.00 per month] for 5.6 months.

*Id.*

136. *See id.* at 92-93.

137. *Id.* at 95.

138. *Id.* According to Oliver and Shapiro, "[w]hen one defines the middle class as those with college degrees, the most numerically restrictive definition, one finds that the white middle class commands \$19,000 more [net financial assets]; using the broadest definition, white-collar occupations, the white middle class controls nearly \$12,000 more." *Id.*

139. *See id.* at 97.

140. *See id.* at 97-98.

argued: "Wealth is one indicator of material disparity that captures the historical legacy of low wages, personal and organizational discrimination, and institutional racism."<sup>141</sup> Best efforts notwithstanding, black wealth inequality represented the present-effects of historic black oppression. Even when blacks attempted to work as entrepreneur, whites used intimidation, violence, and the law to deny them access to mainstream markets, the income source on which immigrant classes have depended.<sup>142</sup> In this way, whites denied black capital formation on which a prosperous black middle could have been built.<sup>143</sup> More than organized violence, sediment inequality structurally advantaged whites over blacks. For example, in the 1940, the Federal Housing Administration ("FHA") privileged white home owning interest in a way that relegated, as Massey and Denton point out, blacks to urban ghettos. Oliver and Shapiro described the consequential inequality of sediment wealth: the "postwar generation of whites whose parents gained a foothold in the housing market through the FHA will harvest a bounteous inheritance in the years to come."<sup>144</sup>

Coupled with intergenerational asset transfers and the re-concentration of wealth in the 1980s, sediment inequality will remain a damaging, if not a lagging, element for wealth equality between blacks and whites. Slavery denied blacks any right to control their economic destiny. Jim Crow vanquished any hope raised by the post-Civil War Amendments that blacks could rely on legal equality, self-help, and entrepreneurial ingenuity to accumulate financial assets. Beginning in the 1940s, the FHA, HOLC, and financial institutions worked collectively to institutionalize not only white privilege but also racialized net worth and net financial assets.<sup>145</sup> Organized violence gave effect to other tools like restrictive covenants and associations that could not get blacks out of traditionally all-white neighborhoods. With the Internal Revenue Code, whites could exploit equity, a liquidity that they could use to ensure educational opportunities for their children.<sup>146</sup> Given this wealth advantage, whites could much more easily survive the economic contraction of the mid-1970s. In the

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141. *Id.* at 5.

142. *See id.* at 45-50.

143. *See id.* at 47-48.

144. *Id.* at 49-50.

145. *See id.* at 136-47 (discussing the continuing problem of lending discrimination, interest rate differentials based on race, credit worthiness, and home equity appreciation disparity based on neighborhoods and race).

146. *Id.* at 153. Oliver and Shapiro observed:

Wealth used thus to enhance a child's "cultural capital" helps provide a good start in life and can lay a good deal of the groundwork for financial success and independence later on. People often told us about the schooling, weeks at camp, after-school classes and sport, trips, and other experiences that they had enjoyed as kids and wanted to provide for their children. All parents pass along cultural capital to their offspring. Of the common enrichment that parents can provide, education is the most expensive, and it is where we found the most differences.

1960s and later, blacks who needed additional support relied on social welfare, and in order for blacks to qualify as the deserving poor, AFDC (Aid for Dependents with Children) required that blacks deplete their assets (e.g., savings). For Oliver and Shapiro, four factors linked racialized state policies and sedimentation of wealth inequality.

From the era of slavery on through the failure of the freedman to gain land and the Jim Crow laws that restricted black entrepreneurs, opportunity structures for asset accumulation rewarded whites and penalized blacks. FHA policies then thwarted black attempts to get in on the ground floor of home ownership, and segregation limited their ability to take advantage of the massive equity build-up that whites have benefited from in the housing market. As we have also seen, the formal rules of government programs like social security and AFDC have had discriminatory impacts on black Americans. And finally, the U.S. tax code has systematically privileged whites and those with assets over and against asset-poor black Americans.<sup>147</sup>

Given this difference, blacks do not have assets to bequeath (e.g., money and personal property) or to devise (i.e., real property) to successive generations, and thus they cannot achieve upward class mobility equal to whites. In the end, sedimentation represented the weight of history that undermines efforts to create racialized wealth equality.

### *C. American Apartheid: Persistent Racial Segregation and Spatially Concentrated Poverty*

Does racial segregation, as an institutional practice, explain not only the rise but also the persistence of the black ghetto? In *American Apartheid*, Massey and Denton answer this question affirmatively and clearly. Racial segregation explains these residential and economic conditions.<sup>148</sup> Yet, we must acknowledge, as does Massey and Denton, that racial segregation has many social and historical layers. Nevertheless, for Massey and Denton, racial segregation constitutes the essential way to explain not only the origins of dark ghettos,<sup>149</sup> but also precursor to hypersegregation. In presenting the manner in which Massey and Denton carefully and analytically argue this major premise, I will proceed along the following sociological path: how whites constructed black ghettos,<sup>150</sup> how the ghetto persists in a racist society,<sup>151</sup> how social structures contribute to the continuing causes of segregation,<sup>152</sup> how social

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147. *Id.* at 174.

148. *See generally* MASSEY & DENTON, *supra* note \*\*.

149. *See generally* KENNETH B. CLARK, DARK GHETTO: DILEMMAS OF SOCIAL POWER (1965).

150. *See* MASSEY & DENTON, *supra* note \*\*, at 74-78.

151. *See id.*

152. *See id.* at 83-114.

structures create underclass communities,<sup>153</sup> how social structures perpetuate the underclass,<sup>154</sup> how federal public policy fails to eradicate hypersegregation,<sup>155</sup> and how social structures open communities and eliminate discrimination from public life.<sup>156</sup>

1. *Constructing the Black Ghetto.*—What constructed the black ghetto? Likewise, who constructed the black ghetto, from which even middle-class blacks cannot escape? In *American Apartheid*, Massey and Denton provides us with a clearly structural answer: *white racism*. And white racism expresses itself in this context as *racial segregation*. Keep in mind that racial segregation represents a complex problem. That is, racial segregation explains the intense isolation and extreme spatial concentration of black poverty. By poverty, they mean underclass status, and by spatial concentration, they mean ghettos, an idea that simply comes to mean that one racial group lives almost exclusively in a given geographic area. For Massey and Denton, racial segregation centers the problem of black poverty for a number of reasons, and it is their point to show how persistent racial segregation links itself inextricably with racially discriminatory practices that were specifically designed to create intense racial isolation, *viz.*, black ghettos.

First, before 1900, racial segregation did not exist, and therefore we had to construct the ghetto. Although one could identify neighborhood in which blacks lived, few areas existed in which blacks exclusively lived. During this time, blacks and whites, living most in the South, shared common social worlds, “spoke a common language, shared a common culture, and interacted personally [and regularly].”<sup>157</sup> After the Civil War, black-white living patterns changed not only because slavery no longer defined social roles, but also because employment patterns drove blacks into very poor housing stock. Nevertheless, while master-slave relationship were destroyed by the Civil War Amendments, the boss and worker moved relatively seamlessly into its place, and blacks and whites still maintained unequal but direct personal contact with each other.<sup>158</sup>

Supported by complex social forces, racial segregation begins with black ghettos. In the south, Jim Crow politics and violence did not immediately mandate that blacks live in ghettos. In the north, whites needed black ghettos. Immigrant ghettos existed, but they were not exclusively Irish or Italian. As their numbers increased, whites, newly arriving immigrants too, felt ill at ease. If industrial captains’ use of black workers as strike breakers did not heighten white hostility and fear, then their increasingly large number certainly did. Southern out-migration drove them north. Newspapers added to the suspicion by printing retelling of black crimes and vices. Violence like the St. Louis Riot deepened the racial divide, and soon blacks faced hard times when they sought education, jobs,

153. *See id.* at 115-47.

154. *See id.* at 148-85.

155. *See id.* at 186-216.

156. *See id.* at 217-36.

157. *Id.* at 17-18, 19-26.

158. *See id.* at 26.

and housing. Not just poor but rich blacks too faced this color-line and violence, and it was increasingly white violence that drove blacks from white neighborhoods. Among more civilized whites, they rejected violence in favor of voluntary associations, zoning ordinances, boycotts, deed restrictions, and restrictive covenants.<sup>159</sup> With the ruling in *Buchanan v. Warley*,<sup>160</sup> local ordinances were ruled unconstitutional, and with *Shelley v. Kraemer*,<sup>161</sup> restrictive covenants suffered the same fate.<sup>162</sup>

Nevertheless, local real estate board adopted tactics to frustrate racial integration, and then they found ways to profit from it by engaging in "blockbusting." While these rulings slowed the rate at which social factors constructed black ghettos, white racist tactics and structural factors were still at work in the north and south, keeping pace with economic factors like industrialization and urban development patterns.<sup>163</sup>

Until post-WW II, America's white racism arrayed formidable barriers like violence and neighborhood improvement associations to prevent blacks were integrating all white neighborhoods.<sup>164</sup> However, after WWII, a new structural barrier denied blacks access to single-family homes as well as better neighborhood with descent housing. Under this new structural barrier, private industry allied itself with the federal government. According to Massey and Denton, this structural alliance responded eagerly to white demands for new homes. Private industry built new homes, and whites bought with loan programs from the Federal Housing Administration ("FHA") and the Veterans Administration ("VA"). White cars, new highways pulled whites as well as industry out of the cities.<sup>165</sup> In addition to federal authorities, institutionalized racism within the real estate associations meant that real estate agents worked comfortably with white homeowners who did not wish to sell to blacks and who preferred to live in all white neighborhoods.<sup>166</sup> Financial institutions like banks and savings and loan associations frustrated integrationists blacks by denying them loans. Basically, between 1940 and 1970, institutionalized racism operated not only with federal authorities and financial institutions, but also within local real estate boards and urban housing markets.<sup>167</sup>

If institutional racism within federal authorities, financial institutions, and urban housing markets worked to undermine an integration principle, they

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159. *See id.* at 26-37.

160. 245 U.S.60 (1917).

161. 334 U.S. 1 (1948).

162. *See* MASSEY & DENTON, *supra* note \*\*, at 41-42.

163. *See id.* at 40-41.

164. *See id.* at 42-43.

165. *See id.* at 43-45.

166. *See id.* at 48-50 ("In their personal view, the realtors studied by Helper appeared to share the prejudices of their white clients. Some 59% of her respondents rejected racial integration in principle, and 84% espoused an ideological stance that supported the exclusion of blacks from white neighborhoods.").

167. *See id.* at 50-51.

equally labored to force blacks into urban ghettos. In the 1930s, the federal government developed programs like Home Owners' Loan Corporation (HOLC), which increased home ownership by refinancing urban mortgages near default status and by granting low interest low to foreclosed owners so that they could regain their lost property. And the HOLC instituted "redlining" practices that made loans based on four risk categories,<sup>168</sup> but the central risk was racial integration. Like the HOLC, the FHA's *Underwriting Manual* favored "stable" neighborhoods, a proxy for same class, all white homeowners.

Accordingly, black neighborhoods or working class neighborhoods that bordered on black settlements were consistently placed in the fourth category and redlined. An HOLC private confidential reported concerned itself with expanding black population and maintaining fair market values. The HOLC influenced how lending institutions made loans by sharing their "Residential Security Map" with the industry, and without the benefit of FHA and VA loans,<sup>169</sup> the ever growing black population could not effectively leave densely occupied black neighborhoods.<sup>170</sup> And once they were locked into black ghettos, banks divested themselves from these communities so that blacks could not acquire loans for basic home repairs, and once in disrepair, black homes lost their value, affecting their ability to sell their homes.<sup>171</sup> In the 1950s, these institutional practices led to urban decline and white flight. In response, urban renewal (or Negro removal) program would end black ghettos through public housing; yet, this program eliminated housing stock and displaced citizens. In the end, it created federally sponsored "second ghettos."<sup>172</sup> In effect, when we couple these practices with urban renewal programs and the 1960s urban riots, the HOLC and other major institutions formed the basis on which the Kerner Commission emphatically declared that among other factors, social and economic problems flowed from *racial segregation*.<sup>173</sup> Enter the Fair Housing Act of 1968.<sup>174</sup>

Despite the 1968 Act, racial segregation still continues virtually unabated,<sup>175</sup>

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168. *Id.* at 51. According to Massey and Denton,

Four categories of neighborhood quality were established, and lowest was coded with the color red; it and the next-lowest category virtually never received HOLC loans. The vast majority of mortgages went to the top two categories, the highest of which included areas that were "new, homogenous, and in demand in good times and bad" (to HOLC this meant areas inhabited by "American business and professional men"); the second category consisted of areas that had reached their peak, but were still desirable and could be expected to remain stable.

*Id.*

169. *Id.* at 51-55.

170. *See id.* at 41-49.

171. *See id.* at 54-55.

172. *Id.* at 55-57.

173. *See id.* at 57-59.

174. *See id.* at 192-200.

175. *See id.* at 96-109.

and Massey and Denton posit that racial discrimination must be its primary cause. Whites dispreferred to live with a large percent of blacks, and blacks prefer integrated communities. Accordingly, "when a black family moves into a formally all-white neighborhood, at least one white family's tolerance threshold is exceeded, causing it to leave."<sup>176</sup> Unfortunately, once whites leave, black homeowners replace them, and rather than leading to an integrated community, the all-white neighborhood becomes a black one. Massey and Denton describe Thomas Schelling's failed integration model.

Given strong black preferences for integrated housing, this departing white family is likely to be replaced by a black family, pushing the black percentage higher and thereby exceeding some other family's tolerance limit, causing it to leave and be replaced by another black family, which violates yet another white family's preferences, causing it to exit, and so on.<sup>177</sup>

Yet, Massey and Denton argued that Schelling's model failed to account for the social structural mechanism that internalized active white prejudice. That is, whites can only abandon no longer all-white neighborhoods if they can escape to another still all-white neighborhoods. In addition to white prejudice and intolerance, what mechanism kept blacks out of newly created all-white communities? Besides structural forces like the real estate market, one mechanism is violence. White racist attitudes, all-white neighborhoods, and perceptions inferior blacks correlate to produce violence.<sup>178</sup> In some cases, these three factors have combined to create Section 3631 violations, some of which the federal government successfully prosecuted.<sup>179</sup> Yet, even if we do not experience intimidating violence or disinviting notices like "No Niggers Allowed," whites rely on subtle mechanisms like discouraging smiles or attitudes.<sup>180</sup> Whites will often lie or deceive interested blacks, or they will steer them to other neighborhoods.<sup>181</sup> In the 1980s, housing audits discovered how pervasive housing discrimination remained for blacks.<sup>182</sup> And when banks dry up credit if they perceive a neighborhood as unstable (e.g., transitioning from all-white to integrated), or if they deny credit to whites who wish to live in racially-integrated

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176. *Id.* at 96.

177. *Id.*

178. *See generally* Robinson, *supra* note 91, at 69.

179. *See id.* at 144-55.

180. *See, e.g.,* Reginald Leamon Robinson, *White Cultural Matrix and the Language of Nonverbal Advertising in Housing Segregation: Toward an Aggregate Theory of Liability*, 25 *CAP. U. L. REV.* 101 (1996).

181. *See* MASSEY & DENTON, *supra* note \*\*, at 97-98.

182. *See id.* at 99-107. "One developer working near Chicago's South Side black community refused to deal with blacks at all: blacks were *always* told that no properties were available, even though 80% of whites were shown real estate. In the same 1988 study, realtors told 92% of whites that apartments were available but gave this information to only 46% of blacks." *Id.*

communities, then social institutions structurally resegment neighborhoods.<sup>183</sup> After facing these obvious and subtle structural forces, blacks abandon their desire to purchase a home.<sup>184</sup>

And even when blacks don't abandon their quest to find suitable housing stock outside of the black ghetto, they will more than likely not find a racially-mixed neighborhood. Blacks are more racially segregated than any other racial group. This segregation rises to such a level of intensity that Massey and Denton describes this social phenomenon as "hypersegregation."<sup>185</sup> Hypersegregation has five dimensions: *unevenness* (blacks over- or underrepresentation in neighborhoods); *isolation* (blacks rarely share neighborhoods with whites); *clustered* (blacks form one large contiguous enclave or scattered site housing); *concentrated* (blacks live in a very small area or settle sparsely throughout an urban environ); and *centralized* (blacks live in a spatially focused area around an urban core or along its periphery).<sup>186</sup> Blacks live in segregated neighborhoods on these five dimensions simultaneously.<sup>187</sup> As a result, blacks cannot exit from these communities; or at least, they cannot escape into integrated communities. Using tactics of the post-WWII era, whites use discriminatory practices to keep blacks out of their neighborhood, and whites refuse to live near black neighborhoods. At the very least, by conjoining these discriminatory practices and an unwillingness to live with blacks, white racial prejudice effectively reproduces the black ghetto. What keeps blacks in these neighborhoods is white racism, structural mechanisms, and institutional practices.<sup>188</sup> In the end, hypersegregation means that black ghetto will spatially organize black urban living.<sup>189</sup>

According to Massey and Denton, the structural factor that underlies the constructing of the black ghetto is white racial prejudice, a racially discriminatory attitude that finds support in existing institutional mechanisms.<sup>190</sup> In this way, unlike Oliver and Shapiro wrote relied on a race/class critique of racial material inequality, Massey and Denton posit that race explains continuing residential segregation more than class.<sup>191</sup> "When it comes to housing and residential patterns, therefore, race is the dominant organizing principle. No matter what their ethnic origin, economic status, social background, or personal characteristics, African Americans continue to be denied full access to U.S.

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183. *See id.* at 105-08.

184. *See id.* at 109.

185. *Id.* at 74.

186. *See id.*

187. *See id.* at 74-78.

188. *See id.* 81-82.

189. *See id.* at 144 ("But then as now, the persistence of racial segregation in the housing market has meant that middle-class blacks are less able to isolate themselves from the poor than the middle classes of other groups. As a result, middle-class blacks live in much poorer neighborhoods than do middle-class whites, Hispanics, or Asians.").

190. *See id.* at 109-14.

191. *See id.* at 84-96.

housing markets. . . . The end result is that blacks remain the most spatially isolated population in U.S. history."<sup>192</sup>

2. *The Rise and Persistence of the Black Underclass*.—For Massey and Denton, institutional racism gave rise to the black underclass, and this social phenomenon persists today because institutional forces still operate against minorities. As Massey and Denton aptly pointed out in *American Apartheid*, racial segregation represents the endpoint of concerted institutional racism to deny blacks access to all white neighborhoods, and this institutional practice was to be ameliorated by the Fair Housing Act of 1968. By 1973, it was clear that the Act was failing. Yet, despite this Act and its later reforms, we can still comfortably conclude that American remains a racially segregated nation.<sup>193</sup> Given the depths to which white prejudice pervades institutional practices and socio-structural mechanisms, residential segregation remains not only an extant social problem, but also the etiology for the black underclass.

Therefore, in addressing the origins and persistence of the black underclass, we must as Massey and Denton does look to the black ghetto. In it, we find root causes, sources that originate outside of the black community, sources that are structural and institutional in nature. After 1973, any increase in poverty gave rise to economic divestment. Contractions turned into extreme privations. "Joblessness, welfare dependency, and single parenthood become the norm, and crime and disorder are inextricably woven into the fabric of daily life."<sup>194</sup>

Yet, Massey and Denton insist that the rise and persistence of the black underclass grew out of deliberate structural and institutional policies. First, I will address the rise of the black underclass, and then I discuss why in Massey and Denton's estimation it persists. First, by isolating blacks, even at very low segregation levels, the neighborhood environment immediately deteriorates. Moreover, blacks experience greater levels of poverty in racially segregated neighborhoods. In all black neighborhoods, all blacks suffer high levels of poverty. Yet, "one-third of whites who live in all-white neighborhoods experience the lower white poverty rate of [ten percent]."<sup>195</sup>

Another factor in the rise of the black underclass is race and class segregation. How does these kinds of segregation contribute to the making of the black underclass? According to Massey and Denton, racial segregation concentrates black into small spatial areas, and this concentration raises poverty to which blacks will be exposed. It correspondingly lowers the interpersonal contact between blacks and whites. "By itself, racial segregation concentrates poverty in *black* neighborhoods, but the addition of class segregation concentrates poverty primarily in *poor black* neighborhoods. By adding class segregation to the simulation exercise, we exacerbate the degree of poverty concentration that is imposed on poor blacks because of racial segregation."<sup>196</sup>

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192. *Id.* at 114.

193. *See id.* at 200-12.

194. *Id.* at 118.

195. *Id.* at 122.

196. *Id.* at 124.

However, Massey and Denton stress that race makes for concentrated black neighborhood isolation and poverty. Class heightens and reinforces what white racism and institutional structures make and sustain.<sup>197</sup> As Massey and Denton conclude:

[R]acial segregation concentrates poverty, and it does so without anyone having to move anywhere. With or without class segregation, residential segregation between blacks and whites builds concentrated poverty into the residential structure of the black community and guarantees that poor blacks experience a markedly less advantaged social environment than do poor whites.<sup>198</sup>

In creating black underclass, we must see how racial segregation correlates with other existing structural factors like housing abandonment and crime interact with poverty rates. To this degree, racial segregation conjoins with self-perpetuating downward spirals. As such, all critical factors interact, each feeding and reinforcing the others, so that when one landlord divests from a poor, working-class neighborhoods, others quickly follow suit. For example, let's consider a working-class neighborhood begins to experience a transition from white to black. Prior to the transition, this neighborhood may be well maintained by owners and residents. Yet, if the newcomers have less income, then homeowners may have fewer resources for building maintenance. Other landlords may follow suit. Unkept yards soon share company with physical disrepairs like peeling paint. Dilapidated buildings signal economic defections, and then the downward spiral may become meteoric. Small economic decisions yield broad spectrum and negative results. "At some point, a threshold is crossed, beyond which the pattern becomes self-reinforcing and irreversible."<sup>199</sup>

If the city becomes a totally segregated one, then blacks become trapped in neighborhoods which lacks an economic infrastructure, so that service outlet decline, so that joblessness rises, so that vacant lots predominate, so that social order will breakdown, so that black-on-black crime becomes commonplace, crime and dangerous, and so that children abandon their childhoods.<sup>200</sup>

#### *D. Racialized Wealth Inequality and the Black Underclass: Structural Inequality and Institutionalized Segregation*

In *Black Wealth/White Wealth* and *American Apartheid*, structural barriers and institutional policies explain racialized wealth inequality and the black underclass. Neither treatment of poverty broadly recognized any role by the individual.<sup>201</sup> And when Oliver and Shapiro and Massey and Denton introduced

197. *See id.* at 125-30.

198. *Id.* at 125.

199. *Id.* at 130.

200. *See id.* at 132-39.

201. *Cf.* Pierre Schlag, *The Problem of the Subject*, 69 TEX. L. REV. 1627, 1628-29 (1991) ("This forgetting of the "we" who do the "expounding," this bracketing of the 'I'—in short, this

an individual actor, they appeared to do so to illustrate specifically and perhaps emotionally how people sought a way out of poverty, only to have the larger, white race dominated system thwart their every, innovative approach. In the end, structural inequality and institutional segregation, all "external," objective realities over which the mere human agent has absolutely no control, explain racialized wealth inequality<sup>202</sup> and the persisted black underclass.<sup>203</sup>

Recall how Oliver and Shapiro pointed to the manner in which the racialized state policy mandated that black self-employment take an "economic detour" so that black business could not have a sustained impact on white enterprises. Likewise, the sedimented nature of this wealth inequality, especially because it had been cemented by racialized policies, meant that even if blacks have actually specifically succeeded, they could, and still cannot, close the gap between black income and white wealth.<sup>204</sup> Why? For Oliver and Shapiro, critical structural opportunities may no longer exist so that even with Herculean efforts, black may still not achieve relative parity with white wealth.<sup>205</sup>

Equally important, when Oliver and Shapiro gave us different opportunities to understand the role that individual might play in creating wealth opportunities for themselves, they do so in a manner that reinforced that structural barrier may prove too impenetrable for blacks, unless they have acquired a degree of access to wealth making opportunities that have intergenerational origins.<sup>206</sup> Keep in mind that these intergenerational origins meant that they fathers or grandfathers had wealth and they passed it along to the next generation. It must follow still that racialized state policies gave whites grander opportunities, especially owing

eclipse of the problem of the subject--became a vital, pervasive, constitutive characteristic of American legal thought. Indeed, American legal thought has been conceptually, rhetorically, and socially constituted to avoid confronting the question of *who or what thinks or produces law.*") (emphasis added).

202. See OLIVER & SHAPIRO, *supra* note \*, at 22 ("White families who were able to secure title to land in the nineteenth century were much more likely to finance education for their children, provide resources for their own or their children's self-employment, or secure their political rights through political lobbies and the electoral process.").

203. See MASSEY & DENTON, *supra* note \*\*.

204. See OLIVER & SHAPIRO, *supra* note \*, at 12-13. They write:

Disparities in wealth between blacks and whites are not the product of haphazard events, inborn traits, isolated incidents or solely contemporary individual accomplishments. Rather, wealth inequality has been structured over many generations through the same systematic barriers that have hampered blacks throughout their history in American history: slavery, Jim Crow, so-called de jure discrimination, and institutional racism.

205. See *id.* at 5 ("the same social system that fosters the accumulation of private wealth for many whites denies it to blacks, thus forging an intimate connection between white wealth accumulation and black poverty.").

206. See *id.* at 7 ("Segregation created an extreme situation in which earlier generations were unable to build up much, if any, wealth. . . . Until the 1960s there were few older African Americans with the ability to save much at all, much less invest. And so savings and no inheritance meant no wealth.").

to slavery and Jim Crow, which entrenched white wealth at level to which only the rarest black entrepreneur might reach. Given the history of racialized state policies and the systematic sedimented inequality, blacks cannot pass wealth to successive generations.<sup>207</sup> In brief, the racialization of state policy persists as a key factor that must explain why blacks (and poor whites) cannot attain equal wealth accumulation opportunities.<sup>208</sup>

Oliver and Shapiro did introduce human agency, and in so doing, they reinforced their initial premise: racialized state policy (i.e., institutional racism) fostered structural climates in which poor blacks suffer even when they sought to better themselves. For example, Oliver and Shapiro looked at “reserve redlining.”<sup>209</sup> This predatory lending practice targets poor, often semi-illiterate minorities or the elderly, “guiding” them into borrowing terms that trap them deeper into urban ghettos and perhaps underclass status. These borrowers face severe risk, one of which may mean losing their home.<sup>210</sup> Oliver and Shapiro highlighted the Reagan’s administration weakening of banking regulations. They focused on “strip-mining minority neighborhoods of housing equity.” They cited favorably civil right activists who declared that small, unregulated finance companies “rape” minority communities. And in so doing, they raised minorities to the surface of their text as human only so that they can effectively illustrate that poor black live not like subject but like object on which larger, structural forces come to bear.<sup>211</sup> Consider Oliver and Shapiro’s recounting of the Christine Hill story.

It started with a leaky roof and ended in personal bankruptcy, foreclosure, and eviction. Using Hill’s home as collateral, the lender charged interest that, according to Rob Well’s piece in the 10 January 1993 *Chicago Tribune* “made double-digit pawnshop rates look like bargains.” The Hills couldn’t pay. The lender was a small and unregulated mortgage firm, similar to those often chosen by low-income

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207. See *id.* at 151-50 (“[W]e argued that a plethora of state policies from slavery through the mid-twentieth century crippled the ability of blacks to gain a foothold in American society. Owing to their severely restricted ability to accumulate wealth combined with massive discrimination in the private sector and general white hostility, black parents over several generations were unable to pass any appreciable assets on to their kin.”).

208. See *id.* at 12-13.

209. *Id.* at 21 (“Senator Donald Riegle of Michigan in announcing a Senate Banking Committee hearing on abuse in home equity and second mortgage lending pointed to ‘reverse redlining.’ This means providing credit in low-income neighborhoods on predatory terms and ‘taking advantage of unsophisticated borrowers.’”). See also Darnellena Christie Burnett, *Justice in Housing: Curbing Predatory Lending*, NAT’L B. ASS’N MAG., Mar.-Apr. 2001, at 14-15, 21-22.

210. See OLIVER & SHAPIRO, *supra* note \*, at 21 (“Families lost their homes or were facing foreclosure in over three-quarters of the cases. Only fifty-five of the 406 families still possessed their homes and did not face foreclosure. The study also showed that the maps of redlined areas and high-interest loans overlapped.”).

211. See *id.* at 20-21.

borrowers because mainstream banks consider them too poor or financially unstable to qualify for a normal bank loan.<sup>212</sup>

Undoubtedly, larger, structural forces did operate in the Hills story, and they had to experience a loss, both personal and emotional. Yet, Oliver and Shapiro presented the Hills as if they lacked any agency, as if they bore absolutely no responsibility for the manner in which they entered into this predatory experience and in which they internalized their experience. Oliver and Shapiro proffered a suggestion that could inform how we might understand the Hills' experience: "The attorney representing some of [the approximately twenty thousand other low-income Georgian homeowners] is quoted in Well's *Tribute* article as saying: 'This is a system of segregation, really. We don't have separate water fountains, but we have separate lending institutions.'"<sup>213</sup>

Throughout *Black Wealth/White Wealth*, Oliver and Shapiro provided individual case history so that we can easily view larger, structural forces at play. In the Hills' case, the larger, structural forces denied them equal access to mainstream lending institutions where they would arguably not pay usurious borrowing rates, and where they would have an equal chance to repair their home or borrow against its equity. By borrowing from secondary lending markets, they suffered a dismal fate, one that Oliver and Shapiro no doubt could have easily predicated, in which the Hills lose their home and lose their personal property through bankruptcy. Without a home that the Hills could leverage to fund their children's education, they by perforce must run the risk of losing a generation. Yet, Oliver and Shapiro did point out that material inheritance takes at least three forms: *cultural capital*, *advanced inheritance*, and *bequeathed assets*.<sup>214</sup> While blacks have received meager help from their parents, *viz.*, \$3000, when they buy homes,<sup>215</sup> whites got levels of financial assistance that for Oliver and Shapiro must have flowed a history of unequal material accumulation opportunities, *viz.*, larger, structural forces.

Consider the impact of individual inheritance choices, all of which flowed not only from the racialization of state policy but also from sedimented material inequality.

Alicia and Ed, who are white, come from affluent families. Ed's mother's family owned a chain of grocery stores and a small chain of dress shops. His father has inherited a substantial amount of money from his family's manufacturing concern. Alicia's mother taught school

212. *Id.* at 21.

213. *Id.*

214. *See id.* at 152, 154-55.

215. *See id.* at 154. Consider a case in which the black family could not provide an advance inheritance so that their children could easily afford to get a university education and not start their life under a heavy debt burden. "Albert and Robyn took out some loans to finance their education at a public university. Stacie starts her law career \$80,000 in the red. Among the blacks interviewed, only Mary Ellen, whose parents were quite wealthy and who has now moved into the family business, had her college education paid for." *Id.* at 153-54.

and her father was a self-employed attorney, then a state judge. Alicia went to a private school where her mother taught Latin and English, and Ed spent many years at a boarding school. Their families hoped these private institutions would furnish a better education than their public counterparts. For the same reason as well as others, Ed and Alicia will probably send their two children to private school too.<sup>216</sup>

In *Black Wealth/White Wealth*, Oliver and Shapiro only permitted individual cases to present in this social history of poverty so that they could effectively illustrate that blacks and whites fared differently and materially better, even though blacks and whites may have been similarly situated and equally motivated to provide a better life not only for themselves but also for their children. This social history of poverty turned on deeply entrenched asset accumulation opportunities and on grossly maldistributed wealth and income. Although Oliver and Shapiro acknowledged that blacks did experience material success, especially from 1939 to the early 1970s when the civil rights movement urged Congress to enact antidiscrimination laws and when the nation's economy grew at an extraordinary rate.<sup>217</sup> Yet, for these sociologists, structural barriers cannot promote equal opportunity and results, and so while blacks have suffered and while some blacks make economic progress, they cannot eradicate the sedimented, structural inequality on which white wealth grew and by which blacks, regardless of their motivation, lagged further behind whites. One way to remedy this material inequality, for Oliver and Shapiro, is to guarantee not only equal opportunity but also "equal achievement."<sup>218</sup> In the end, larger, structural forces will frustrate individual cases unless broad, structural changes eliminate sedimented material inequality.<sup>219</sup>

Likewise, in *American Apartheid*, Massey and Denton focused on larger, structural forces when they examined the persistence of urban ghettos and the underclass. Unfortunately, like Oliver and Shapiro, they too eliminated human agents (e.g., the subject), placing them strategically throughout this sociological exposition of poverty where they best served to illustrate how larger, structural forces created and maintained "hypersegregation." For Massey and Denton, white racial prejudice coupled with institutional barriers not only froze blacks in urban ghettos, but also entombed them in the black underclass. A history of racism, real estate brokers, and institutional forces like banking, HOLC, and FHA conjoined to deny blacks access to better communities. Hypersegregation thus became a "reality," principally because most blacks simply cannot escape beyond vanilla rings that encircled urban ghettos. Therefore, hypersegregation worked like racialization of state policy and sedimented material inequality; they symbolized larger, structural forces that have remained insensitive to individual aspirations and desires. In effect, Massey and Denton purported that we need not

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216. *Id.* at 153.

217. *See id.* at 23-25.

218. *Id.* at 177-78.

219. *See id.* at 179-93.

focus on human agents, for they cannot overcome the dark oppression that is residential segregation and the black underclass.

In *American Apartheid*, Massey and Denton rely on structural factors like underclass poverty and the intensity of spatial concentration to conclude that blacks cannot truly escape the ghetto. On a broader social level, Oliver and Shapiro make the same point.<sup>220</sup> This conclusion confused me. Does society victimize inner city minorities when it adopts policy that intensifies their isolation? Or, do we look to clearly identifiable behavior to explain the degree and depth to which racism, inner city ghettos, and hypersegregation explain by minority blacks and others get isolated in ghettos? At one point, they assert that extreme racial isolation occurred because whites engaged self consciously and purposefully in institutional practices that they orchestrated to have this effect.<sup>221</sup> If true, the white behavior looks less institutional and more individual or group related. By institutional, I mean a practice that continues without regard to who occupies the decision office. Yet, institutions cannot exist without human energy. They require us. We focus our collective energies through them. On a large social scale, humans and institutions form symbiotic ties. Whether individual conduct or institutional practices, we—each of us—act, either in concert or as single agent, but we act. What then explains hypersegregation—whites, social structure, institutional practices, or both?

Why the confusion? Massey and Denton recognize that social structures perpetuate racial isolation, and they also wish to say that blacks don't live in intense racial isolation because they, due to personality traits, created their own residential difficulties. They take a familiar approach. To this end, they assert that the "effect of segregation on black well-being is structural, not individual. Residential segregation lies beyond the ability of any individual to change; it constrains black life chances irrespective of personal traits."<sup>222</sup> With this approach, Massey and Denton have thoroughly reduced blacks to victims, and in so doing, they have completely omitted blacks and other urban minorities from the social equation entirely.

When I lived in New York City ghettos, particularly in publicly subsidized housing projects that were operated by the New York City Housing Authority, I knew that I could not destroy the physical blight that surrounded me. At the time, I knew that I could not then earn enough money to rebuild my community. I knew that I could not force local city officials to provide city services as if the Lillian Wald Projects or the Seward Park Extensions were Chelsea or the upper River Side. At the same time, I also knew that I simply *lived* in the ghetto. I was not *of* the ghetto. My ghetto "walls" simply *housed* my family; they did not *bind* my mind, my thoughts, my dreams. While I could not physically alter my

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220. OLIVER & SHAPIRO, *supra* note \*, at 68 ("We contend that the buried fault line of the American social system is who owns financial wealth—and who does not. The existence of such a wealthy class ensures that no matter the skills and talents, the work ethic and character of its children, the latter will inherit wealth, property, position, and power.").

221. MASSEY & DENTON, *supra* note \*\*, at 2.

222. *Id.* at 2-3.

neighborhood, one predominated by blacks and Latinos, I could extent my mind beyond where I lived. I live where I live, but did structure mandate that I reside forever in the Lillian Wald Projects? If so, no one told me so. I am not unique; others have moved their minds and bodies beyond inner city ghettos. As such, what of my life chances? What of my personal traits?

Why should my personal traits matter, even if I live within structural practices that we have co-created to isolate me racially within urban ghettos? Given the Matrix, it matters because I like everyone share an energy relationship, regardless of my race, my class, my income, my wealth, etc. It matters because I can only be victimized if I think that I have been. I do not mean to suggest that the state officials cannot abridge my civil rights. I do not mean that a private citizen cannot wrongfully defraud me of personal funds. I do not mean that a corporation through its officers and directors cannot practice consumer fraud, thus breaching a commercial contract under which I bought goods. Notwithstanding these constitutional and civil violations, what matters is how I choose to experience these events. Parents, authority figures, and cultural norms cannot influence how I think so that I learn to surrender my choice to cause deliberately what happens next in my life. Once so influenced, I will allow the effect of other people's choices, including those of my parent's making, to determine my life's course.

If I allow others to influence me, and if they tell me that living in abject poverty and that limiting my personal world to a ghettos "wall" mean suffering, some kind of personal rejection by society, then I will more than likely internalize this perspective. If I also learn that I suffer in this manner because I am black or poor or low family station, then I will more than likely experience my personal world through race, class, or station. More than likely, my parent acquires this perspective from others who she trusted including mass culture, and to this extent, she was connected to the Matrix. Does the Matrix carry only negative, horrible energy for poor urban blacks? In this Matrix, the energy carries diverse messages because we all have diverse experiences. Why then would she choose a negative one over others? Regardless, I don't anyone for what choices they make. In the end, I make this point because social structures matter and personal traits matter too.

## II. A NEW AGE CRITICAL LEGAL THEORY AND THE CO-CREATIVE POWER OF RACE CONSCIOUSNESS AND POVERTY

### *A. Introduction*

In a New Age critical legal theory, we co-create all experiences.<sup>223</sup> As Ernest Holmes would argue, poverty follows from abnormal thinking, and thus it is an

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223. SETH, PERSONAL REALITY, *supra* note 4, at 4 ("You project your thoughts, feelings, and expectations outward, then you perceive them as the outside reality. When it seems to you that others are observing you, you are observing yourself through the standpoint of your own projections.").

abnormal condition. Yet, poverty only exists because we meditate on it as a necessary reality. To this extent, as Ruíz would argue, the state, our parents, our friends, our adaptation, or our culture forms an agreement with us, and after we have acquired the language for reaffirming this agreement, then some of us co-create poverty. Others co-create wealth.<sup>224</sup> Still others co-create residential segregation. Everyone who chooses poverty as a childhood experience can elect different ways of experiencing material abundance. And those who select a birth experience in which material abundance feels like the proverbial “silver spoon” can too know poverty. As Seth clearly points out:

The structure of probabilities deals with parallel experience on all levels. Your consciousness picks and chooses to accept as real the results of, and ramifications of, only certain overall purposes, desires, or intents. You follow these through a time structure. Your focus allows other just-as-legitimate experience to become invisible or unfelt.<sup>225</sup>

In this way, Ruíz proffers an excellent point. Society seeks to hook our attentions so that, especially through the familiarity and comfort and trust of our parents, we learn to accept certain agreements. Agreements structure the manner in which we co-create and expect certain events, all of which reinforce and stabilize our knowing about our personal worlds and manifold realities. According to Seth, “you create your experiences through your expectations.”<sup>226</sup> Accordingly, if our selected focus, *viz.*, “race-focused” consciousness, permits us to screen out “just-as-legitimate experience,” then who co-creates poverty? Who co-creates wealth? Who co-creates residential segregation?

Unfortunately, by embracing structural sociology, Oliver, Shapiro, Massey, and Denton must reject the implicit connection between agreement and external reality. Even modern physicists acknowledged that subjects create the reality that they experience. As Seth points out, “You always know what you are doing, even when you do not realize it.”<sup>227</sup> Why then do we continue to internalize

224. STANLEY & DANKO, *supra* note 36, at 3-4. Stanley and Danko write:

The large majority of these millionaires are not the descendants of the Rockefellers or Vanderbilts. More than 80 percent are ordinary people who have accumulated their wealth in one generation. They did it slowly, steadily, without signing a multimillion-dollar contract with the Yankees, without winning the lottery, without becoming the next Mick Jagger. Windfalls make great headlines, but such occurrences are rare. In the course of an adult's lifetime, the probability of becoming wealthy via such paths is lower than one in four thousand. Contrast these odds with the proportion of American households (3.5 per one hundred) in the \$1 million and over net worth category.

*Id.*

225. 1 ROBERTS, *supra* note 15, at 52-53.

226. SETH, PERSONAL REALITY, *supra* note 4, at 11.

227. *Id.* at 4. See GIDDENS, CONSTITUTION, *supra* note 34, at xxii-xxiii. In effect, Seth suggests that a person *can* know what and why she does a given thing. On this point, Anthony Giddens writes:

Human agents or actors – I use the terms interchangeably – have, as an inherent aspect

beliefs, agreements, or expectations that co-create poverty?<sup>228</sup> By discounting the beliefs, agreements, or expectations by which the poor live in the context in which they must place themselves, Oliver, Shapiro, Massey, and Denton reject implicitly any inherent value in studying the inextricable links between race consciousness and experiences. In New Age critical legal theory, a person's beliefs, agrees, or expects work intimately with and necessarily co-create a person's experiences, material abundance, and at the very least the social reality in which she lives. Accordingly, a New Age critical legal theory posits that a person can only experience that which she has already projected into the world.<sup>229</sup>

Given this New Age critical legal theory, in which victims do not exist, in which we co-create all experiences because we are powerful reality creators, I posit that *Black Wealth/White Wealth* and *American Apartheid* must be rather excellent sociological narratives that construct poverty as external, objective reality over which the poor have no control.<sup>230</sup> As such, as they aptly and consistently recommend, America must alter itself structurally so that blacks,

of what they do, the capacity to understand what they do while they do it. The reflective capacities of the human actor are characteristically involved in a continuous manner in the flow of day-to-day conduct in the contexts of social activity. But reflexivity operates only partly on a discursive level. What agents know about what they do, and why they do it – their knowledgeability *as* agents – is largely carried in practical consciousness. Practical consciousness consists of all the things which actors know tacitly about how to “go on” in the contexts of social life without being able to give them direct discursive expression.

*Id.*

228. SETH, *PERSONAL REALITY*, *supra* note 4, at xvii. Seth aptly writes:

No one forces you to think in any particular manner. In the past you may have learned to consider things pessimistically. You may believe that pessimism is more realistic than optimism. You may even suppose, and many do, that sorrow is ennobling, a sign of deep spiritualism, a mark of apartness, a necessary mental garb of saints and poets. Nothing could be further from the truth.

*Id.*

229. *Id.* at 4. Seth writes:

You *are* the living picture of yourself. You project what you think you are outward into flesh. Your feelings, your conscious and unconscious thoughts, all alter and form your physical image. This is fairly easy for you to understand.

It is not easy, however, to realize that your feelings and thoughts form your exterior experience in the same way, or that the events that appear to happen *to* you are initiated *by* you within your mental or psychic inner environment.

*Id.* See JOHN R. SEARLE, *THE REDISCOVERY OF THE MIND I* (1992) (“Mental phenomena are caused by neurophysiological processes in the brain and are themselves features of the brain. . . . I call it ‘biological naturalism.’ Mental events and processes are as much part of our biological natural history as digestion, mitosis, meiosis, or enzyme secretion.”).

230. Cf. Anthony V. Alfieri, *The Antinomies of Poverty Law and a Theory of Dialogic Empowerment*, 16 N.Y.U. REV. L & SOC. CHANGE 659 (1989).

whites, and others can enjoy both equal opportunity and equal achievement. Along the way, Oliver, Shapiro, Massey, and Denton destroy or mute the subject, rendering blacks either as emotionally and historically patterned to fail or as perennial victims of something behemoth and daunting—*dominant social structures*.

In this way, *Black Wealth/White Wealth* and *American Apartheid* diminish the absolutely central role that our race consciousness, especially minorities, plays in co-creating personal worlds and maintaining manifold social realities. In this essay, I have already argued that blacks, whites, and others must be very powerful reality creators who simply cannot victimize each other. In one world, the absence of material abundance can be viewed as poverty, as suffering. In another world, the absence of material wealth can be view as an experience that reflects a person's inner reality, as a confirmation, as an opportunity. Accordingly, many blacks live in different personal worlds and social realities, even though they live next door to each other, and even though they work in the same department, on the same floor, for the same company. Some of these blacks will work their entire lives and die poor. Some of them will work their entire lives and garner vast wealth. As Thomas Kuhn properly argued, new paradigms co-exist with old ones.<sup>231</sup>

*Black Wealth/White Wealth* and *American Apartheid* do not ask the following questions: Why do the dominant social structures affect some blacks but not others? Are some blacks adapting differently? Are some blacks deeply ensconced in the culture of poverty? Are some blacks bounded by learned helplessness? These questions apply to whites and others. Notwithstanding Oliver and Shapiro's point that racialization of state policy and sedimented wealth inequality still have present effects that limit how blacks and whites acquire asset accumulation opportunities, and notwithstanding Massey and Denton's observation that residential segregation driven by white racism explains the origins and persistence of the black underclass, we must move beyond race.<sup>232</sup> Accordingly, we must ask: do some people believe that they live not as participators but as observers? As such, do they believe that they have no affect on (or control of) their physical world? Do they think that only one physical world exists? Have they learned through agreements do deny "a spectrum of all possible realities"? What are their "overall purposes, desires, or intents"? How did they acquire such purposes, desires, or intents? By focusing on agreements, purposes, desires, or intent, are we simply living out lives as *domesticated humans* or are we in training to live as *angelic humans*?

From a New Age perspective, these questions suggest that each of us chooses the road that leads to our personal self-discovery. Our roads exist coextensively with others, and we can alter and bend our roads at will. Because many social

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231. See generally THOMAS KUHN, *THE STRUCTURE OF SCIENTIFIC REVOLUTIONS* (1996) (discussing the institutional and academic tensions between competing normal sciences (i.e., paradigms)).

232. See generally RICHARD J. PAYNE, *GETTING BEYOND RACE: THE CHANGING AMERICAN CULTURE* (1998).

realities exist simultaneously with others, and different segments of society embrace one or more of these social realities, each of us relies on others to practice co-creating wealth, poverty, and residential segregation. And as Robert Ornstein points out, we use these personal worlds and social realities transactionally as we negotiate different settings.<sup>233</sup> As a result, equal opportunities do exist coterminously with unequal opportunities. Real opportunities for asset accumulation exist coextensively with unreal ones. Extremes of wealth and poverty can exist literally within city blocks or a few miles from each other. And affluent blacks, even those who may conclude that America can still do more, may see America as a nation of equal opportunities (or a nation of relatively increasing equal opportunities). Other blacks will view America as a nation of white opportunity and black oppression, a place where hard working black men perennially live under the hobnail boot of white prejudice.<sup>234</sup> Likewise, whites may garner financial assets or other opportunities because they focus on moving upward and onward, having little if any time for what may be wrong with America.<sup>235</sup> Other whites simply cannot see beyond the bleak horizon, the one first shown to them by prior generations, the one etched out for them by the day-to-day struggle to earn a simple living. Regardless, each of these personal and social realities operates to delimit our perspectives, even among those who we may deem progressive and smart.<sup>236</sup>

Given that personal worlds and manifold social realities exist, which point of view is correct? In short, they all are. Neither is more or less correct than the other. In reaching this conclusion, I do not embrace any argument that excuses collective institutional practices that justify lost or denied opportunities for all angelic humans. Unfortunately, neither *Black Wealth/White Wealth* nor *American Apartheid* acknowledges that manifold social realities exist coextensively, ultimately explaining why some blacks succeed and why some blacks live in poverty, why some whites acquire wealth and why some whites come into poverty and *hold* onto it until their deaths. *Black Wealth/White Wealth*

233. See ROBERT H. ORNSTEIN, *THE PSYCHOLOGY OF CONSCIOUSNESS* (1972).

234. See generally WILEY, *supra* note 37.

235. See MICHAEL DYSON, *RACE RULES: NAVIGATING THE COLOR LINE 4* (1996) (“Then [the white writer] makes a remarkable statement: ‘In all sincerity, race isn’t much of an issue for mainstream white America. We’re busy. It’s a complicated world. We have bigger problems to deal with. We’re too preoccupied with simple survival to go around organizing systematic prejudice of any kind.’”).

236. See ORNSTEIN, *supra* note 233, at 3. Ornstein aptly writes:

Our “ordinary” assumptions about the nature of the world are generally useful to us. As we attempt to achieve a stable consciousness, we continuously “bet” about the nature of reality. We immediately assume that our rooms are “really” rectilinear, that a piece of coal is “really” black, that one person is intelligent, another aggressive. . . . [O]ur world is conservative. It is quite difficult for us to alter our assumptions even in the face of compelling new evidence. We pay the price of a certain conservatism and resistance to new input in order to gain a measure of stability in our personal consciousness.

and *American Apartheid* simply continue to cast blacks as victims, whether historical or present-day. In many ways, *Black Wealth/White Wealth* and *American Apartheid*, despite their rather radical ways of examining poverty and residential segregation, can be viewed as Ruíz's "hooking" of our attention. They construct poverty as if it exists as an external, objective reality over which blacks have no control, in which blacks played no active, co-creative role. And in this way, *Black Wealth/White Wealth* and *American Apartheid* encourage us to view blacks as *helpless*, whites as *racism*, and structural as *hegemonic*. By examining poverty and residential segregation in this manner, *Black Wealth/White Wealth* and *American Apartheid* reinforce the agreement that we must live with poverty unless and until America embraces the remedies that they propose,<sup>237</sup> even though these remedies require the active, open-hearted participation of powerful reality creators like blacks, whites, and others.

### B. *New Age Philosophy: Basic Premises*

New Age philosophy begins with three basic premises. First, we possess an enlightened soul within us, and second, we contain the power of law within each of us.<sup>238</sup> Many religious leaders like Reverend Martin Luther King, Jr., had invited us to think in this way,<sup>239</sup> except that they also urged us to worship Jesus in order to know "God." In New Age philosophy, we practice Jesus' teaching, recognizing that he was an ascended Master, without transmuting him into a deity to whom we must pray.<sup>240</sup> When distilled, these premises yield a simple principle: we are absolutely one with God, and God lives within each one of us.<sup>241</sup> With this principle, we live, work, and grow self-consciously with Spirit (or God) as a self-realized person,<sup>242</sup> one who possesses an awakened spiritual consciousness in a manner that differs very little from an eastern yogi.<sup>243</sup>

237. See OLIVER & SHAPIRO, *supra* note \*, at 177-93; MASSEY & DENTON, *supra* note \*\*, at 224-36.

238. See 1 LEE CARROLL, KRYON—THE END TIMES: NEW INFORMATION FOR PERSONAL PEACE 58 (1993).

239. See A TESTIMONY OF HOPE: THE ESSENTIAL WRITINGS AND SPEECHES OF MARTIN LUTHER KING, JR. (James Melvin Washington ed., 1991).

240. See 3 CARROLL, *supra* note 7, at 59; see also 2 LEE CARROLL, KRYON—DON'T THINK LIKE A HUMAN!: CHANNELLED ANSWERS TO BASIC QUESTIONS (1994).

241. MARCINIAK, *supra* note 4, at 130 ("Prime Creator is *all things*.").

242. See 1 WALSCH, *supra* note 13, at 43. According to Book 1, God states:

This is the goal of your soul. This is its purpose—to fully realize itself while in the body; to become the *embodiment* of all that really is.

This is My plan for you. This is My ideal; that I should become realized through you. That thus, concept is turned into experience, that I might know my Self *experientially*.

*Id.* (emphasis in original).

243. See PARAMAHANSA YOGANANDA, AUTOBIOGRAPHY OF A YOGI 238-39 (1990); see also MARCINIAK, *supra* note 4, at 242. According to the Pleiadians:

The New Age philosophy's third basic premise provides that we co-create our personal and perforce social realities. Preliminarily, this premise contains within it the eternal idea that God grants all human life with free will.<sup>244</sup> Within Western philosophy, this concept amounts to an old, but contested saw.<sup>245</sup> Notwithstanding this philosophical tension in western thought, New Age posits that we all co-create our moment-to-moment world. How can we co-create our personal world and social realities? It is quite simple: we think; we have emotions, and we have consciousness. As in other philosophical traditions, thoughts constitute a form of energy, and this energy shapes "reality." It does not mean that I shape everyone else's reality. It does mean that through my own free will, I shape my own. Yet, parents impose their focus, purposes, desires, and intents on their children, and in this process of socialization, children become quite domesticated. This socialized domestication process quiets most children's inner flames, reducing their audible godheads to passing whispers. In this way, as Ruíz and Seth pointed out, society can influence how we co-create our personal worlds and social realities, and to this degree, the state imposes a mass cultural consciousness on its citizens. Nevertheless, the citizen uses her co-creative power to reinforce dominant social structures with which she had formed an agreement and by which she can learn to live comfortably or otherwise with black poverty.<sup>246</sup>

Under this free will concept, this very simple proposition, however, gets a bit complex when we acknowledge that outside forces (e.g., ideas) can influence how we think. If a sufficiently large enough group of people has been influenced to think in a given pattern (e.g., the rich get richer, the poor get poorer), then this group thought can contribute to a consciousness matrix,<sup>247</sup> a once contested idea,

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As you raise your vibratory rates, you become your light body. You will see the change in your body literally. Your will become more vital, more youthful, more nourished in its own being, and definitely the processor of a multitude of information. It will become a super being. The building of the light body involves become a super being.

*Id.*

244. See 1 WALSCH, *supra* note 13, at 39. According to God:

There are those who say that I have given you free will, yet these same people claim that if you do not obey Me, I will send you to hell. What kind of free will is that? Does this not make a mockery of God—to say nothing of any sort of true relationship between us?

*Id.*

245. See Baron Holbach, *The Illusion of Free Will*, in A MODERN INTRODUCTION TO PHILOSOPHY 10 (Paul Edwards & Arthur Pap eds., 1965) ("Man's life is a line that nature commands him to describe upon the surface of the earth, without his ever being able to swerve from it, even for an instant.").

246. Cf. Bonnie Thorton Dill et al., *Race, Family Values, and Welfare Reform*, in A NEW INTRODUCTION TO POVERTY, *supra* note 35, at 263, 270 (Evelyn Brooks Higginbotham argues that race "speaks about and lends meaning to a host of other terms and expressions, to myriad aspects of life that would otherwise fall outside the referential domain of race. . . . It blurs and disguises, suppresses and negates, its own complex interplay with the very social relations it envelops.").

247. See 2 WALSCH, *supra* note 13, at 83 ("Your popular psychology has termed this energy

which we now assume has always existed as a stable, conserving idea.<sup>248</sup> From one agreement comes many, and from the many comes the falsely assumed stability or permanence of a construct.<sup>249</sup> At this juncture, people have placed their free will in the service of the state, the powerful, the wealth, and ironically the poor. In this way, people use their free will to support an agreement, an idea that has simply become a socially meaningful *convention*.

Within New Age philosophy, social conventions—or different “realities” competing within properly negotiated and similar linguistic spaces—have not rend free will, the basic consciousness (i.e., energy) through which we all express to some degree the highest concept we have of ourselves, either individually or collectively.<sup>250</sup> Despite these social conventions, we continuously co-create manifold personal worlds and social “realities.” As I have already argued, these worlds and realities co-exist more or less within dynamic social spaces, and that an individual’s inner consciousness and our social “realities” do not have separate existences. Yet, in co-creating these worlds and realities, especially while agreements compete for our attention, we learn to deny that a host of probabilities exists by which we can change literally any personal world or social reality.<sup>251</sup> Accordingly, while we still have free will and while we still remain

Matrix the ‘Collective Consciousness.’ It can, and does, affect *everything on your planet*: the prospects of war and the chances of peace; geophysical upheaval or a planet becalmed; widespread illness or worldwide wellness.”).

248. See ORNSTEIN, *supra* note 233, at 3 (“As we attempt to achieve a stable consciousness, we continuously “bet” about the nature of reality.”).

249. See *id.* at 19. According to Aldous Huxley,

Every individual is at once the beneficiary and the victim of the linguistic tradition into which he has been born—the beneficiary inasmuch as language gives access to the accumulated records of other people’s experience, the victim insofar as it confirms him in the belief that reduced awareness is the only awareness, and as it bedevils his sense of reality, so that he is all too apt to take his concepts for data, his words for actual things.

*Id.* (quoting ALDOUS HUXLEY, *THE DOORS OF PERCEPTION* (1954)).

250. See 1 WALSCH, *supra* note 13, at 39. According to God,

I have never set down a “right” or “wrong,” a “do” or a “don’t.” To do so would be to strip you completely of your greatest gift—the opportunity to do as you please, and experience the results of that; the chance to create yourself anew in the image and likeness of Who You Really Are; the space to produce a reality of a higher and higher you, based on your grandest idea of what it is of which you are capable.

To say that something—a thought, a word, an action—is “wrong” would be as much as to tell you not to do it. To tell you not to do it would be to prohibit you. To prohibit you would be to deny the reality of Who You Reality Are, as well as the opportunity for you to create and experience that truth.

*Id.*

251. See 1 ROBERTS, *supra* note 15, at 53. According to Seth:

Such endless creativity can seem so dazzling that the individual would appear lost within it, yet consciousness forms its own organizations and psychic interactions at all

very powerful reality creators, we allow social agreements to focus our purposes, desires, and intent, and by so allowing, we focus on social experiences like poverty, thereby rendering invisible alternative social experiences in which poverty cannot and does exist.<sup>252</sup>

Poverty constitutes a focus, an experience that hooks our attention. By giving our attention to poverty, especially in a way that does not view it as a limited, temporary construction, we judge it and the poor. They become undeserving,<sup>253</sup> and in this way we resist becoming one of them. We also make moral judgments about the poor, so that we can conclude that God or some larger force has banished them to a fate worse than yours.<sup>254</sup> Unfortunately, by judging, we focus and give attention, and by focusing and giving attention, we lock them and ourselves into a social drama that permits wealth and poverty to co-exist simultaneously. To complete the story, we construct a social industry that reinforces that poverty exists beyond our co-creation.<sup>255</sup> This industry perpetuates poverty,<sup>256</sup> and by assuming that people fell into poverty because they possess poor values, morality, and work habits, we rationalize wealth as a social good, unless we view extreme wealth as decadent or obscene.

levels. Any consciousness automatically tries to express itself in all probable directions, and does so. In so doing it will experience All That Is through its own being, though interpreted, of course, through that familiar reality of its own. You grow probable selves as a flower grows petals. Each probable self, however, will follow through in its own reality—that is, it will experience to the fullest those dimensions inherent to it.

*Id.*

252. *See id.* at 53. According to Seth:

Basically, however, the motion of any wave or particle or entity is unpredictable—freewheeling and undetermined. Your life structure is a result of that unpredictability. Your psychological structure is also. However, because you are presented with a fairly cohesive picture, in which certain laws seem to apply, you think that the laws come first and physical reality follows. Instead, the cohesive picture is the result of the unpredictable nature that is and must be basic to all energy.

*Id.*

253. *See* Dill et al., *supra* note 246, at 271 (According to Michael Katz, “the transition to capitalism and democracy in early-nineteenth-century America [justified] the ‘mean-spirited treatment of the poor’ and [helped] to ‘ensure the supply of cheap labor in a market economy increasingly based on unbound wage labor.’”) (citation omitted); *see also* Franklin, *supra* note 51, at 131 (“The welfare system is indicted beyond its deleterious effects on black women, men, children, work, and learning habits. Blacks are seen as ungrateful cheats who do not care about anything.”).

254. *See* Marlene Kim, *The Working Poor: Lousy Jobs or Lazy Workers*, in *A NEW INTRODUCTION TO POVERTY*, *supra* note 35, at 307 (“Most Americans believe that if one works hard, one should not be poor.”).

255. *See* Jennings, *supra* note 35, at 20.

256. *Cf.* Franklin, *supra* note 51, at 139 (“Conservatives point to soft-headed welfare liberal leaders who have added to the incorrigible behavior of the black underclass by pressuring the public to maintain assistance rather than making blacks look for work.”).

By giving our focused attention to the implied agreements that correlate with poverty, the poor and the rich have lost sight of who they are. They forget that people are powerful reality creators, thus explaining why blacks and whites live in poverty and abundance. Yet, by adopting the simple explanations like culture of poverty, vicious circle, family degradation, sexual deviancy, and genetic explanations, people assume that the wealthy must not have contributed to poverty, and the poor must perforce live with the hand that God dealt them. In this way, we collectively neglect our inner suspicions that people have allowed society and their parents at the very least to simply adopt the dominant social structures that serve as powerful agreements which structure the manner in which we perceive the world. Traditional scholars would call these powerful agreements—"mass cultural consciousness,"<sup>257</sup> and they would argue that this consciousness disempowers citizens so that elite interests can continue to dominate the live of the poor and the ignorant.<sup>258</sup>

In this essay, mass cultural consciousness and Ruiz's agreements in the process of human domestication serve the same hegemonic role: they encourage us not only to deny the three basic premises of New Age philosophy, but also to accept the idea that we do not participate but simply observe. As such, we must ask: to whom then must we look to overcome the problem of poverty, the underclass, and residential segregation? In *Black Wealth/White Wealth* and *American Apartheid*, Oliver, Shapiro, Massey, and Denton invite us to look to the state and dominant social structures. Without considering policy makers, people who have internalized mass cultural consciousness, the state can implement broad structural programs like "Education and Youth Asset Accounts"<sup>259</sup> and

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257. Cf. Richard M. Thomas, *Milton and Mass Culture: Toward a Postmodernist Theory of Tolerance*, 62 U. COLO. L. REV. 525, 533-35 (1991). Richard Thomas aptly writes:

One of their most important common themes, based on their shared view of the importance of certain kinds of cultural totality or unitary cultural discourse, is the threat that tolerance may pose to programs, to establish or preserve a preferred cultural totality. Often the critics, both right and left, have operated within what broadly may be called a "mass society" or "mass culture" critique. Mass consumer culture is seen as replacing a genuine culture: for the right, this means the decline of class stability, moral education, and national cohesiveness; for the left, primarily the Frankfurt School, this means the appearance of a new propaganda apparatus by which the interest of capital dominate mass consciousness and blind individuals to their true collective interests. According to the various versions of the mass culture critique, the rise of mass culture is identified with the decline of "organic community" and the cultural "whole," and the consequent "social atomization of 'mass man.'"

*Id.* (citations omitted).

258. Cf. ORNSTEIN, *supra* note 233, at 39-40 ("Our 'agreement' on reality is subject to common shared limitations that evolved to ensure the biological survival of the race. All humans may agree on certain events only because we are all similarly limited in our very structure as well as limited in our culture.").

259. OLIVER & SHAPIRO, *supra* note \*, at 180-81.

“Housing Asset Accounts”<sup>260</sup> or a “National Action”<sup>261</sup> and greater enforcement by federal authorities.<sup>262</sup> In this way, by meditating continuously on “external,” objective reality, by adapting to the idea that this reality operates beyond our active, conscious thinking, talking, and acting, we reject our birthright which is free will, we deny that God lives within us, and we refuse to remember that we are powerful reality creators.<sup>263</sup> In so doing, we act like victims. We then look to scholars like Oliver, Shapiro, Massey, and Denton, who tell us that federal programs like welfare and federal laws can save us from that which we have necessarily co-created. By internalizing what Ruíz calls “agreements,” by adhering to what Talbot calls a “observer” perspective, and by failing to acknowledge Holmes’ principle that “we can attract to ourselves people and things which will obliterate that poverty,” we forget the basics, and we deny our personal power to end poverty and residential segregation.

### *C. The Core Problem: The Meaning of Race Consciousness*

*Power comes from inner strength. Inner strength does not come from raw power. In this, most of the world has it backwards.*

Power without inner strength is an illusion. Inner strength without unity is a lie. A lie that has not served the race, but that has nevertheless deeply embedded itself into your race consciousness. For you think that inner strength comes from individuality and from separateness, and that is simply not so. Separation from god and from each other is the cause of all your dysfunction and suffering. Still, separation continues to masquerade as strength, and your politics, your economics, and even your religions have perpetuated the lie.<sup>264</sup>

By race consciousness, it should be clear that *Conversation with God* does not refer to the narrowness, madness of racial identity or ethnicity. In the foregoing quote, race consciousness reinforces the point that I made in the previous section: people have deliberately or by default surrender their angelic humanity to constructs, into which people have invested their individual power and collective psyche. Under this race consciousness, society has become a

260. *Id.* at 181-82.

261. MASSEY & DENTON, *supra* note \*\*, at 234-36.

262. *See id.* at 224 (“Although the 1988 amendments provide tougher penalties against those who violate the Fair Housing Act and make it easier to prosecute discriminators, the basic organization of enforcement still relies heavily on individuals. As long as the Fair Housing Act is enforced by these ‘private attorneys general’ rather than by federal authorities, it is unlikely to be effective.”).

263. SETH, PERSONAL REALITY, *supra* note 4, at 11 (“Basically you create your experience through your *beliefs* about yourself and the nature of reality. Another way to understand this is to realize that you create your experiences through your expectations.”).

264. 3 WALSCH, *supra* note 13.

steward over social realities like poverty, wealth, and residential segregation. Society not only guides and steers these constructs through the labyrinth that is our political system, but also protects them from radical social change. On this point, Massey and Denton write: "the policies we have recommended do not require major changes in legislation. What they require is political will. Given the will to end segregation, the necessary funds and legislative measures will follow."<sup>265</sup> In order to protect dominant social structures about poverty, wealth, and residential segregation, we also resist any modest legislative initiative.<sup>266</sup> On this point, Massey and Denton write: "For each proposal that is advanced to move the fair housing agenda forward, there are other efforts to set it back."<sup>267</sup> Accordingly, in this context, race consciousness reveals that we co-create poverty, wealth, and residential segregation by the means through which we boldly accept that race justifies banishing the poor to their deadly circumstances,<sup>268</sup> and by which we knowingly embrace agreements that give us power over the socialized Other (e.g., poor blacks).<sup>269</sup>

In this way, our race consciousness (e.g., mass cultural consciousness) allows us to think that the poor exist out there. It permits us to conclude that we—all of us—did not deliberately or by default co-create the concept of poverty and wealth. In this conclusion, we can find biases based on morality and work ethic. The poor cannot get that for which they will not work. The poor lack a real religious foundation. With our race consciousness, we falsely comfort ourselves that our thinking, talking, and acting bear no relationship to the manner in which we endorse our social logic. We retreat to the following rationalization: *Poverty existed before I was born, and it will be here long after I am gone; I better get mine while the getting is good.* We use our race consciousness to disconnect from the personal worlds and social realities in which other spiritually based angelic humans must live too.

Our race consciousness also reveals the manner in which we connect to the spirituality, God, Goddess, All There Is. This spirituality exists within us, and I noted in the foregoing section, one of New Age's basic principles is that God lives within each of us. Accordingly, by spirituality, I do not mean institutional or organized religions, all tools of mass culture in which people surrender their co-creative power to political agents who cannot imagine a world in which organized religion does not exist.<sup>270</sup> Without this spiritual connection, race

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265. MASSEY & DENTON, *supra* note \*\*, at 234.

266. *See id.* ("But political will is precisely what has been lacking over the past several decades, and resistance to desegregation continues to be strong.")

267. *Id.*

268. *See* George, *supra* note 40, at 197 (Charles Murray "in fact, announces that he is ready to abandon a sizable portion of [the black underclass] to its unpleasant fate.").

269. *See, e.g.,* Jennings, *supra* note 35, at 19 ("Gilder suggests that the poor have a depraved morality that society can rectify by using draconian measures to punish and imprison the recalcitrant poor for a behavior considered negative by middle-class society.").

270. *See* I WALSCH, *supra* note 13, at 154-55. According to Walsch, God writes:

[When what people tell you conflicts with what you feel intuitively, where do you

consciousness means that we not only reject our basic goodness and love, but also embrace political power, racial and gender oppression, separation and isolation, brute individualism and private profiteering, personal and familial dysfunction, fear and distrust, war and violence over peace and reconciliation, judgment over acceptance, suffering over healing, impotence and irresponsibility over autonomy and agency. Without this spiritual connection, we live at a lower, human consciousness. On this point, Ken Keyes writes:

[With lower human consciousness], the young child uses ego mechanisms backed by hair-trigger emotions to develop security, sensation, and power magnification of the moment[-]to[-]moment sensory inputs. Our personal development into fulfilling, happy lives (as well as the progression of civilization beyond the dangerous power consciousness) depends on our getting free of our ego-backed, subject-object, me-them, security-sensation-power hang-ups.<sup>271</sup>

Under this lower race consciousness, society needs poverty, wealth, and residential segregation. Our current social, political, and economic institutions stand on these constructs, ones that allow the wealthy to have “security, sensation, and power magnify[ed]” by the depths of their dollars, by the diversity of their investment portfolios. By having this disconnect from our spirituality, our society and our parents can hook our attention so that we fail to realize that this race consciousness creeps slowly, but indelibly, into our personal constitutions. Few, if any of us, can sincerely imagine ourselves without this form of race consciousness operating either explicitly or implicitly as our cosmological backdrops.

Historically, society has used this race consciousness in laudable ways. This consciousness asked us to dream, aspire, and imagine a new prosperous world; furthermore, it provides social, political, and economic space so that we realize these dreams, aspirations, and imaginations. By this consciousness, great inventions and innovations have been borne. Equally important, the Constitution invokes a negative liberty, in which the state cannot infringe upon a citizen’s rights unless the state has a compelling reason, legitimate goals, and a rational basis for interfering with or classifying citizens in a way that undermines their

go?] The first place you go is to your religionists—the people who put you there in the first place. You go to your priests and your rabbis and your ministers and your teachers, and they tell you to *stop listening* to your Self. The worst of them will try to *scare* you away from it; scare you away from what you intuitively *know*.

They’ll tell you about the devil, about Satan, about demons and evil spirits and hell and damnation and every frightening thing *they* can think of to get *you* to see how what you were intuitively knowing and feeling was *wrong*, and how the only place you’ll find any comfort is in *their* thought, *their* idea, *their* theology, *their* definitions of right and wrong, and *their* concept of Who You Are.

*Id.* (emphasis in original).

271. KEYES, *supra* note 38, at xv.

liberty interest,<sup>272</sup> viz., freedom.<sup>273</sup> With this Constitution, this consciousness cloaks these inventions and innovations with protections so that we may profit from the ingenuity on which we relied to benefit our society.<sup>274</sup> In the absence of federal copyright and patent protections, states rely on statutory and common law regimes to shield human energies, capital, and materials from illegitimate business practices.<sup>275</sup> To this extent, a race consciousness that embraces this principle of individuality and separation can yield positive, noteworthy ends for society.

Nevertheless, society uses this race consciousness deliberately or by default to co-create poverty, wealth, and residential segregation. As *Conversation with God* points out, our race consciousness operates so insidiously within our cognitive field. Let us consider *Black Wealth/White Wealth* and *American Apartheid*. We know that racialized wealth inequality and persistence segregation and the making of the underclass have historic origins. When Oliver and Shapiro discuss the role of slavery and Jim Crow politics in the wealth inequality of blacks and when Massey and Denton critique the persistence of residential segregation and its role in the development of the urban underclass, they directly implicate this race consciousness. Slavery, Jim Crow, the Federal Housing Authority, and the HOLC internalized white fear, and these state-sponsored policies must have been premised on the idea that whites and blacks not only originated from different human species,<sup>276</sup> but also live different social and personal lives.<sup>277</sup> Race consciousness privileges this personal and social agreement.

Notwithstanding this race consciousness, a New Age approach depends on both individual agency and a broad spiritual connection between all angelic humans. A New Age approach promotes individual centered self-actualizing philosophy. It also locates the individual in social practices and cultural norms.

272. See, e.g., *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954); *Yick Wo v. Hopkins*, 118 U.S. 356 (1886); *Slaughter-House Cases*, 83 U.S. 36 (1873). See also Robert M. Cover, *The Origins of Judicial Activism in the Protection of Minorities*, 91 YALE L.J. 1287, 1295 (1982); Joseph Tussman & Jacobus tenBroek, *The Equal Protection of the Laws*, 37 CAL. L. REV. 341, 341 (1949).

273. See generally MICHAEL J. SANDEL, *LIBERALISM AND THE LIMITS OF JUSTICE* (1982).

274. See, e.g., *Int'l News Serv. V. Associated Press*, 248 U.S. 215 (1918).

275. See, e.g., *Texon Drilling Co. v. Elliff*, 210 S.W.2d 558 (Tex. App. 1948).

276. See J. H. Van Evrie, *White Supremacy and Negro Subordination*, in DOCUMENTS OF AMERICAN PREJUDICE, *supra* note 23, at 291.

The Negro is a different being from the white man, and therefore, of necessity, was designed by the Almighty Creator to live a different life, and to disregard this—to shut our eyes and blindly beat our brains against the decree—the eternal purpose of God himself, and force this negro to live *our* life, necessarily destroys him, for surely human forces can not dominate or set aside those of Omnipotence.

*Id.* (excerpted from J. H. VAN EVRIE, M.D., *WHITE SUPREMACY AND NEGRO SUBORDINATION* 312-20 (Horton & Co. 1868)).

277. See, e.g., *Plessy v. Ferguson*, 163 U.S. 537 (1896); *The Civil Rights Cases*, 109 U.S. 2 (1883).

These approaches do not conflict because a New Age philosophy premises itself on the idea that each of us lives interdependent and interconnected spiritual lives. None of us is ever disconnected from a larger, spiritual cosmology.<sup>278</sup> Accordingly, a New Age approach embraces a holistic, organic perspective, never placing social practices and cultural norms outside and independent of individual choices and mental focus. This approach begins and ends with the central idea that people co-create all personal experiences and social realities. Poverty falls within this approach. Consider the following:

First, it is not merely a question of those who *want* to “work hard” and those who don’t. That is a simplistic way to cast the argument (usually constructed in that way by the “haves”). It is more often a question of opportunity than willingness. So the real job, and the first job in restructuring the social order, is to make sure each person and each nation has equal *opportunity*.<sup>279</sup>

While our social contract prompts the idea of equal opportunity, our current race consciousness also markets personal and social agreements so that some citizens fear success; they fear “acting like whitey.”<sup>280</sup> By placing everyone (or every “group”) at the center of all personal and social experiences, and by reminding everyone that he or she never loses a connection to a larger, First Cause, even if he or she has internalized the state’s or parent’s agreement, a New Age approach to poverty merges individual intent with social realities. Neither simply exists without the other. Yet, this merging does not negate individual choice and self-expression. By taking this obviously unfragmented approach to the manner in which we use race consciousness to co-create and maintain poverty, wealth, and residential segregation,<sup>281</sup> a New Age philosophy empowers all angelic humans. Once empowered, we can responsibly proffer large segments of our society not the “equal achievement” for which Oliver and Shapiro argue, but the equal

278. 1 WALSCH, *supra* note 13, at 197 (“Your body, your mind, and your soul (spirit) are one. In this, you are a microcosm of Me—the Divine All, the Holy Everything, the Sum and Substance. You see now how I am the beginning and the end of everything, the Alpha and the Omega.”). See JERRY HICKS & ESTHER HICKS, *ABRAHAM SPEAKS—A PERSONAL HANDBOOK TO ENHANCE YOUR LIFE, LIBERTY, AND PURSUIT OF HAPPINESS: NEW BEGINNING II* 41 (1996) (“Every part of your physical world is, and always has been, supported by that which is non-physical.”) [hereinafter cited as HICKS & HICKS, *ABRAHAM SPEAKS II*].

279. 2 WALSCH, *supra* note 13, at 197.

280. See, e.g., Lynette Clemetson, *Trying to Close the Achievement Gap (African Americans Work Harder for Academic Achievement in Shaker Heights, Ohio)*, *NEWSWEEK*, June 7, 1999, at 36 (“Then there is peer pressure. Most teens at Shaker say they do not buy the old line that doing well means selling out to white culture. ‘What, only white people study?’ says junior Justin Taylor. ‘That’s just plain stupid and insulting.’ But if student don’t catch flak for ‘acting white,’ they faced mixed messages about what it means to ‘act black.’”).

281. See DAVID BOHM, *THOUGHT AS A SYSTEM 3* (1992) (“One of the obvious things wrong with thought is *fragmentation*. Thought is breaking things up into bits which should not be broken up.”).

opportunity<sup>282</sup> by which individual dreams, desires, and aspiration can bear fruit.<sup>283</sup> Equally important, we can co-creatively choose a race consciousness, in which the social “reality” from among the many the probable ones on which we might focus dignifies and honors all angelic humans.<sup>284</sup>

*D. Spirituality: Privileging Experience over Self-Denial, Self-Destruction*

In New Age philosophy, race consciousness operates on two levels: human consciousness driven by hair-trigger emotions, power seeking, sensation collecting, security doubting personalities, and racialized identities conditioned white superiority over black inferiority, *and* black poverty based on immorality, laziness, promiscuity, and the absence of middle-class values. Despite these levels of meaning, race consciousness exists co-extensively with spirituality. Each lives without meaningful distinction. Above all else, spirituality represents a state of being, one that centers this philosophy. Spirituality refers to a state of mind, a mind that relates self-consciously to God. It is an equal relationship, humans and God. And as in life, it is a relationship without obligations. Despite the manner in which race consciousness (e.g., agreements or mass culture) socializes us to co-create poverty, wealth, or residential segregation, our essential Self can still choose differently. We have absolute freedom.<sup>285</sup> With this absolute freedom, we can focus on a self-empowering philosophy like New Age or a victim-centered race consciousness. Regardless, we can still choose to co-create poverty, wealth, or residential segregation. Yet, by adopting a self-empowering philosophy, one can deliberately choose to experience poverty or wealth. In so doing, she does not blame anyone else for the manner in which she experienced her creations. She recognizes that she is a very powerful reality creator. By adopting a victim-centered theory, he can co-create poverty, wealth, or residential segregation by default. Not realizing why he cannot keep or attain material abundance, he blames the world, faulting either *white racism* emanating from a history of slavery and Jim Crow laws or *racial quotas* flowing from civil

282. *Id.* at 5 (“The more general difficulty with thought is that thought is very active, it’s *participatory*.”).

283. See CONLEY, *supra* note 100, at 7 (“[E]quality of opportunity. Under this concept, equality would be achieved if each individual in a society enjoyed the right to compete in a contest unimpaired by discrimination of any kind.”).

284. 3 WALSCH, *supra* note 13, at 150. Consider the implications of acceptance.

Enlightenment begins with acceptance, without judgment of “what is.” . . .

This is known as moving into the Isness. It is in the Isness where freedom will be found.

What you resist, persists. What you look at disappears. That is, it ceases to have its illusory form. You see it for what it Is. And what Is can always be changed. It is only what Is Not that cannot be changed. Therefore, to change the Isness, move into it. Do not resist it. Do not deny it.

*Id.*

285. *Id.* at 137.

rights laws.<sup>286</sup> According to Abraham,

By virtue of powerful Universal Laws, you receive all things. Whether you have an abundance of dollars or lack of them, an abundance of health or continual sickness, satisfying, fulfilling relationships or difficult and unsatisfying relationships, is determined by the way you, as an individual, apply the Laws of the Universe. Without exception you are applying the Laws, for without exception you are the creator of this physical experience.<sup>287</sup>

By racializing our experiences, we rely on a *race* consciousness that renders us victims, and in so doing we reject our spirituality. By acknowledging that consciousness and spiritual are living energy, we can begin to understand that each operates, whether we acknowledge the principles, according to the Law of Attraction.<sup>288</sup> What is this Law? “That which is like unto itself is drawn.”<sup>289</sup> By embracing this Law, even if we reject spirituality, we can still choose to co-create from positive thinking, talking, acting, and emotions.<sup>290</sup> In effective, each person can co-create anything into his or her personal experience. By knowingly combining spirituality and absolute freedom, one can deliberately and joyously embark on material abundance without praising favorable social policies or without damning regressive social welfare programs. Nevertheless, this spirituality and absolute freedom do not lead perforce to social anarchy. Rather, we can deliberately combine them to co-create *opportunity*.<sup>291</sup>

In New Age philosophy, opportunity means the absence of obligations. One of the basic tenets of New Age thinking is free will. Obligations mock free will. “*Opportunity, not obligation, is the cornerstone of religion, the basis of all spirituality. So long as you see it the other way around, you will have missed the*

286. See HICKS & HICKS, ABRAHAM SPEAKS II, *supra* note 278, at 70 (“The predominant emotional state of most biological beings is that of negative emotion. Therefore, the predominant experiences that he attracts into his experiences are also negative, for from his negative position he perpetuates more negative.”).

287. *Id.* at 78.

288. See HICKS & HICKS, ABRAHAM SPEAKS I, *supra* note 6, at 17 (“Once one of your beliefs has surfaced, that belief, or thought—for a belief is nothing more than a thought that you have thought before, that you continue to think—that thought will attract other thoughts that are like it. It is what we call the ‘Law of Attraction.’”).

289. HICKS & HICKS, ABRAHAM SPEAKS II, *supra* note 278, at 81.

290. See *id.* at 82. Abraham writes:

The Universe is responsive only when harmony exists. In clearer terms: When you think of something you do not want, cancer, for example, and you feel the negative emotion that you term “dread” or “fear,” you have harmony—and that cancer is on its way into your existence. When you think of something you do want, perfect health, for example, and you feel the positive emotion of “peace” and “joy,” you have harmony—and that perfect health is on its way into your experience.

*Id.*

291. See 1 WALSCH, *supra* note 13, at 137.

point.”<sup>292</sup> Accordingly, society cannot force rich citizens to share their wealth with poor ones, and when society requires sharing through taxes (and other wealth transferring mechanisms), the wealthy resent the fiscal intrusion.<sup>293</sup> Equally important, the poor too will reject liberal welfare programs, especially those that through confiscatory taxes appear to impose on his future dream to material abundance.<sup>294</sup> Likewise, when our society enacted the *Fair Housing Act of 1968*,<sup>295</sup> racial discrimination in housing markets that fell within its scope was outlawed.<sup>296</sup> Despite the Fair Housing Act, courts still act to ensure that blacks, whites, and others can live harmoniously together.<sup>297</sup> Nevertheless, *obligations* do not work.

Because obligations do not work, society cannot impose its will on citizens until they learn that *race* consciousness and racism injure all people. I do not mean to suggest that the United States Supreme Court should not have decided a case like *Brown v. Board of Education*.<sup>298</sup> Yet, even the United States Supreme Court recognized that lower district courts would need time to work through the depth of racial ignorance and hatred. In 1955, it granted breathing room for this gradual change in “race” consciousness with its “all deliberate speed” injunction.<sup>299</sup> Accordingly, society, especially if it is guided by enlightened minds, must enact empowering legislation so that each of us has real, equal opportunities, and at the same time, society must also develop empowering approaches for those citizens who can release their singular commitment to race consciousness, racism, and self hatred.

So what works? *Experience* works.<sup>300</sup> None of us gets sufficiently positive, interpersonal experiences with each other if blacks suffer hypersegregation in isolated urban areas. None of us has an opportunity to overcome our apparent differences, and to this extent, we must view racial segregation, especially given the depth to which Massey and Denton suggested that the problem exists, as singularly the most pernicious impediment to racial harmony. Racial segregation allows whites to resist releasing race consciousness and racism by retreating farther outside the steady movement of black out-migration patterns. When the United States Supreme Court denied the City of Detroit the right to use annexed school districts, it slowed the rate at which highly complex interpersonal social

292. *Id.* (emphasis in original).

293. See THOMAS BYRNE EDSALL & MARY D. EDSALL, CHAIN REACTION: THE IMPACT OF RACE, RIGHTS, AND TAXES ON AMERICAN POLITICS (1991).

294. See Derrick Bell, *Racism: A Major Source of Property and Wealth Inequality in America*, 34 IND. L. REV. 1261 (2001).

295. See 42 U.S.C. §§ 3601-3619, 3631 (2000).

296. See *id.* §§ 3604-3605.

297. See, e.g., *United States v. Starrett City Assoc.*, 840 F.2d 1096 (2d Cir.), *cert. denied*, 488 U.S. 946 (1988).

298. 347 U.S. 483 (1954).

299. *Brown v. Bd. of Educ.*, 349 U.S. 294, 301 (1955).

300. See HICKS & HICKS, ABRAHAM SPEAKS II, *supra* note 278, at 53 (“As teachers, we have learned, long ago, that words do not teach. Learning comes through life experience.”).

experience could have begun sooner than later to ameliorate the resistance by white adults.<sup>301</sup> With the end to racial segregation, we begin to recognize that experience informs us on self-evident levels that blacks and whites seek the same degree of recognition, a kind of connection that operates within all of us through Spirit.

By living through race consciousness and racism, we engage in *self-denial*, leading invariably to *self-destruction*. In *Black Wealth/White Wealth*, Oliver and Shapiro detailed the manner in which the state developed policies to ensure white asset accumulation opportunities over black.<sup>302</sup> In order to ensure that blacks did not compete successfully with white economic interest, organized violence became an effective tool. In *American Apartheid*, Massey and Denton detailed this use of extra-legal means to guarantee white privileges.<sup>303</sup> Sometimes, this violence led to unspeakable horrors with blacks suffering lynchings and live burnings. During the civil rights movements, whites bombed a church, killing small children. Years later, some of these men suffered federal prosecution. Now, it is viscerally clear that murder is wrong, race notwithstanding. Prior to these prosecutions, the killer of civil rights activists Medgar Evers was successfully prosecuted. Consider further Governor George Wallace who publicly denounced racial integration and who may have privately regretted playing such a role in reinforcing our lower race consciousness.

Race consciousness and racism invite this kind of *self-denial* and allows us instead to dismiss what we intimately and internally feel to be true. By so denying our natural instincts, we lose touch with these urges and, with increasing regularity, begin to believe that "racism" works for the advancement of society's favored. All of us, even those who defensively subscribe to a black consciousness, contribute to this self-denial. Wealth disparity confirms this loss of self, and it reassures those who have benefitted from sedimentation of inequality that whites must be the superior race. Racial segregation provides similar comfort for those who look disparagingly on the urban poor. By relying on wealth disparity or racial segregation as a basis for ignoring the manner in which we divorce ourselves not only from a spiritual life, but also from each other, we refuse to accept personal responsibility. Absolution of responsibility leads to the rejection of any agency in the manner in which blacks, whites, and others have co-created poverty, wealth, and residential segregation.

#### *E. Personal Responsibility: Agency and Co-Created Realities*

In New Age philosophy, one of the center tenets is personal responsibility. In recent legal and political discourse, personal responsibility has been used to

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301. See *Milliken v. Bradley*, 418 U.S. 717 (1974) ("Boundary lines may be abridged where there has been a constitutional violation calling for interdistrict relief, but, the notion that school district lines may be casually ignored or treated as a mere administrative convenience is contrary to the history of public education in our country.").

302. See OLIVER & SHAPIRO, *supra* note \*.

303. See MASSEY & DENTON, *supra* note \*\*.

varying degrees to frame who should get help, who deserves help, and who qualifies for help. Without altering, its core meaning, the New Age concept of personal responsibility could be easily borrowed by conservatives and liberals, even if both political groups pursue different social ends. Under New Age philosophy, responsibility means that we have total “responsibility for all things that are taking place in [our] life.”<sup>304</sup> This tenet contends that we know at some intuitive level that we planned to allow certain experiences into our lives. It does not presuppose that each of us must do a given thing. Rather, we can do anything because we “are not predestined to do anything.”<sup>305</sup>

This New Age concept of responsibility inextricably links itself to agency, autonomy, and choice. At base, by conjoining responsibility and agency with non-predestination, it follows that we only experience that which we choose to co-create. We are not destined to experience a given event. To this degree, we co-create our lives moment to moment.<sup>306</sup> At the very least, this concept suggests that we co-create either deliberately (or living conscious action) or by default (or living unconscious reaction).<sup>307</sup> As such, this concept appears to comport with cause and effect.<sup>308</sup> Unfortunately, cause and effect does not truly exist.<sup>309</sup> Our thoughts, specifically focused, emotionally clear ones, co-create our personal experiences and manifold social realities. In so doing, I can affect my personal experiences, my social realities. I cannot co-create for others, unless they have had their attention firmed “hooked” and they have adopted as their own my dreams, desires, and aspirations. As such, nothing ever victimizes us, at least not without our permission.<sup>310</sup> To be victims, we must embrace the idea that we do not have choices.<sup>311</sup> We must adopt the notion that we do not have free will. We

304. 3 CARROLL, *supra* note 7, at 74.

305. *Id.*

306. See 1 ROBERTS, *supra* note 15, at 54 (“Consciousness, to be fully free, had to be endowed with unpredictability. All That Is had to surprise himself, itself, herself, constantly, through freely *granting itself its own freedom*, or forever repeat itself. This basic unpredictability then follows through on all levels of consciousness and being.”).

307. See HICKS & HICKS, ABRAHAM SPEAKS I, *supra* note 6; 2 WALSCH, *supra* note 13, at 13.

308. See ROBERT H. HOPCKE, THERE ARE NO ACCIDENTS: SYNCHRONICITY AND THE STORIES OF OUR LIVES 26 (1997) (describing synchronicity as “the simultaneous occurrence of two meaningful but not casually connected events”).

309. See *id.* at 27. Robert Hopcke writes:

[C]ausal thinking seduces us into an illusion of complete power over our surroundings and enhances our sense that we are in control of our destiny, a vision quite flattering to our own egos. Cause-and-effect thinking enables us to feel in control, to split ourselves off from the world “outside” and operate upon it. In this causal worldview, we are limited only by the consequences of our actions, but if we accept the consequences of our actions, then act we may, and freely.

*Id.*

310. 3 CARROLL, *supra* note 7, at 75.

311. SETH, PERSONAL REALITY, *supra* note 4, at xvii (“Each thought has a result, in your terms. The same kind of thought, habitually repeated, will seem to have a more or less permanent effect.”).

must subscribe to race consciousness, an agreement that requires us to surrender our birthright as a powerful reality creator. Instead, we choose to make others responsible for our choice to use drugs, for our desire to steal, for our aspiration to have power over others, for our dream to live in poverty.<sup>312</sup> Even though we live in a social context, one of our own making, we must deliberately or by default surrender our agency, autonomy, and choice. By so surrendering, we allow critical moments, although not perennially lost ones, to “pass.” Within New Age philosophy, it is at this critical moment that we can choose to diminish extremes in wealth, eradicate poverty, or end residential segregation. President Roosevelt’s *New Deal*, and President Johnson’s *War on Poverty*, and President Bush’s *Educational Reform* mark these kinds of critical moments. New Age philosophy strongly embraces this idea of personal responsibility, agency, autonomy, and choice.

By allowing critical, co-creating moments to “pass,” we deny that we can overcome *race consciousness*. We also refuse to end poverty and residential segregation. In so doing, we fuel scarcity, heightening our need for security, for money, for love, and for acceptance. This race consciousness lives within our collective consciousness. None of us can lay claim to innocence, especially due to racial differences. Thus, we always need constant meals of political power, economic dominance, personal aggression, violence, oppression, racism, ignorance, dependence, victimization, and gender conflicts. Yet, we can never satisfy these needs. It is a spiritual disquiet, one that mentally replays our doubts of the new and our fear of the living now. Unfortunately, we cannot see this disquiet, this race consciousness. However, despite its apparent invisibility, we express it by co-creating the homeless, the ignorant, the poor, the economic elite, the segregated white and the isolated black. In this way, we build icons to this deity daily, and we pay homage to it. We pay with old money, a form of currency that still lingers from our distant past, *viz.*, race oppression, gender dominance, class conflicts, in which the change from this human dollar amounts to lost opportunity, to wasted lives. As such, this race consciousness has an emotional, psychological, physical, and mental needs that will prove bottomless.

With a *spiritual* consciousness that maintains a spirituality, that recognizes its own agency, that appreciates how thinking and emotions co-create reality, that accepts our victimless roles in our personal worlds and manifold social realities, we would use our assets so that all of us had sufficient stores, so that social life and economic survival were absolute guarantees. Thereafter, if we wish to use our individual talents to acquire more assets, our society should acknowledge both talents and the rewards, so long as our social constitution protected the principle of universal social life and economic survival. Until we usher in that day, our current race consciousness will reproduce political experiments and co-

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If you like the effect then you seldom examine the thought. If you find yourself assailed by physical difficulties, however, you begin to wonder what is wrong.”).

312. *Id.* (“[R]egardless of what you have told yourself thus far, you still do not believe that you are the creator of your own experience. As soon as you recognize this fact you can begin at once to alter those conditions that cause you dismay or dissatisfaction.”).

create manifold social realities in which a few of us have great wealth and most of us live in abject poverty.

### III. POVERTY: RACIALIZED STRUCTURES WITH CO-CREATING SUBJECTS

*Black Wealth/White Wealth* and *American Apartheid* really represented truly important, well-told sociological narratives. Apart from Melvin Oliver and Thomas Shapiro's deliberate focus on wealth and Douglas Massey and Nancy Denton's on hypersegregation and on the way private white prejudice conjoined with black isolation, these sociological narratives felt like other great historical or sociological tales that looked to historical and social structures. Through this review essay, my point has been a simple one: these authors removed, and thus greatly diminished, the role that blacks, whites, and others have played co-creatively in these very powerful sociological narratives.<sup>313</sup> In making this point, *Black Wealth/White Wealth* and *American Apartheid* still contributed vitally and helped us understand the seamless complexity of underclass poverty, racialized wealth, and hypersegregation.

However, by relegating these powerful reality creators to the margins, we only learn that the state, financial institutions, real estate brokers, housing markets, infrastructural developments, and organized violence and harassment converged to intensify poverty, to weaken integration, and to isolate blacks. Unfortunately, when we read these sociological narratives from this perspective, we comfortably forget that we fueled these policies, violence, and isolation by our race consciousness.<sup>314</sup> We also refuse to acknowledge that blacks too were unwilling to live in all-white communities, which rejected the idea that they should be willing to be the first black family to integrate these communities. When we combine these feelings, attitudes, and thoughts, we find powerful co-creative energy that fueled a collective idea that blacks and whites should live in segregated communities. In *Black Wealth/White Wealth* and in *American Apartheid*, we sleep past the possibility that blacks and whites co-created not only the personal worlds in which neither trusted the other, but also the manifold

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313. Cf. Schlag, *supra* note 201, at 1627; see also David S. Caudill, *Pierre Schlag's "The Problem of the Subject": Law's Need for an Analyst*, 15 CARDOZO L. REV. 707 (1993).

314. MASSEY & DENTON, *supra* note \*\*, at 49. Massey and Denton write that:

The universal emergence of the black ghetto in American cities after 1940 rests on a foundation of long-standing white racial prejudice. Although attitudes cannot be studied directly before 1940, after this date opinion polls are available to confirm the depth of white prejudice against blacks in the area of housing. In 1942, for example, 84% of white Americans polled answered "yes" to the question "Do you think there should be separate sections in towns and cities for Negroes to live in?"; and in 1962, 61% of white respondents agreed that "white people have a right to keep blacks out of their neighborhoods if they want to, and blacks should respect that right." It was not until 1970 that even a bare majority of white respondents (53%) disagreed with the latter statement.

*Id.*

social realities in which blacks and whites shared similar and different attitudes about racial integration.

Yet, in working to understand poverty, wealth, and racial segregation from a New Age perspective in which we co-create our personal worlds and manifold social realities, *Black Wealth/White Wealth* and *American Apartheid* represented radically traditional sociological narratives. Neither book truly raised blacks above the victim status. In *Black Wealth/White Wealth*, Oliver and Shapiro discussed economic detours, in which they cast blacks as business-minded entrepreneurs and as victims of a racialized system that denied them access to markets on which immigrant entrepreneurs have historically relied. Once again, blacks get victimized by a racialized state determined to privilege white interests over others' interests, including those of blacks. This racialized system guaranteed income and asset accumulation opportunities for whites. Can we appreciate these historically racist practices without reinforcing that blacks, despite their courageous ventures, were victimized then and today?

Likewise, in *American Apartheid*, Massey and Denton differed little from Oliver and Shapiro, when they too viewed blacks not only as brave middle-class believers in integration, but also as innocent victims of white prejudice and entrenched institutional racism. In these narratives on wealth, poverty, and racial segregation, blacks play no role in co-creating a social reality that contributes to racial oppression.

In *Black Wealth/White Wealth* and *American Apartheid*, blacks have become the absent subjects/agents who do not have the power to co-create a different future.<sup>315</sup> Rather, they must rely on the federal authorities and the white communities' commitment to end racialized wealth and racial segregation. Unfortunately, in an effort to be compassionate liberals, Oliver, Shapiro, Massey, and Denton cannot imagine *re-presenting* these historical and sociological narratives in any way that weakens the strangle hold that victim category holds over black life and their day-to-day choices.<sup>316</sup>

How are these excellent sociologists conditioning us to explain black success?<sup>317</sup> Would black success, especially a rags-to-riches story, get cast as an

315. See generally Robinson, *supra* note 7, at 283-87 (discussing the problem of the subject/agent and the co-creation of racial realities). See also *Justice, If Such a Thing Exists*, in *DECONSTRUCTION IN A NUTSHELL: A CONVERSATION WITH JACQUES DERRIDA* 125, 143-44 (John D. Caputo ed., 1997).

316. Cf. SLEEPER, *supra* note 42, at 4. Although I do not intend to call Oliver, Shapiro, Massey, and Denton liberal "racists", consider the manner in which Sleeper portrays such liberals. Sleeper writes:

[L]iberal racism patronizes nonwhites by expecting (and getting) less of them than they are fully capable of achieving. Intending to turn the tables on racist double standards that set the bar much higher for nonwhites, liberal racism ends up perpetuating double standards by setting the bar so much lower for its intended beneficiaries that it denies them the satisfactions of equal accomplishments and opportunity.

*Id.*

317. See ELLIS COSE, *COLOR-BLIND: SEEING BEYOND RACE IN A RACE-OBSSESSED WORLD* xiii

aberration? This story deviates from what?—our thoughts about personal worlds and social realities? Who constructed these thoughts anyway? As I have already argued, each of us does influence others, and in so doing, we may engage in self-denial and perforce adopt self-destructive life patterns. Nevertheless, we still co-create, except we use the ideas that come to be called mass culture or the collective consciousness. How would we retell the story of black poverty? What if a person attempts to rise above the poverty into which she was born and fails? Would we say that she dreamed too big? Would we say that she could not truly imagine herself educated, employed, or drug-free? Would we candidly conclude that the white man will never allow a black person to succeed? And with this conclusion, we can comfortably mark blacks as prey for a white racist system that, without any active prompting from evil white men, will simply make it impossible for even well-trained, highly educated blacks?<sup>318</sup> How many times have you heard a statement like this one: “A black person must be twice as good as the white man just to get the job, and he must work twice as hard as the average white person just to get ahead”? Do these propositions describe a social reality? Or do they reinforce a social reality? Or do they co-create it? And if so, do blacks co-creatively make their personal worlds and manifold social realities, especially worlds and realities they would rather prefer to avoid?

In *The Matrix*,<sup>319</sup> the Oracle tells Neo not to worry about the vase, and as she eases him through what she appears to presage, Neo breaks the vase. When Neo asked the Oracle how she knew, she replies: “What’s really going to bake your noodle later on is would you still have broken it if I hadn’t said anything?” By re-inscribing blacks either as victims or as marginal players in the manner in which our social realities move, are we conditioning blacks to think of themselves as spiritually impotent or as socially irrelevant?<sup>320</sup>

When we consider *Black Wealth/White Wealth* and *American Apartheid*, do these compassionate liberals imagine themselves to be subjects/agents who co-create their personal worlds and manifold social realities? It appears they imagine themselves different from the blacks about whom they write. In these books, blacks suffered in a world of white racism, in which a white racial state policy denied them equal asset accumulation opportunities, plunged them into intense poverty, and refused them access to all-white communities. Even if they managed to become homeowners in these communities, they still would experience isolation. Are Oliver, Shapiro, Massey, and Denton subjects/agents because they can name a black victim’s social reality? By not imagining blacks as powerful reality creators in the making and ending of poverty and residential segregation, these liberal scholars confess that they too take refuge in the single idea that they cannot be more than pencil-neck, paper-peddling academic warriors. Unfortunately, they do not realize that through their sociological

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(1997) (describing the life of Mrs. Ada Lois Sipuel Fisher, a Langston College honor graduate, who persisted in her effort to matriculate at the University of Oklahoma Law School in the 1940s).

318. See generally ELLIS COSE, *THE RAGE OF THE PRIVILEGED CLASS* (1995).

319. *The Matrix* (Warner Bros. Pictures 1999).

320. See Robinson, *supra* note 17, at 145.

narratives, they have reinforced the idea that the poor and the oppressed need them.

### CONCLUSION

It doesn't matter. It doesn't make any difference. No big deal. I didn't like that, but so what? What happened was really unfair, but it doesn't matter now. That doesn't have anything to do with where I am now. It really doesn't matter.<sup>321</sup>

Neither *Black Wealth/White Wealth* nor *American Apartheid* accepted the idea that we can change our historically derived points of view. Although both books prescribed what it would take to create material equality between blacks and whites and to end residential segregation, neither book positioned blacks or minorities in the center of the human chemistry that co-created the social and economic inequalities in the first place. As such, both books relegated the co-creative subject to historical footnotes and partially interesting marginalia. Unlike Oliver and Shapiro and Massey and Denton, I think that we can re-imagine ourselves as the powerful reality creators. In this case, we become subjects/agents. Despite the powerful sociological narratives that *Black Wealth/White Wealth* and *American Apartheid* represented, they described blacks and whites as action figures, all of whom were posed by the deft hand of social structures. In these narratives, we looked at whites as racists and wrongdoers, failing to see them for what they are—angelic humans working through social experiments, some wonderfully successful, some dangerously wrong.

Unfortunately, by focusing us not on a dynamic interplay between individual consciousness and manifold social realities, especially when we seek to change wealth, poverty, and residential segregation, *Black Wealth/White Wealth* and *American Apartheid* invited us to react to a social structure that appeared beyond our collective responsibility. To the extent that social structures loom over us, rendering most of us to paralysis, individuals can control their personal worlds and the manner in which they experience them. In the aggregate, these individual form a critical mass, and then they change what initially appeared to history's runaway train. However, by simply reacting, we signal our usual, but discomfiting, impotence to change who we really are. In part, we remain in this stagnant place because we do not realized that reactions enslave us to our tragically suffering minds. Our current race consciousness conditions us to react, to be victims. It is unfortunate that by now we do not realized that we co-created poverty, wealth, and residential segregation. We did it! We can change, unless we decide to keep these constructs.

In this regard, consider God's perspective on how reactions do not free but bind. According to God,

Reaction is just that—an action you have taken before. When you “re-act,” what you do is assess the incoming data, search your memory bank

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321. *Are You Letting It In?*, reprinted in 16 SCI. DELIBERATE CREATION 6, 44 (2001).

for the same or nearly the same experience, and act *the way you did before*. This is all the work of the mind, not of your soul.<sup>322</sup>

More than limiting us to past experiences, reacting conditions us to live not by choice (i.e., conscious empowerment), but by chance (i.e., unconscious disempowerment). "A life lived by choice is a life of conscious action. A life lived by chance is a life of unconscious reaction."<sup>323</sup> In the former case, a person lives in the here and now, goes with the flow and allows emotions to dictate what happens next. In the later case, a person lives in the past, fearing old mistakes, old recriminations, or old embarrassments, avoids pain, judgment, and death, with one's reputation and possessions intact. By living consciously, we decide quickly. We choose rapidly. We allow our souls to co-create out of our present experiences only. We do not review. We do not analyze. We do not criticize past encounters.<sup>324</sup> At base, we should live now.<sup>325</sup>

One branch of Critical Legal Studies arguably embraces this New Age perspective. It argues against the idea that the governmental system and its institutions depend naturally and neutrally on the ideology of traditional legal reasoning, a process that stands on objective criteria and that originates out of rational thinking.<sup>326</sup> In addition to rejecting legal "determinacy, objectivity, and neutrality" and to asserting the principle of legal indeterminacy (in a word, nihilism), Joseph Singer argues for a legal theory that empowers society from "outworn vocabularies and attitudes."<sup>327</sup> This liberating, empowering legal theory should enable us to ground our intuition and to rely on present customs.<sup>328</sup> Like the New Age proposition that extols a life of conscious action, Singer argues that:

Everyone has had the experience of making important, difficult moral decisions. And almost no one does it by applying a formula. When people decide whether to get married, to have children, to go to law school, to move to another state, to quit their jobs, they do not apply a theory to figure out what to do. They do not "balance all the factors" or add up the pros and cons. In short, they do not follow a procedure that generates, by itself, an answer. . . . and in the end, they make a decision. And later, in looking back at it, they are sometimes pleased with their

322. 2 WALSCH, *supra* note 13, at 13 (emphasis in original).

323. *Id.* (emphasis deleted).

324. *See id.*; *see also* D.T. SUZUKI, AN INTRODUCTION TO ZEN BUDDHISM 35 (1964) ("Zen is mystical. This is inevitable, seeing that Zen is the keynote of Oriental culture; it is what makes the West frequently fail to fathom exactly the depths of the Oriental mind, for mysticism in its very nature defies the analysis of logic, and logic is the most characteristic feature of Western thought.").

325. *See generally* DAISSETZ T. SUZUKI, ZEN AND JAPANESE CULTURE 413 (1970).

326. *See* Joseph William Singer, *The Player and the Cards: Nihilism and Legal Theory*, 94 YALE L.J. 1, 8 (1984).

327. *Id.*

328. *See id.*

decisions, sometimes not. But they knew how to do it.<sup>329</sup>

Unfortunately, Singer's approach still embraces a logical nature that moves us out of living now. Its logical nature reveals itself when Singer argues that when we make value choices, we think long and hard. We take time to imagine our lives with or without the decision, seek opinions, place value on these varying ideas, debate their merits, and then we decide.<sup>330</sup> Even though he does not venture completely down a New Age path, Singer uses Critical Legal Studies' theoretical framework to move us away from our narrow view that law rests on logic, reason, and objectivity, and closer to Robert Gordon's notion that we live through a flowing process in which we act, imagine, rationalize, and justify.<sup>331</sup>

In the end, I recommend reading these books, and I caution you not to believe that blacks, whites, and others walk through the social historical pages as either oppressors or oppressed, or either as the victimizers or the victimized. As Robert Ornstein would argue, we adopted a way of thinking (i.e., race consciousness), and we see the world through this schema. In so doing, we act as very powerful reality creators. And we do so within our self-selected roles. We all co-create those roles so that each of us can consciously participate in developing what Michael Talbot called social experiments. As such, we also can co-create personal worlds and manifold social realities, even if some of us doubt this *great* gift. On this point, Zen Master Kodo Sawaki wrote:

When we consider all the phenomena of all existences through the eyes of our illusions and errors, we may erroneously imagine that our original nature is contingent and mobile, whereas in reality it is autonomous and immobile. If we become intimate with our true mind and return to our original nature, then we understand that all phenomena, all existences, are inside our own minds, and that is *true of every being*.<sup>332</sup>

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329. *Id.* at 62.

330. *See id.*

331. *See id.*

332. TEISEN DESHIMARU, *THE ZEN WAY TO THE MARTIAL ARTS* 20 (Nancy Amphoux trans., 1982) (emphasis added).

