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**VESTIGES OF SLAVERY IN THE UNITED STATES:
FROM THE TRANSATLANTIC SLAVE TRADE TO
INSTITUTIONAL RACISM**

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You have to act as if it were possible to radically transform the world, and you have to do it all the time

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ABSTRACT

This dissertation provides a comprehensive overview of the legal evolution of the institution of slavery in the United States of America, since its establishment in the seventeenth century, throughout the transatlantic slave trade to the Americas, further identifying its consequences in contemporary United States. This contribution posits that the legal institution of slavery has taken the form of institutional racism. To this end, this dissertation first provides an overview of the legal frameworks that regulated the institution of slavery from the fifteenth century in the European states, which allowed its expansion to the United States, until its abolition in 1865. In chronological order, it then reviews the international legal instruments that provided for the prohibition of slavery from 1815 onwards. Subsequently, this dissertation focuses on the legislative evolution for the legalization and subsequent abolition of slavery followed in the United States. It also addresses legislation, policies and court decisions regarding housing discrimination and zoning, segregation in the educational system, criminal justice and police security, income and unemployment rates, as well as the African American civil rights movement. Lastly, this contribution reveals linkages between the legal institution of slavery and present institutional racism. In doing so, it advances that the vestiges of slavery manifest in the form of institutionalized racism in the United States of America nowadays.

KEY WORDS

Slavery, international law, institutional racism, segregation, transatlantic slave trade, United States.

1. INTRODUCTION

The practice of slavery has existed since ancient times to the present day. As Judge Sir William Scott acknowledged in a British court in 1816 “personal slavery arising out of forcible captivity is coeval with the earliest period of the history of mankind” (Fassbender & Peters, 2012, p. 672). The economies of Greece, Rome and other ancient civilizations depended on slave labor and therefore, for most of human history, slavery has been the basis of society. All great civilizations developed on the shoulders of slaves. Today, wherever one lives, a retrospective analysis would inevitably find traces of a by-gone era where slavery persisted both in the construction of public infrastructure and in the lives of owners facilitated by the drudgery of slave labor (Allain, 2012, p. 105).

In July 2021, a Report of the United Nations High Commissioner for Human Rights (OHCHR) was published under the title “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers”. Therein, the High Commissioner, Michelle Bachelet, observed that people of African descent required a process of accountability and compensation for the harm suffered for centuries from slavery, the transatlantic slave trade, colonialism and ongoing racial discrimination (OHCHR, 2021). Despite this latent necessity, the report notes that no State has holistically accounted for the past, and the direct and indirect impacts of the legacy of the transatlantic slave trade, also referred to as the largest forced transoceanic migration of people to the present day, that have now degenerated into systemic racism in countries, such as the United States (ibid). The report presents an “Agenda toward transformative change for racial justice and equality” in order to achieve a shift and improvement in racial equality and justice through four transformative points (ibid). While it suggests a set of solutions, the OHCHR report fails to articulate the reasons why the legal institution of slavery has led to institutional racism, in particular against people of African descent, which however remain crucial to properly tackle contemporary racial discrimination, which has now become an endemic problem in the United States. Likewise, other analyses of the racial discrimination against African Americans within the United States have only focused on brief periods of history, as will be shown below with the temporally limited studies of Stokely Carmichael and Charles Hamilton, Jean Allain, Richard Rothstein, Michelle Alexander, Ta-Nehisi Coates, Alexander Tsesis, among others. Therefore, this dissertation focuses on providing a broader overview from the early days of the transatlantic slave trade to the present day in order to identify the underlying causes of institutional racism in the twenty-first century. In order to achieve this, the subjacent reasons behind the prevalence of racial discrimination at the national level, both in the governmental and

social spheres, will be exposed and analyzed, further tracing its origins, which predate the United States' independence from Great Britain in 1776.

Before turning into the analysis of the linkages between past slavery and contemporary institutional racism in the United States, it remains important to provide the historical context for current racism and discrimination, in particular against people of African descent, in the United States. Indeed, the legal institution of slavery in the country and its contemporary remanence manifested in the form of institutional racism cannot be understood in isolation from its historical context. For this purpose, this dissertation is structured as follows. Section 2.1 will provide an historical overview of the institution of slavery and the transatlantic slave trade to the Americans carried out by European former colonial powers from its establishment in the fifteenth century until the beginning of the abolitionist movement in the late eighteenth century. It will then move onto analyse the international legal instruments pertaining to the abolition of slavery, starting with the establishment of the earliest relevant international limitations to this matter, up to its most contemporary regulations in Section 2.2. In doing so, it will become apparent that the prohibition of slavery and the slave trade, on the one hand, and the prohibition of racial discrimination, on the other hand, developed separately in international law. Section 2.3 will conclude the analysis of Section 2, which as a whole reveals that both international instruments and the literature have failed to adequately establish the links between the institution of slavery and institutional racism, despite the fact that the latter is a direct consequence of the former. After presenting the objectives of this dissertation in Section 3, the discussion and content analysis will begin in Section 4. Section 4.1 will focus on the evolution of the legal status of slavery and the slave trade in the United States, even when its territory was still under British jurisdiction. Section 4.2 will then develop the process followed to achieve the abolition of the institution of slavery and the beginning of institutionalized racism in the country. Subsequently, Section 4.3 will delve, from a legislative and historical perspective, into the evolution of the status of slaves and their descendants, who were burdened by two hundred and forty-six years of slavery, ninety years of Jim Crow laws, sixty years of segregation and a legacy of institutional racism that still persists in areas such as housing, education, the judicial and penitentiary system, employment and civil rights movements. After analyzing all of these areas in which the correlation between slavery and racism will be demonstrated, this dissertation will end by briefly reviewing the concept and potential effectiveness of affirmative action in the process of reversing the remnants of slavery in the country today, followed by the conclusions drawn from this dissertation.

2. STATE OF THE ART & THEORETICAL FRAMEWORK

2.1. EVOLUTION OF THE TRANSATLANTIC SLAVE TRADE IN THE EUROPEAN STATES

The European transatlantic slave trade to the Americas coming from Africa was initiated by the Portuguese in the fifteenth century, and the demand for slave labor increased after the establishment of sugar and tobacco plantations in the so-called “New World”. This gave rise to the well-known and extremely profitable “triangular trade”, of which Great Britain was the leading agent in the mid-eighteenth century, forcing an estimated 3.5 million Africans into slavery in the Caribbean as well as in the Southern colonies of North America, including Georgia, Virginia, and South and North Carolina. That figure equaled the combined number of people enslaved and traded by the European rivals of the British, namely the Portuguese, French and Dutch. Since Portugal and Spain were the ones who initiated the first kidnappings of African slaves for later sale as part of the transatlantic slave trade, the legal culture of both countries allowed for the rapid creation not only of slavery, but of a structured system of slavery (Watson, 1987). Such culture derived from the Roman law, which already defined slavery as “an institution of the law of nations, against nature subjecting one man to the dominion of another” (*The institutes of Justinian*, p. 25).

The transatlantic slave trade increased more than tenfold between the mid-sixteenth and early nineteenth centuries (Allain, 2012, p. 87). In England, an early legal formula issued in 1584 allowed colonies “in remote, heathen and barbarous lands” to make particular laws and statutes “agreeable to the laws of England” (Seymour, 2009, p. 75). Over the subsequent two centuries, all British governments considered slavery and the slave trade within all of their dominions to be both acceptable as well as financially beneficial (Allain, 2012, p. 87). Although slavery was apparently not recognized as legal in England, British judicial powers granted the status of slaves in the then British colonies and employed common law and commercial law provisions to enforce contracts of sale or maritime insurance policies related to the purchase, sale and shipment of African slaves. Slavery in the British Empire was governed by local laws, resulting in a complex legal structure for slavery in the colonies and later in the independent United States of America (ibid, p. 104). Moreover, at the beginning of the sixteenth century, slavery as an institution did not exist in France, although, at the same time, there had always been enslaved people in the country since the legal culture of France provided some institutional support for the slave trade (Watson, 1989, p. 83). French colonists established slavery in the Caribbean at the beginning of the seventeenth century, and the Paris government regulated slavery in the colonies with the introduction of the *Code Noir* in 1685. Its content, intended to control the relationship between slaves and colonists, was taken as a model for the adoption in 1724 of a *Code*

Noir in Louisiana, which remained in force until the United States took possession of the territory, which until then had been under French control. Likewise, the *Edict of 1716* did permit colonists to bring their slaves with them to France (Peabody, 1996, p. 35).

Thereafter, the struggle against slavery became the policy of a sovereign nation, which also happened to be the strongest international diplomatic, naval and economic power on the face of the earth: the British Empire. The internationalisation of the anti-slavery struggle grew directly out of the British abolitionist movement. Launched in 1787, the first abolitionist campaign against the slave trade remained the movement that amassed more popular support than any other British reform for the next half century. Anti-slavery activists lobbied for two decades to end the slave trade and finally on March 25, 1807, the *Abolition of the Slave Trade Act* was passed in Great Britain, thereby prohibiting its citizens from participating in the transatlantic slave trade (Allain, 2012, p. 90). This gradual trend in international law towards the prohibition of the slave trade coincided with the emerging disputes over the division and scramble for the African continent. Consequently, there was a chronologically incoherent overlap between the anti-slavery campaigns in Western Europe and the pre-existing colonialism and the new imperialist ethos. Meanwhile, under French colonial control in Saint-Domingue, the most successful slave rebellion in history took place in 1791. This movement for the abolition of slavery resulted in the declaration of the emancipation of slaves in the French Empire in 1794 through the proclamation of the *Decree of the National Convention*, which was rendered ineffective following the reimposition of slavery in France by Napoleon in 1802. Towards the second quarter of the nineteenth century, the United States and France became the two nations that most fiercely opposed the internationalisation of abolitionism (ibid, p. 92). The refusal of the United States to accept a mutual right of search or to equate slavery with piracy prevented the final closing of the transatlantic slave trade until the American Civil War (1861-1865), whose period will be discussed in Section 4.1.

2.2. THE ABOLITION OF SLAVERY UNDER INTERNATIONAL LAW

The first of the essential pillars of the institution of slavery, which contributed to sustaining it, was the transatlantic slave trade. Over the course of the last five centuries, slavery and the transoceanic slave trade have played an important role in the formation and transformation of international law. Initially identified in antiquity as a concept of *jus gentium*, based on Roman law, the notion of slavery gradually changed. Three centuries after 1450, European colonial powers gradually began to identify themselves as lands where the generic *jus gentium* verdict on slavery no longer applied. During the same three centuries, Europeans simultaneously created vast new slave empires in the New World

(Allain, 2012, pp. 99-100). Once it became the target of a widespread civil and political movement, its abolition became a worldwide appeal. Although slavery had existed since ancient times, the transatlantic slave trade was not formally condemned in an international document until the early nineteenth century. Representatives of the major European powers of the time described the practice as “repugnant to the principles of humanity and universal morality” for the first time in history in the *Declaration of the Eight Courts Relative to the Universal Abolition of the Slave Trade* which was incorporated into the *Final Act of the Congress of Vienna* of 1815 and signed by the then major colonial forces. Even though the *Final Act of the Congress of Vienna* failed to have practical effect in the immediate prohibition of the slave trade, it became a milestone in international law, whose content is considered a precursor to the subsequent international Conventions on the Abolition of Slavery of 1926 and 1956, whose content will be addressed hereunder. Subsequent to the *Final Act of the Congress of Vienna*, a large number of bilateral and multilateral agreements have been concluded since the early nineteenth century, containing dispositions prohibiting practices related to the institution of slavery, both in wartime and in peacetime. Between 1815 and 1957, an estimated 300 international agreements on the abolition of slavery were implemented (OHCHR, 2002). Many of them, however, lacked adequate institutions and procedures to guarantee their effective enforcement.

The power of the anti-slavery struggle as a stimulus for popular mobilization was again manifested in a campaign launched in 1888 by the Catholic missionary Charles Allemand, a century after the first popular petition against the British slave trade, conducted in 1787 and previously mentioned. The campaign culminated in an international conference in Brussels in 1889. Diplomatic representatives from thirteen European nations, as well as the United States, met there (Allain, 2012, p. 96). The tangible outcome of that gathering was the *Brussels Act of 1890*, a multilateral treaty that contained a series of measures specifically aimed at trying to eliminate the African slave trade. Nevertheless, enforcement was left to national courts and thus, the *Brussels Act of 1890* was a demonstration of the primacy of national sovereignty over international law (Miers, 2003).

The next major international step against slavery came after the First World War. Beneath the auspices of the League of Nations, the predecessor of the United Nations, it was decided that all previous agreements on slavery and the slave trade should be replaced, and a new international convention against slavery should be formulated instead. The League of Nations focused on the elimination of slavery and slavery-related practices after the end of the Great War. Consequently, the *Slavery Convention of 1926* was designed to prosecute the slave trade in those corners of the world that were still considered “uncivilized”. This international treaty committed signatories to attack slavery “in all its forms” becoming the first international treaty directed against slavery and the slave

trade without discrimination on the basis of gender or race. Most members of the League of Nations, including the United States, signed the 1926 Convention during the interwar period (Allain, 2012, p. 97). Article 1(1) of the *Slavery Convention of 1926* defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”. Then, Article 1(2) also provides the definition of slave trade: “The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce *him* to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging *him*; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves”. The 1926 definition of slavery stems from the work of the Temporary Slavery Commission, an independent expert body that, from 1924 to 1926, examined issues of what would today be considered human exploitation (slave trade, slavery, servitude, forced labor, etc.) (ibid, p. 112). It remains the accepted definition of slavery in international law; it was doubly reaffirmed when States once again opened it to negotiation in the drafting of the *1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956 Supplementary Convention)* and the *1998 Rome Statute of the International Criminal Court*, both adopted under the auspices of the United Nations (Allain, 2017, pp. 36-37). In addition, the *1998 Rome Statute of the International Criminal Court* typifies slavery as a “crime against humanity” if committed as part of a widespread or systematic attack directed against civilians. Within these international legal instruments, only the *Rome Statute* refers to racial discrimination, as can be observed in Article 7(1) with the crime of apartheid. However, none of these treaties elaborates and develops the relationship between slavery and racial discrimination.

Three years after succeeding the League of Nations, the United Nations General Assembly (UNGA) adopted the *1948 Universal Declaration of Human Rights (UDHR)*, thereby identifying the fundamental rights that should be universally protected. Article 4 of this Declaration states that “no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”. While the *1948 UDHR* lacks force of law, almost two decades later, the prohibition of both slavery and the slave trade as human rights were recognized in Article 8 of an international human rights treaty, namely the *1966 International Covenant on Civil and Political Rights (ICCPR)*. Compliance by States Parties under this Covenant, including the anti-slavery provision, is monitored by the Human Rights Committee. The United States Senate ratified the *ICCPR* in 1992, subject to five reservations. Nevertheless, individuals cannot file complaints before the Human Rights Committee since the United States has not ratified the *Optional Protocol to the ICCPR*. Furthermore, the prohibition of slavery is also included in Article 6 of the *1969 American Convention on Human Rights*, which has not been ratified by the United States. Likewise, both conventions also include the

prohibition of discrimination based on race. Furthermore, although it does not contain an explicit prohibition of slavery, the *1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)* sought, *inter alia*, to eliminate any consequences related to the historical practice of slavery, such as segregation by *race*, which is considered one of the main sources of contemporary inequalities. The *ICERD* was ratified by the United States in 1994 and its implementation by States Parties is monitored by the Committee on the Elimination of Racial Discrimination.

As previously mentioned with the *2021 OHCHR Report*, several United Nations treaty bodies have also proposed future steps to address racial discrimination, yet have not focused on identifying the underlying reason for the institutionalized racism in the United States. This is the case, for instance, with the 2006 Concluding Observations of the Human Rights Committee on the United States implementation of the ICCPR (*CCPR/C/USA/CO/3*), the 2014 Concluding Observations of the Human Rights Committee on the United States implementation of the ICCPR (*CCPR/C/USA/CO/4*), the 2008 Concluding Observations of the Committee on the Elimination of Racial Discrimination on the United States implementation of the ICERD (*CERD/C/USA/CO/6*), as well as the 2014 Concluding Observations of the Committee on the Elimination of Racial Discrimination on the United States implementation of the ICERD (*CERD/C/USA/CO/7-9*). Such documents highlight how concerning deep-rooted racial discrimination in the country is as a result of a past of *de facto* segregation in the national territory in fields such as housing, criminal justice system or education, although failing to identify the source of the problem in order to equitably redress centuries of racial injustice against the descendants of African slaves.

The international law principle prohibiting slavery and slavery-related practices has become customary international law, i.e., it constitutes a general practice accepted as law and exists independently of the law of States (Bassiouni, 1991, p. 445). Further, this principle is now a norm of *jus cogens*, i.e., it falls into the category of peremptory norms of international law, considered so fundamental that cannot be derogated by States under any circumstances (Brennan, & Packer, 2012, p. 18). Moreover, the International Court of Justice, in its 1970 judgment in the Barcelona Traction Case (*Belgium v. Spain*) determined that protection against slavery is an *erga omnes* obligation derived from human rights law and thereby an obligation of States towards the international community. Similar considerations were made in relation to the nature of the prohibition of racial discrimination, since international law scholars, including members of the International Law Commission, consider the prohibition of racial discrimination has attained the status of *jus cogens*. Likewise, the prohibition of discrimination is generally considered an *erga omnes* obligation.

2.3. SLAVERY AND INSTITUTIONAL RACISM

The foregoing analysis demonstrates that the prohibition of slavery together with the slave trade and the prohibition of racial discrimination developed separately in international law, as did the international human rights mechanisms in monitoring State compliance with each of these prohibitions. For this reason, the present section will attempt to provide conceptual clarity on both concepts by showing the academic treatment given to the connection existing between them.

The United Nations Special Rapporteur on contemporary forms of racism, Tendayi Achiume, addressed Verene A. Shepherd, member of the United Nations Committee on the Elimination of Racial Discrimination with the following statement “many of the contemporary manifestations of racial discrimination must be understood as a continuation of insufficient remediated historical forms and structures of racial injustice and inequality” (OHCHR, 2021). The recognition of the existence of millions of descendants of slaves in the Americas has been established in the *Durban Declaration and Program of Action*, adopted following the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Despite the criticism of the first and two subsequent conferences, Durban became the only international forum to deal jointly with the transatlantic slave trade and racial discrimination against people of African descent. Nonetheless, it once again failed to elaborate and develop the direct connection that exists between both concepts.

Moreover, the concept of “institutional racism” dates back to the late 1960s in the United States, when Stokely Carmichael and Charles Hamilton deployed it in *Black Power* (1967), their influential critique of the persistent inequalities faced by blacks. They emphasize that, regardless of whether the individual motivations and behaviors of whites were racist or not, all of them benefited from social structures and organizational patterns that continually disadvantaged African Americans. Likewise, both explain that whites thus remained far ahead in standards in areas such as housing, health, political representation, neighborhood safety, public facilities and services, educational attainment, legal justice, employment, income, and wealth. They made it clear that this process could never have arisen completely impersonally and unintentionally. Institutional racism, they argued, is based “on the active and pervasive operation of anti-Black attitudes and practices” (Carmichael, & Hamilton, 1967, p. 17). That is a racist attitude that permeates society, both individually and institutionally, as well as covertly and openly. The concept of institutional racism was used to highlight the fact that the playing field on which people of African descent and whites contested for a decent standard of living was not the same since it was systematically biased against African Americans, both in terms of opportunities and outcomes. A vicious cycle took hold of black lives even when the *Jim Crow Laws* –state and local statutes that legalized racial segregation, which will be discussed below– ceased to have effect in 1965. A version of this view was officially accepted in the *1968 Report of the National Advisory*

Commission on Civil Disorders, also known as *Kerner Report* (Rattansi, 2007, pp. 132-133). Within the same report, it was concluded that the main causes of, for instance, urban violence, were white racism, as *de facto* segregation pushed African Americans into ghettos due to widespread residential segregation and condemned them to live deprived of necessary services, with regular confrontations with police forces, lacking decent housing and without job opportunities similar to that of whites. As a broader concept, “systemic racism” is a term that designates the social structure that maintains a racially influenced system in which segregation between racial groups persists. Some manifestations of systemic racism that have been identified are, on the one hand, institutional racism, and on the other hand, structural racism (EQUINET, 2020). Institutional racism refers to the systemic racial bias inferred in policies and laws, as well as in their application through judicial decisions, either explicitly or implicitly. The racial justice non-profit organization *Race Forward* warns that systemic racism can impact a myriad of fields, such as the wealth gap, employment, discrimination in access to housing, education, banking, public health, government surveillance, incarceration, police stops, or infant mortality.

In 1903, the black American sociologist W. E. B. Du Bois, one of the most prominent names in the National Association for the Advancement of Colored People (NAACP), predicted in the opening paragraph of “The Souls of Black Folk” that “the problem of the twentieth century is the problem of the color-line” (Rattansi, 2007, p. 161). Likewise, he also stated that “there is not a country in world history in which racism has been more important, for so long a time, as the United States” (Zinn, 2009, p. 27). In consequence, it should be noted that the concept of *race* is a fairly recent development, as it is only in the last few centuries, largely due to European colonialism, that racial lines have been used as a qualifier in society (Alexander, 2010, p. 23). In a seminal 1997 article published in the *American Sociological Review*, sociologist Eduardo Bonilla-Silva asserted that “the area of race and ethnic studies lacks a sound theoretical apparatus” (Buraschi, & Idáñez, 2019, p. 14). Therefore, it is a relatively new concept with a very old history. This means that in a broad sense –as a practice of domination based on the naturalization of differences– it has ancient roots, while in a narrow sense –as a racial ideology– it was born in the West from imperialism and with the development of capitalism (Perceval, 2013). In the United States, a structural conception of racism has been identified, especially in the work of Eduardo Bonilla-Silva (1997), who stresses the alarming existence of “racialized social systems”, which he defines as “societies in which economic, political, social and ideological levels are partially structured by the placement of actors in racial categories”(Buraschi, & Idáñez, 2019, p. 55). Additionally, as Annette Gordon-Reed, Professor of History at Harvard University has argued, the phenomenon of slavery cannot be disassociated from white supremacy since “slavery in the United States created a defined, unrecognisable group of people and placed them outside society”.

Slavery was an inherited condition and as a result, American slavery was inextricably linked to white dominance (Rodríguez, 2020). Even people of African descent who were freed suffered under the weight of white supremacy that race-based slavery ingrained in American society. In relation to the definition of white privilege, Peggy McIntosh's landmark article "Using the white privilege analysis to examine conferred advantage and disadvantage" (1988) on white privilege is frequently mentioned in the literature on race because it brought the notion of "white privilege" to the forefront. She characterized white privilege as "an invisible package of unearned assets which *they* can count on cashing in each day, but about which they was meant to remain oblivious". White privilege, therefore, is the counterweight to racism, a system that disadvantages people of color. This white privilege brings about racial stagnation in the United States, according to internationally recognized psychologist Paul L. Wachtel, and the application of the innovative "vicious cycle" approach (*Race in the Mind of America*, 1999).

As will be demonstrated throughout Section 4.3, there have been abundant studies that show how centuries of legal segregation lead to widely differing standards of living depending on the ethnic group to which one belongs. Of all the demographic groups in the United States, African American studies on this subject have been the most numerous. They have proven that, whether because of a long history of racial segregation or the continuation of racist patterns in urban American society, blacks continue to bear the brunt of discrimination and income disparities. This dissertation will go even further back in time than existing analyses to demonstrate that the starting point of unequal treatment comes with the establishment of the transatlantic slave trade. Among others, sociologists Nancy Denton and Douglas Massey (1988) have examined the spatial segregation of Asians, Hispanics and African Americans in United States metropolitan areas, concluding that it is the latter who experience the highest rates of segregation. Similarly, Section 4.3.1 and subsequent sections will show the severe consequences of such segregationist behaviors. These same authors have studied the economic situation of different ethnic groups, concluding that it was blacks who underwent the greatest bifurcation from the average, with the concentration of wealth increasing and poverty expanding. As a result, the living standards of African Americans deteriorated in comparison to their white counterparts. Similarly, in 1984, sociologist Reynolds Farley pointed out how the evolution of different indicators between 1960 and 1982 presented a significant social progress of the black minority but, at the same time, he pointed out that if the income growth rate of those twenty-two years is extrapolated, it would take three hundred years for the income levels of the black and white population to equalize. Additionally, the average income level of African Americans is still 60% below the average income level of whites (Fainstein, & Fainstein, 1996) and, for some authors, only discrimination and racism explain the difficulties of progress, since blacks continue to live segregated

and isolated from the best opportunities, which are indeed within the reach of whites (Fainstein, 1993).

3. RESEARCH QUESTIONS AND PROJECT OBJECTIVES

People of African descent who were legally held in slavery from 1619 until the proclamation of the *Thirteenth Amendment* in 1865, a landmark achievement that will be reviewed in Section 4.2, created the wealth that the country required to embark on a process of economic growth that would propel it to become the greatest economic power in the world today. The ability of the United States to generate wealth is internationally recognized, as wealth undoubtedly generates even more wealth, following a cyclical pattern. However, for two hundred and forty-six years there was a portion of the population that pushed for national improvement and received nothing in return but isolation, punishment, injustice, rejection, condemnation, segregation and exclusion from the process of being able to create their own wealth and collect the hard work to which they were subjected. Additionally, an increasing number of studies, policy documents, institutional reports and testimonies warn of the urgent need to combat the almost undeniable institutional racism that exists in the United States. As previously documented, legal instruments of international law such as the *Slavery Convention of 1926*, the *Universal Declaration of Human Rights of 1948*, the *Supplementary Slavery Convention of 1956*, the *International Convention on the Elimination of All Forms of Racial Discrimination of 1965*, the *International Covenant on Civil and Political Rights of 1966*, the *Durban Declaration and Program of Action of 2001*, have not proven that institutional racism is an outcome of slavery. In the same way, neither reports issued by treaty bodies of the United Nations, nor analyses carried out by scholars such as Peggy McIntosh or Paul L. Wachtel provide arguments on how the historical process linking racial discrimination against African Americans to the transatlantic slave trade in the United States has unfolded.

Against this background, this dissertation will analyse, mainly from a legislative perspective, the possible connection between the transatlantic slave trade to the Americas along with the institution of slavery in the continent and the institutional racism that African Americans experience presently in a variety of areas, which will be examined throughout this work. This dissertation in particular ask: Which are the vestiges of the legal institution of slavery in the United States today? Could “institutional racism” be said to emanate from the legal institution of slavery? In order to address this questions, a brief exposition of the measures that have been tried to be implemented in order to remedy these presumed vestiges of slavery and the transoceanic slave trade will follow.

Regarding the methodology employed in this dissertation, it has been based on desk research as the data has been obtained through secondary research of national and international laws, public law treaties, United Nations reports, American jurisprudence and studies carried out by several researchers in the different areas covered throughout this dissertation. Although no primary research has been carried out, personal viewpoints of relevant people related to this topic have been consulted. Primary research could not be carried out due to the limited scope imposed upon the content of this work. Nevertheless, testimonies dating from the seventeenth century up to the twenty-first century have been taken into account in order to understand the historical context of each stage of racial segregation in the European States and especially in the United States. In addition, since the effectiveness of affirmative action is briefly discussed in Section 4.3.6, this topic could be explored further in the future, as well as this dissertation could be used as a first step to conduct this analysis under the additional component of the gender perspective.

4. DISCUSSION AND ANALYSIS

4.1. SLAVERY IN THE UNITED STATES

4.1.1. Slavery in the Thirteen British Colonies

In August 1619, a Dutch ship landed more than twenty captive Africans in the English colony of Virginia. The first landing at Jamestown represents the starting point from which the 246 years of slavery that followed this event can be understood in the present-day United States of America. When British settlers arrived in the eastern part of the country in the seventeenth century, slavery was already permitted in that territory. White settlers bought and sold the labor of black and white servants in the Americas during the seventeenth century. Race-based slavery would be a later phenomenon that arose due to purely economic reasons, whose legacy continues to endure in the United States until today. As the lifetime slavery of enslaved African Americans became more financially profitable, white indentured slavery –whose terms lasted for only five to seven years– was phased out. The system proved to be so lucrative that the law and legal precedent began to leave leeway for future governments to prioritize economics over morality.

The arrival of Dutch slave ships on the shores of the British colonies began a period of transatlantic slavery that would span the period from the seventeenth to the nineteenth century. The lucrative transoceanic route would result in more than 15 million black slaves arriving on American soil by the nineteenth century (Lovejoy, 1982). By 1619, Virginia became the only “New World” British colony

and, by the same token, the first colonial settlement on the continent to establish slavery, whose regulations would eventually be extended to the remaining colonies (Maestro, 2008, p. 55). As a result, Virginia became over the years the largest and most important British colony of the thirteen that would eventually constitute the United States. From the seventeenth century until the American Civil War (1861-1865), Virginia continued to maintain the largest slave population on the North American continent. By the 1640s, before slavery was officially established as an institution in Virginia, the lower house of the colonial legislature –the House of Burgesses– grappled with complex issues of servitude and status (Allain, 2012, p. 105). When they began to be aware that the African population was clearly increasing in the colony, they started to introduce legal distinctions, on the one hand, between black and white men, as they established, for example, in the *Militia Act of 1639-40 - ACT X*, and on the other hand, between African and British women, as they did in the *Statute 1642-3 - Act I*. This latter legislation was prompted by the belief that not all women played the same roles in the colony and therefore, African women would begin to be considered tithers at the age of sixteen, as well as all European and African men, since tithes were taxes levied on those who contributed to the economy. The fact that European women did not tithe because legislative bodies considered that working inside the home did not produce wealth provides an early evidence of how laws were already radically segregated from the mid-seventeenth century. In 1659-60, a Virginia law recognized slavery for the first time, though without defining it (Hening). At that time, slaves were considered traded commodities to be imported into the colony. *March 1659/60-ACT XVI* was the earliest explicit statement that Africans in the new British colonies were considered property, rather than persons, as would be reflected in the definition of the concept of slavery established in the *Slavery Convention of 1926*, almost three centuries later (Allain, 2012, p. 106).

4.1.2. First attempts to combat slavery in the North American Republic

The American Revolution (1775-1783) forced many Americans to rethink the status of slaves. The Declaration of Independence proclaimed that “all men are created equal” and held the unalienable rights to “life, liberty and the pursuit of happiness”. During and immediately after the Revolution, Massachusetts and New Hampshire abolished slavery, while Pennsylvania, Rhode Island and Connecticut passed gradual abolition laws that would end slavery in the next generation. Thus, the new nation was already beginning to be divided over the issue of human servitude. A significant number of Americans, primarily in the North but some in the South, had also come to the conclusion that slavery was both ethically wrong and culturally corrosive (ibid, p. 111). Nevertheless, most whites in the South prioritized the financial advantages that slavery could generate over morale. By mid-1776, weeks before Thomas Lynch –one of the founding fathers and a South Carolina statesman–

confronted Benjamin Franklin, the Continental Congress had adopted the *Declaration of Independence* on July 4, 1776. The rhetoric of the document, focused on equality and liberty, overlapped with the debate over how to allocate taxes in order to support the new government. In the face of this dilemma there were two very clear positions. On the one hand, Northerners insisted that slaves contributed to the economy in the same way that free people did and therefore should be considered when calculating taxes. On the other hand, Southerners, opponents of this prior position, eventually triumphed in the debate and thus slaves were never taken into account in the allocation of taxes under the *Articles of Confederation*. Consequently, slaves continued to be considered “property” in the new North American nation, following the British legislative heritage from which they came. Nevertheless, although the *Declaration of Independence* had no legal effect, it did possess a strong moral force, which would help the northern part of the country to achieve the abolition of slavery. However, slave owners, such as Thomas Jefferson –principal author of the *United States Declaration of Independence*– failed to show any sign of wanting to interfere with the settled legislation, and so the claim that slaves were property continued thereafter for another hundred years (ibid, p. 112).

In the United States, the first state emancipation occurred in Vermont, although the act of 1777, through which that achievement was accomplished, freed very few slaves. Three years later, both New Hampshire and Massachusetts succeeded in abolishing slavery through judicial processes and legislative decisions, though the number of people freed was very limited. Over the next two decades, five Northern states passed laws that put an end to slavery but not in an immediate way, as it was done through a procedure called the *Free Womb Law*. Under this legislation, no one who was enslaved would be freed, but those born after the date on which the law was passed would be considered legally free under the condition of mandatory submission to a period of between fifteen and thirty years to serve as apprentices to their mother’s owner (ibid, p. 156).

During the Constitutional Convention of 1787, Charles Pinckney, one of the founding fathers of the nation and governor of South Carolina at the time, strongly defended slavery: “If slavery be wrong, it is justified by the example of all the world”. He cited the case of Greece, Rome, and other States, both ancient and modern, because “in all ages one-half of mankind had been slaves” (Farrand, 1787). When the debate over the status of slaves resurfaced that same year, the positions of the North and South reversed. Southerners, who until then had argued that slaves were property, suddenly began to argue that slaves should be counted as “persons” under the new Constitution and taken into consideration when determining how many seats in Congress the Southern states would receive. The Constitutional Convention eventually settled on the formulation of the *Three-Fifths Clause*, which

took slaves into account for representation, but on a three-fifths basis compared to what a free person counted for (*U.S. Const. art. 1, § 2*). This was a political compromise negotiated between Southerners, who wanted slaves to be counted in full for representation, and Northerners, who did not want them counted at all (Allain, 2012, pp. 111-112). Despite the fact that in reality, the enslaved population was still considered as trading merchandise, in the three-fifths formula they were referred to as “other persons” (*U.S. Const. art. 1, § 2, Cl. 3*). The Constitution was quickly ratified in 1788 and entered into force the following year, despite significant opposition.

This dual morality was analyzed by the political theorist Hannah Arendt, who coined the term “original crime” to refer to the enslavement of the African American people in the United States and the perpetuation of its consequences through racial legislation (Ballesteros, 2016, p. 28). She also used the term to refer to the exclusion of the black population in the national founding covenant of 1787, taking as a starting point Alexis de Tocqueville’s reflections on the racial question in this country. Therefore, the absence of the term “slavery” in the Constitution is one of the great paradoxes of the United States Founding Era. The framers were considered revolutionary thinkers whose ideas of fairness, freedom and individual rights are emulated even by current world leaders. However, not even the founding fathers themselves applied those principles in their own country. Among the fifty-five delegates attending the Constitutional Convention of 1787, approximately half of its members owned slaves. The founding fathers were aware of the moral ambivalence of their position, since while they campaigned for the freedom of their fellow whites from tyranny and oppression, they continued to own black slaves. Despite this, both the desire for power and financial expansion prevailed and became the reasons why these political leaders segregated the implementation of individual rights based on skin color and allowed some human beings to be categorized as property. In the United States, black slaves were purchased to work primarily on agricultural plantations of rice, tobacco or cotton, the production of which would become indispensable commodities for national economic development. Although the Northern states slowly but gradually banned slavery through the abolitionist movement, the Southern slave states depended on them because they worked on their large cotton plantations, whose exports accounted for more than half of the country’s exports in the mid-nineteenth century.

In 1987, on the 200th anniversary of the ratification of the United States Constitution, Thurgood Marshall, the first African American elected to sit on the Supreme Court, noted that the Constitution was flawed from the beginning. He pointed out that the framers had left out an overwhelming portion of Americans when they wrote the phrase “We, the people” because, according to the founding fathers themselves, only free people were alluded to. Although some of the members of the Constitutional Convention raised eloquent objections to slavery, they avoided explicitly addressing slavery in the

document and only took slaves into account for the purpose of increasing the proportion of representation, thus setting the stage for the tragic events that were to follow. The fact that the drafters consciously avoided the word “slavery” because they recognized that it would sully the paper, did not prevent them from adding the aforementioned *Three-Fifths Clause*, which provided the South with additional representation in the House of Representatives and further votes in the Electoral College. The third president of the United States, Thomas Jefferson, whose mandate lasted from 1801 to 1809, would have lost the election in the absence of the three-fifths compromise. Similarly, the framers of the Constitution believed that support for the institution of slavery was the price to be paid for the support of Southern delegates in order for a strong central government to lead the country. Therefore, the constitutional formula provided the federal government with the power to put down rebellions, including slave insurrections. Moreover, they were convinced that if the Constitution restricted the slave trade, Southern states such as South Carolina and Georgia, would eventually revolt. However, by avoiding the issue of slavery, the framers sowed the seeds for future conflicts that still continue to have consequences for African Americans in the form of institutional racism (Mintz, S.).

In 1789, the United States Congress proposed a series of amendments that, when ratified in 1791, became known as the *Bill of Rights* (Allain, 2012, p. 114). Through the provisions of the document, along with the *Slave Trade Act of March 22, 1794*, the *Slave Trade Act of May 10, 1800*, and the *Act of February 28, 1803*, fines for illegal American involvement in the transatlantic slave trade increased dramatically. Nevertheless, the provisions of these laws could not be used to halt the trade itself due to Article 1, Section 9 of the Constitution and so until 1807, the adopted laws focused on minor issues such as ships, sailors and investors but did not contain regulations on what should happen to slaves illegally imported into the country. However, in 1808 the *Act Prohibiting Importation of Slaves* was enacted, although in reality the law provided little comfort to the subjects of the law: the Africans themselves. President Thomas Jefferson was deeply hostile to the presence of free blacks in the United States and showed no intention of freeing those who had been illegally imported. *The Act of March 3, 1819, Relative to the Slave Trade* required that illegally imported slaves be removed to Africa. Consequently, the United States assisted in the creation of Liberia as a destination for Africans captured on intercepted ships (ibid, p. 117).

By 1790 there were approximately 700,000 enslaved blacks in the United States, a figure that would become four million by the outbreak of the Civil War (Chapman, 2021). Similarly, by 1860, on the eve of the national conflict, the combined worth of all those slaves exceeded even the value of all the railroads, factories and banks of the nation (Rodríguez, 2020). Given the demographic increase of the

enslaved population and its value, the division between slaveholders and abolitionists intensified in 1860. Among the factors that caused such a level of tension was the *Dred Scott v. Sandford Case*, a lawsuit decided by the United States Supreme Court in 1857. According to the judicial decision taken as a result of the lawsuit, all people of African descent would be deprived of the right to citizenship, in addition to taking away from Congress the ability to prohibit slavery in federal territories of the country, whose decision was strongly criticized by abolitionists. When Abraham Lincoln took office, he faced an unprecedented crisis when seven states had decided to secede between his election in November 1860 and his assumption of power in March 1861. These states claimed to be part of the Confederate States of America, intending to form a new nation, conceived on the basis of slavery and dedicated to the proposition that all men were clearly not created equal. Shortly after Lincoln's inauguration, but before the Civil War (1861-1865) began, the Vice President of the Confederacy – Alexander Stephens– condemned the North for accepting the idea of racial equality. Subsequently, the Southern states left the Union because they believed Lincoln threatened slavery. In his First Inaugural Address on March 4, 1861, Lincoln made an effort to deny that statement, urging the seven separatist states to return to the Union, arguing that slavery in the Southern states was safe under the Constitution and under his administration (Allain, 2012, p. 124). The following month, in April 1861, Confederate forces attacked the United States and the American Civil War began. On April 16, 1862, Congress abolished slavery in the District of Columbia, granting compensation to owners through the *Compensated Emancipation Act*. As a war measure, the executive order entitled the *Emancipation Proclamation* was issued in 1863, changing the legal status of slaves only in those territories that supported the Confederates. Therefore, Lincoln only had power to address slavery where he could not actually enforce the Constitution. Even before the Civil War ended with the resulting victory of the Union over the Confederate States, Congress would pass the *Thirteenth Amendment to the United States Constitution* that would end *de jure* slavery in the country on January 31, 1865. On December 6, 1865, eight months after the end of the War, the Amendment was ratified and proclaimed two weeks later. *The Thirteenth Amendment* established that “neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction”. Slavery seemed to have ended in the United States and African Americans could no longer be treated as property, that could be bought and sold. However, in 1865, it was unclear what rights former slaves would possess, since many white individuals and governments still thought blacks were inferior (ibid, p. 126).

4.2. THE THIRTEENTH AMENDMENT AND THE ABOLITION OF SLAVERY

In 1865 a period known as “Reconstruction” began, which would last until 1877 and whose main objective was to overcome the remaining Confederate nationalism that was still latent after the Civil War, while simultaneously beginning a process that would confer civil rights to the recently freed slaves. In an attempt to achieve constitutional equality between whites and African Americans, three Reconstruction Amendments were adopted. The first of these was the aforementioned *Thirteenth Amendment* in 1865. With President Abraham Lincoln and other members of the government fearing that abolitionist measures might be seen as temporary measures, the *Thirteenth Amendment* was supported for the permanent abolition of slavery. Although it was ratified by the necessary three-fourths of the states a year after it was proposed, its most recent ratification occurred in 1995, in Mississippi. Even though the ratification took place in 1995, it was not formally filed with the Archivist of the United States, so it was not an official ratification, which was finally issued in the Federal Register Office on January 30, 2013, and on February 7, 2013, the director of the register certified that he had received the ratification, making it effective.

Many of the former slave states confronted the *Thirteenth Amendment* with the enactment of a series of laws called the *Black Codes*. These Codes were intended to subvert the abolitionist effort and the new regime of freedom by once again depriving blacks of fundamental rights, such as the right to own property or freedom of movement (Balkin, 2010). Therefore, while Congress had just embarked on an affirmative lawmaking program to help former slaves, it simultaneously had to decide how to react to these attempts by the Southern states to undermine the *Thirteenth Amendment* and undo the outcome of the Civil War. Congress reacted by exercising its power through the enactment of the *Civil Rights Act of 1866*, which was enacted despite the veto of President Andrew Johnson, who succeeded Lincoln in 1865 (Allain, 2012, p. 165).

Continuing the effort to make the Reconstruction period succeed, the *Fourteenth Amendment* was ratified in 1868, which overturned the previously mentioned *Dred Scott v. Sandford* decision (1857), making all persons born in the United States, including ex-slaves, citizens of the nation. Thereafter, the *Fifteenth Amendment* was ratified in 1870, which provided that the right of a citizen to vote could not be impeded on the basis of race, color, or previous condition of forced servitude. As an additional effort, measures continued to be established such as, on the one hand, the *Freedmen’s Bureau* in 1865, which sought to guarantee education and the right to health to African Americans, among many other objectives (Ronald, 2005, p. 278). On the other hand, the *Civil Rights Acts of 1866* (previously mentioned), 1870, 1871 and 1875 were enacted, aimed at guaranteeing blacks the same rights that whites had been enjoying for centuries. Nevertheless, Reconstruction was short-lived and the

promises that the efforts of this brief period had held were in vain as the majority of blacks, 90% of whom still lived in the former slave states, would continue to be segregated and condemned to live in abject poverty (Maestro, 2008, p. 70). Thus, it would take a Civil Rights Movement in the two decades following the Second World War to fulfil some of these promises set forth in the *Thirteenth Amendment to the United States Constitution* (Allain, 2012, p. 127).

Most historians date the effective end of Reconstruction in 1877, a year marked by the compromise reached between presidential candidates Rutherford B. Hayes and Samuel J. Tilden, an informal political agreement that awarded the disputed presidential election of 1876 to the Republican candidate Hayes in exchange for a promise to end Reconstruction (Gabriel, 2007, p. 117). From that point on, the federal government largely withdrew from the task of protecting the civil rights of blacks as it had done for the past twelve years. The absence of strong federal protection, coupled with a federal judiciary that was hostile to previous Reconstruction gains –as seen with 1873 *Slaughter-House Cases*, 1876 *United States v. Reese Case*, 1876 *United States v. Cruikshank Case*, 1883 *United States v. Harris Case*, 1883 *Civil Rights Cases*, 1896 *Plessy v. Ferguson Case*– led to an era of institutional racism that lasted for nearly another century, until the Civil Rights Movement of 1950s-1960s (Allain, 2012, p. 166) which will be addressed afterwards. During this intervening period, the rights of African Americans were systematically denied, compounded by increasing numbers of racially motivated lynchings, widespread residential segregation throughout the country, unequal and separate educational systems, barriers to voting and corresponding full citizenship, along with economic marginalization.

In 1896, the decision of the United States Supreme Court in *Plessy v. Ferguson* made the segregationist laws of the South constitutional, with a seven-to-one decision that a state has the right to provide separate but equal facilities for whites and African Americans. Thereafter, *Jim Crow Laws* were implemented nationwide, consisting of policies devised by then racist Southern Democrats that pursued the maintenance of segregation between whites and blacks. Their slogan was “separate but equal”, but in practice it was a way to discriminate against the African American population in a systematic and unfettered manner. Consequently, government jobs and well-paid jobs were reserved for whites, it was extremely hard for blacks to vote, social life between whites and blacks was practically non-existent since the segregation policy forced them to move in separate spaces whether in schools, stores, restaurants, transportation, hospitals, among many other places. The denial of civil rights to the majority of African Americans would not be reversed until the great struggles of the 1950s and 1960s, a period in which black population would continue to witness the discriminatory policies of a morality born out of the slave exploitation system of the transatlantic slave trade. Indeed,

it was not until 1965 that *Jim Crow* laws were deemed unconstitutional. Even in the period following its prohibition and with the reestablishment of shared spaces, there would still be legislation that continued to violate, albeit less explicitly, the rights of African Americans in the wake of institutional racism that had been germinating for centuries, which will be analyzed below.

4.3. INSTITUTIONAL RACISM IN THE TWENTIETH CENTURY

By the last decade of the nineteenth century, African Americans still represented 13% of the population of the United States (Maestro, 2008 p. 70). They had witnessed how slavery had been legal until recent years and then how the old system of exploitation and abuse was replaced by laws that institutionalized discrimination. As a result, former slaves were forced to confront segregated housing and zoning policies, as well as educational, labor and economic discrimination in addition to an institutionalized denial of their civil rights. The history of the United States cannot be understood without the nearly 250 years of slavery that followed the first landing at Jamestown in August 1619 (Rodríguez, 2020). From then until the nineteenth century, slaveholding was a common practice among even statesmen who served as presidents of the nation. Altogether, at least twelve chief executives, that is, more than a quarter of all United States presidents who have served at least a four-year term. In fact, eight of those men had people enslaved while in office (Andrews, 2019). Therefore, the United States presents an undeniable structural problem that can be labelled as racism, which has taken several forms as a result of decades of racial segregation that kept black families away from white areas in diverse facets of daily life, creating obstacles for African Americans to exercise their right to vote, achieve better access to education, a minimum standard of health and access to public services and the possibility of economic development (Horowitz, 2019). In 2019, the Pew Research Center conducted a survey analyzing the perceptions of American citizens whom were asked to informally express an opinion on whether they felt that African Americans still experienced vestiges of the slavery era in the United States (Horowitz, Brown, & Cox, 2019). According to it, 63% of those surveyed assert the legacy of slavery endures and continues to affect the position of black people in United States society today. Additionally, black adults are particularly likely to feel that slavery continues to have an impact, with more than eight in ten stating that this is the case. Additionally, 78% of blacks and 37% of whites believe the country has not gone far enough to give blacks the same rights as whites. The significance of this dissertation is that this percentage would grow if North American citizens were aware of their own country's history of racial segregation. Given how deeply segregated the black population is today, especially after two years of pandemic, there is no social indicator –from unemployment, health, representation, income, school failure to police violence– in which African Americans do not distinctly lose out (Rodríguez, 2020). Certainly, as a demographic

group the opportunity to achieve parity as their white counterparts has not been afforded to them on several fronts of inequality, which will be analyzed below. The areas, whose origins have been already examined and whose legislative evolution will be further analyzed, will be those relating to residency and zoning first, followed by segregated education, the judicial system and police forces of the state, unemployment and income, civil rights and the popular movement that propelled them, concluding with the concept of affirmative action as a possible solution to balance institutional racism.

4.3.1. Residential segregation and zoning

On December 4, 2013, then President Barack Obama addressed the citizenry to address economic mobility and the emerging challenges that lay ahead for the nation. During his speech he asserted that “zip codes should not determine your destiny”. However, this raises the question of how it is possible to overcome and close a residential segregation gap that has been maintained for much of the twentieth century legally and subsequently endured because of the difficulty and complexity of repairing centuries of discrimination.

The federal government’s policy of racial exclusion had its roots in the early twentieth century. In the wake of the Russian Revolution of 1917, the United States Department of Labor launched under the administration of Woodrow Wilson the “Own-Your-Own-Home” campaign to counter communism. The purpose was to turn as many white Americans as possible into homeowners, with the idea that those who owned property would be invested in the capitalist system. African Americans were cut off from this opportunity for economic growth, as were subsequent public housing programs. The deliberate use of public housing by federal and local governments to drive African Americans into secluded urban ghettos had as great an influence as any on the creation of the American *de jure* segregation system. In the mid-twentieth century, public housing programs were primarily aimed at making decent housing available to middle-class white families, which they could not get by any other means. The federal government first developed civilian housing during the First World War, from which African Americans were once again excluded, even from projects in the industrial centers of the North and West, where they worked in significant numbers. Federal policy sometimes imposed racial segregation where it had not previously been established, forcing African Americans to live in overcrowded slums. However, beginning with the Great Depression of the 1930s and early 1950s, housing shortages for white and African American middle- and working-class families became a real concern. The Second World War exacerbated the shortage as all construction material was redirected for military purposes. In response, the New Deal under President Franklin D. Roosevelt created the

first public housing in the country for civilians not involved in defence duty. Following previous courses of action, skin color played a leading role in shaping the program. The administration built separate projects for African Americans, segregated buildings or excluded them altogether to further create racially homogeneous communities. By the late 1940s, as white families increasingly found shelter in the private market, more African American families continued to rely on public housing, resulting in projects built for whites being in danger of having vacant units that only African Americans would be willing to fill. Dwight D. Eisenhower, who succeeded Truman as president in 1953, began to reverse the few steps toward nondiscrimination that the previous Roosevelt and Truman administrations had considered. Following the 1954 *Brown v. Board of Education of Topeka* Supreme Court decision invalidating “separate but equal” public education, Berchmans Fitzpatrick – general counsel for the Housing and Home Finance Agency– asserted that the decision did not apply to housing. The civil rights groups’ protest orientation shifted in the 1960s, as they began to find the location of predominantly African American projects being developed in already segregated neighborhoods to be of concern, which would further increase the racial isolation of residents. Residential integration had been in steady decline since 1880 and by the mid-twentieth century had stagnated (Rothstein, 2017).

A further sphere of concern within housing policy during the twentieth century was the lynchings that African Americans faced when they attempted to move into predominantly white neighborhoods. Between 1930 and 1960, lynchings targeting blacks and burning their homes to prevent them from moving into non-black majority neighborhoods occurred in Chicago. Similarly, during this period of time, the more than six million descendants of slaves who took part in the Great Migration northward to escape segregation and violence in the South encountered regulations in Philadelphia, Washington or Chicago that prevented them from renting homes on equal terms with their white compatriots, so that they often ended up on the street, evicted because they could not afford predatory loans, or confined to ghettos. This is what author Douglas Blackmon (2008) referred to as “slaves by another name”, and from the 1930s through the 1960s, blacks across the country were largely excluded from the legitimate home mortgage market through both legal and extra-legal means. Whites in Chicago employed measures ranging from “restrictive covenants” to bombings in order to keep their neighborhoods segregated, whose efforts were backed at every turn by the federal government (Coates, 2014). In 1926, the same year that the United States Supreme Court upheld exclusionary zoning, it also confirmed the restrictive covenants and found that they were voluntary private contracts, not state actions. With a court decision to rely on, successive presidential administrations adopted covenants as a means to segregate the nation. The judges endorsed the view that the restrictive covenants did not violate the Constitution because they were private agreements, yet the

most powerful endorsement came not from the states or municipalities, but from the federal government. In 1948, the Supreme Court disavowed its 1926 endorsement of restrictive covenants and recognized that enforcement by state courts was unconstitutional. The power of the racial covenants depended on the cooperation of the judicial system and, as such, violated the *Fourteenth Amendment*, which prohibits state governments from engaging in segregation (Rothstein, 2017). This record of government regulation expanded institutional racial exclusion, through the systematic violation by regulators of their constitutional responsibilities, thus contributing to *de jure* segregation (Blackmon, 2008). In 1934, Congress created the Federal Housing Administration (FHA), which would eventually adopt a program of granting private mortgages at low interest rates. In order to decide to whom to grant such mortgages, the FHA developed a mapping system that classified neighborhoods according to their perceived stability. On these maps there would be green or type “A” areas, under the sole criterion that, as the appraisers claimed, they “lacked a single foreigner or negro”. The lowest category was given to neighborhoods where African Americans lived under the “D” label, whose areas were not considered eligible for FHA endorsement and were marked with the color red, giving rise to the concept of “Redlining”. In this way, they were “locked out of the greatest mass-based opportunity for wealth accumulation in American history” (Coates, 2014). Therefore, while white citizens anywhere in the country could rely on a legitimate government-backed credit system, blacks were relegated to being able to seek the services of unscrupulous lenders and appraisers. The most significant direct consequence of this segregationist practice was identified by The Pew Research Center, whose study estimated that white homes are worth approximately twenty times as much as black homes (Oliver, & Shapiro, 1995, p. 18).

In cases where African Americans were able to circumvent housing policy obstacles and even afford the inflated prices of private housing speculators, they also faced additional fees that their white counterparts did not have to pay for similarly sized homes. As identified by Jack Macnamara (1971), as a leading member of the Contract Buyers League in Lawndale (California), the average additional charges on buildings purchased since 1959 reached \$20,000 (approximately \$195,000 in 2022 dollars according to the United States Bureau of Labor Statistics). Consequently, while white citizens in any part of the country could rely on a legitimate government-backed credit system, blacks were relegated to being able to seek the services of dishonest lenders and unscrupulous appraisers. The most significant turning point came with the *Fair Housing Act of 1968*, which made violence to prevent neighborhood integration a federal crime. Nevertheless, until the 1980s, the United States Department of Justice had to prosecute a steady stream of cases involving attacks on African Americans attempting to leave predominantly black areas. The effectiveness of the Housing Act was brought into question as, the right that was unconstitutionally denied to African Americans until then cannot

be restored by the passage of a fair housing law telling their descendants that they can now buy homes in the suburbs as long as they can afford them. Through centuries of injustice underwritten by racially segregated legislation, African Americans could save less of their wages because discriminatory property assessments left them with less disposable income than whites with similar incomes. An investigation of 1962 appraisal practices in Boston found that assessed values in the African American community of Roxbury were 68% of market values, while assessed values in the nearby middle-class white community of West Roxbury were 41% of market values. The researchers were unable to find a non-racial explanation for the difference (Rothstein, 2017). Federally endorsed segregation affected the jobs African Americans could access, the schools their children went to, how safe they remained, and whether the value of their home increased. Until 1968 housing discrimination was legal. However, housing discrimination did not end there, because real estate agents and banks were also part of this whole process of institutional racism. Similarly, insurance companies also participated in segregation through discriminatory lending activities that contributed to *de jure* segregation. The Federal Home Loan Bank Board, for example, did not object to the denial of mortgages to African Americans until 1961 (ibid).

Nevertheless, racially discriminatory government activities did not end fifty years ago. On the contrary, some have persisted into the twenty-first century, serving as a major cause of the financial crisis of 2008. Among homeowners who had refinanced in 2000 as the subprime bubble expanded, low-income African Americans were more than twice as likely as low-income whites to have subprime loans, while high-income African Americans were about three times as likely as high-income whites to have subprime loans. Several cities sued banks for the massive devastation the foreclosure crisis imposed on African Americans, whose average household net worth declined by 53% compared to a 16% loss in white households. A case in the city of Memphis (Tennessee) brought against Wells Fargo Bank was supported by affidavits from bank employees who claimed they referred to subprime loans as “ghetto loans”. Bank supervisors instructed their marketing staff to target solicitation to zip codes with large numbers of African Americans. A similar lawsuit filed by the city of Baltimore (Maryland) presented evidence that Wells Fargo established a unit staffed exclusively by African Americans whom supervisors instructed to visit black churches to advertise subprime loans. The bank did not have a similar practice to market such loans through white institutions. In 2008, the city of Cleveland (Ohio) sued a large group of subprime lenders, including Citicorp, Bank of America, Wells Fargo and others (ibid). Banking infrastructures have long been accused of discriminatory practices against ethnic minority borrowers and homebuyers, from undervaluing homes in black neighborhoods to denying mortgages to black applicants. Only 47% of African American homeowners who submitted refinancing applications in 2020 were approved by

Wells Fargo, the largest bank mortgage lender, compared with 72% of white homeowners, according to Bloomberg News (2022) after analyzing data collected from eight million refinancing loan applications in 2020 under *The Home Mortgage Disclosure Act*. This refinancing gap perpetuates racial wealth disparity by limiting black access to resources that could ease financial burdens (Taylor, 2022). The consequences of racially specific subprime lending continue to pile up. As the housing bubble collapsed, African American homeownership rates fell far more than white rates. Families no longer qualify for conventional mortgages if they previously defaulted on exorbitant loan payments. Hence, when federal and state regulatory agencies created banks and thrift institutions whose unconcealed policy was racial discrimination, the agencies themselves failed to fulfil their constitutional obligations (Rothstein, 2017).

Indeed, it was not only large-scale federal public housing and mortgage financing programs that created *de jure* segregation. Government actions contributed, for example, to the creation of interstate highway routing to create racial boundaries or change the residential location of African American families (“urban renewal means negro removal” was a frequent twentieth-century slogan of civil rights groups protesting such displacement) and school site selection to force families to move into segregated neighborhoods if they wanted to provide education for their children. They were part of a national system by which state and local government supplemented federal efforts to maintain the status of African Americans as an inferior caste with housing segregation preserving the emblems of slavery. Those black families who managed to resist forced displacement had to confront industrial waste zoning, including toxic waste, aimed at turning African American neighborhoods into slums. This practice became increasingly common as the twentieth century progressed and manufacturing operations grew in urban areas. The pattern was confirmed in a 1983 analysis by the United States General Accounting Office, which concluded that, nationwide, commercial waste treatment facilities or uncontrolled waste dumps were more likely to be found near African American residential areas than white residential areas. That analysis was substantiated when, in 1991, the Environmental Protection Agency issued a report confirming that it found a disproportionate number of toxic waste facilities in African American communities across the country. Bill Clinton subsequently issued an executive order requiring that such a disproportionate impact be avoided in future decisions. Nevertheless, the order did not require any compensatory action for existing toxic sites (ibid).

Given the undeniable reality of current racism, in 2014 journalist Ta-Nehisi Coates (*The Case for Reparations*) detailed how housing policy and the income gap clearly illustrated how black citizens are still affected by the past. Decades of racial segregation kept black families away from white areas, which had better access to education, health, food and other services, while institutionalized

discrimination affected the economic development of African Americans. Racial segregation led to the creation of separate neighborhoods for whites and blacks, and although these rules no longer apply, in many neighborhoods the same racial composition is maintained. As a result, residential segregation remains hard to undo for several reasons. Firstly, because the economic status of parents is commonly repeated in the next generation, so that once the government prevented African Americans from fully participating in the free labor market of the mid-twentieth century, reduced income became, for many, a multigenerational trait. New York University sociologist Patrick Sharkey analyzed data on race and neighborhood conditions and reported his findings in his 2013 book *Stuck in Place*, found that African American youth ages 13-28 are now ten times more likely to live in poor neighborhoods than white youth, 66% of African Americans compared to 6% of whites. Similarly, 48% of African American families have lived in poor neighborhoods for at least two generations, compared to 7% of white families. Secondly, suburban home values of working and middle-class white families appreciated substantially over the years, resulting in large wealth gaps between whites and blacks, and since parents can bequeath assets to their children, the racial wealth gap is persistent across generations. Thirdly, by the time labor market discrimination declined sufficiently for substantial numbers of African Americans to reach the middle class, homes outside urban black neighborhoods had become largely inaccessible to working and lower middle-class families. Fourthly, once systemic segregation replaced *de jure* injustice, apparently neutral policies reinforced inequality between those who were white homeowners and likely African American renters. Accordingly, contemporary federal, state, and local programs have reinforced residential segregation rather than diminished it (Rothstein, 2017).

4.3.2. Segregated education

The previously explained process of isolation was also perceptible in services, especially in schools, with strong racial segregation and lower school performance than those in suburban neighborhoods (Ibarz, 2000). In fact, it turns out that schools are more segregated today than they were forty years ago, primarily because the neighborhoods in which the schools are located are highly segregated. In 1970, the typical African American student attended a school where 32% of the students were white. By 2010, this exposure had dropped to 29%. If housing segregation were not widespread, the legislative effort beginning in 1954 to desegregate schools would have been more successful (Rothstein, 2017, p. 133).

Even while *Jim Crow laws* remained in effect, the United States Supreme Court's decision *Missouri ex rel. Gaines v. Canada* 1938, held that states that provided a school for white students also had to

provide state education for blacks. Subsequently, with the decision of *Sipuel v. Board of Regents of University of Oklahoma* in 1948, the Supreme Court ruled unanimously to compel the University of Oklahoma School of Law to admit Ada Lois Sipuel, the first African American student at the School. Nonetheless, the Court did not disturb the premise that a state could operate segregated vocational schools of substantially equal quality. Thereafter, it was established that the decision in *McLaurin v. Oklahoma State Regents* 1950 to separate a black graduate student from his classmates violated his right to equal treatment. Despite the considerable promise of these decisions, they all continued to be based on the “separate-but-equal” mantra of *Plessy v. Ferguson* (1896). The year 1954 was a landmark year, beginning with *Bolling v. Sharpe* 1954, a milestone case in which the Supreme Court held that the Constitution prohibited segregated public schools in the District of Columbia (Tsesis, 2008, p. 252). It was not until the *Brown v. Board of Education of Topeka* decision (1954) that, at least on paper, school segregation was brought to an end, although Little Rock (Arkansas, 1957) was still three years away. *Brown*, the umbrella for five separate segregation cases from five different states, was the petition filed on behalf of eight-year-old Linda Brown, whose father wanted his daughter to be allowed to attend a school next door to their home instead of attending an all-black Topeka school. The decision of the Court overturned the principle of “separate but equal” facilities that it had established with *Plessy v. Ferguson* in 1896 (Jones, & Wilson, 2006, p. 58). Linda Brown’s case may seem to be part of a historical pattern of judicial discrimination. However, in 2011 the same standard was repeated when Kelley Williams-Bolar, an Ohio mother, sought to provide her daughters with a better education. She decided to send her daughters to a top-ranked school in the neighboring Copley-Fairlawn school district. But it was not her home district, so her children could not legally attend school there, even though their father lived within the boundaries of the district. For making such a decision she was sentenced to ten days in the county jail and placed on three years probation, in addition to performing community service (Canning, & Tanglao, 2011).

Breaking free from a past of perpetual segregation in the educational sphere does not seem to be simple nowadays. Only 14% of African Americans obtain a college degree. In 1940, only 12% of blacks were able to complete high school, compared to 82% in 1989. Given the differences in educational attainment, nearly half of all white males have so-called “white collar jobs”, while the proportion of blacks is less than one-third (Rattansi, 2007, p. 142). According to United States Census Bureau, 26% of African Americans completed four years of higher education in 2019, compared to only 4% in 1962 they continue to pay economic consequences (Maroño, 2019). There are alarming disparities between net worth dependent on whether the head of household with a college degree is white (\$390,000) or black (\$74,045) (Federal Reserve Board of Governors, 2019). In addition, white college graduates have up to more than seven times as much wealth as black college graduates, and

even white high school dropouts have more wealth than black college graduates (Rashawn. & Perry, 2020). Educational bias may also influence how teachers discipline students. Teachers express a desire to discipline a black high school student more harshly than a white student for the same repeated infractions. In a recent study, teachers were found to treat black students as a group but white students as individuals (Eberhardt, 2020). Black students are much more likely to be suspended from school, starting as early as preschool. An average of 16% of black students are suspended each year, compared to 5% of white students. While the suspension rate for white students has remained stable for more than thirty years, the rate for black students has nearly tripled (Losen, Hodson, Keith, Morrison, & Belway, 2015, p. 62). 31% of students who are suspended and 40% of students who are expelled are black. Black students are 3.5 times more likely to be suspended than white students. Another study of high school teachers found that teachers were more likely to call parents of black children to report problem behavior than to call parents of white children and were less likely to call parents of children of color to report positive achievement than to call white parents (Gilliam, Maupin, Reyes, Accavitti, & Shic, 2016). When you add this bias to the fact that children of color are more susceptible to food insecurity, are more likely to have to work after school, are less likely to have the financial resources to provide regular Internet, and are more likely to attend underfunded schools, then children of color arrive at their college applications at a great disadvantage. Currently, black students are underrepresented in the vast majority of colleges and universities by 20%. A University of Washington study shows that minority student enrolment drops by 23% when schools enact an affirmative action ban, the concept of which will be addressed at the end of the discussion and analysis section (Blume, & Long, 2014). Just two colleges in the United States with affirmative action bans have a representative enrolment of black students (Munguia, 2015). This gap in university representation is also identified in political representation, and the first African American woman following the recent ground-breaking appointment of attorney and jurist Ketanji Brown Jackson in April 2022 (Oluo, 2018).

4.3.3. Criminal justice system and police force

There has not been a time in the history of the United States when police forces have not had a contentious and often violent relationship with communities of color. Perhaps this is due to the origins of modern policing, which can be traced back to the “Slave Patrol” (NAACP, 2022). The first formal slave patrol was created in the Carolinas in the early 1700s, with the mission of establishing a system of terror in response to slave uprisings with the ability to pursue, capture and return runaway slaves to their owners. Slave Patrols allowed forcible entry into any home, a practice that continued until the end of the Civil War and the passage of the *Thirteenth Amendment*. After the Civil War ended, during

the Reconstruction period, the Slave Patrols were replaced by militia-style groups that were empowered to control and deny access to equal rights to freed slaves. They relentlessly and systematically enforced the previously mentioned *Black Codes*. The ratification of the *Fourteenth Amendment* in 1868 technically granted equal protection to African Americans, thereby abolishing *Black Codes*. Nevertheless, *Jim Crow laws* and state and local statutes legalizing racial segregation quickly took their place. In the 1900s, local municipalities began establishing police departments to enforce local segregationist laws in the East and Midwest. Local municipalities relied on police to enforce and exercise excessive brutality on African Americans who violated any *Jim Crow laws* (ibid). Therefore, the first American police forces existed not only to fight crime, but also to return black Americans to slavery and to control and intimidate free black populations. Police forces were not created to serve black Americans, but to police them and simultaneously serve white Americans (Oluo, 2018, p. 47).

Police brutality and mass incarceration are apparently today the two most obvious examples of discrimination based on skin color (Maroño, 2019). There are several reasons that generate the tense relationship between the police and the black citizenry. Despite representing 13.4% of the total population of the United States (U.S. Census Bureau), 24.2% of those killed by police are black (ONG Mapping Police Violence). Moreover, police officers feel free to continue to act in such a manner, as government monitoring of police violence remains incomplete. As the Black Lives Matter movement denounces, African Americans are disproportionately killed by national security forces, whose racist violence is accompanied by almost total impunity, since, in 2015, 99% of killings at the hands of police officers ended with the acquittal of the guilty officer. In this way, the feeling of helplessness of African Americans in the face of institutional racism is total. Racial disparities continue to exist in the use of police force, arrests and routine traffic stops (Human Rights Watch, 2019). According to the 2018 *Report of the sentencing project to the UN special rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance: Regarding racial disparities in the UN criminal justice system*, black drivers are 23% more likely to be stopped than white drivers, 1.5 to 5 times more likely to be searched, and more likely to be ticketed and arrested in those stops (Oluo, 2018, p. 45). A 2016 study by the Center for Policing Equity found that blacks were nearly four times as likely to be subjected to force by police as white people (Goff, Lloyd, Geller, Raphael, & Glaser, 2016). Human Rights Watch documented significant racial disparities in policing in a case study in the city of Tulsa, Oklahoma, where African American residents repeatedly reported being victims of abusive policing. This same city witnessed the worst massacre of racial violence in the United States in mid-1921, when mobs of white residents attacked black residents and businesses in the Greenwood district (Human Rights Watch, 2020).

The phenomenon of mass incarceration is closely related to police violence. According to figures collected by the Pew Research Center, in 2018 there were 2,272 inmates per 100,000 black adults, a rate nearly 6 times higher compared to 392 incarcerated per 100,000 white adults. In other words, one in twenty young black men, aged about thirty, is incarcerated in state or federal prison or on parole (Maroño, 2019). African Americans are incarcerated at a rate five times that of whites. Similarly, the incarceration rate for African American women is twice that of white women, according to Human Rights Watch (2019). These racial disparities persist at all stages of a black person's contact with the law, leaving African American children disproportionately represented in juvenile justice systems across the country, as in 37 states incarceration rates were higher for African American children than for white children, according to The Sentencing Project (Rovner, 2017). One in three black children born today can expect to be sentenced to prison, compared to one in seventeen white children. In 2014, African Americans made up 2.3 million, or 34%, of the total correctional population. Nationally, African American children account for 42% of children in detention and 52% of children whose cases are judicially referred to criminal courts despite making up only 14% of the population (NAACP, 2022). As sociologist Alice Goffman notes in her book *On the Run* (2014) black citizens account for 35% of the incarcerated population (Maroño, 2019). This phenomenon whereby a particular segment of the population accounts for a disproportionate number of incarcerated citizens has been termed "mass incarceration" by sociologist David Garland (2001). The underlying reasons for the systematic incarceration of the African American population are mixed, but undoubtedly the *war on drugs* –the government crackdown on drug addiction launched in the 1970s by President Nixon– has contributed to this disparity. As The Hamilton Project (2016) demonstrates, despite the fact that the percentage of African American citizens who use some form of drugs is similar to that of Caucasians, they are 2.7% more likely to be arrested for drug-related offenses. In addition, the probability of being prosecuted is higher once arrested, which leads to a spiral of marginalization from which it is quite challenging to escape (Goffman, 2014).

As an Amnesty International report (2004) revealed, black defendants convicted of killing whites have been sentenced to death fifteen times more often than white defendants convicted of killing blacks. Black defendants are more likely to be executed than white defendants. A study by the United States Department of Justice shows that between 1975 and 2000, 72% of death penalty prosecution approvals by the attorney general were black, although there were an equal number of black and white murder perpetrators. The same study reveals that North American attorneys were almost twice as likely to seek the death penalty for black defendants accused of killing non-black victims as for black defendants accused of killing blacks (Rattansi, 2007). In relation to the previous section on inequality

in education, 70% of students who are arrested at school and forwarded to the police are black (Nelson, & Lind, 2015). The “school-to-prison pipeline” is the term commonly used to describe the alarming number of black children being funnelled from schools into the prison system, contributing to devastating levels of mass incarceration. The *school-to-prison pipeline* begins with the high level of suspensions, expulsions, and disproportionately punitive levels of school discipline, as previously mentioned, which causes all areas of institutional segregation to mutually reinforce each other (Oluo, 2018, pp. 62-63). As a direct consequence of this mass incarceration, an estimated 5.3 million Americans have currently or permanently lost their right to vote due to felony convictions. This disenfranchisement was recently dubbed “the new Jim Crow” by author Michelle Alexander due to the magnitude of its racial disparity (Lee, & King, 2010). Since black men are incarcerated at a much higher rate than the national average, they are also denied the right to vote at a much higher rate. 1.4 million African American men have lost their right to vote, according to The Sentencing Project (Alexander, 2010). In 2019, a growing recognition that today’s racial disparities in policing, criminal justice and other aspects of American life cannot be understood without reference to slavery and its lingering impact on society. On June 19, the United States Congress held a historic Juneteenth hearing –the day commemorating the abolition of slavery in the country– to discuss potential ways to account for these harms, including reparations and increased investments in African American communities to address continued inequality and discrimination (Human Rights Watch, 2019).

4.3.4. Unemployment and income

Historian Thomas J. Sugrue (1993) points out how historically it has been the African American population the most subject to variations in the labor market in relation to the economic situation, as well as how in every moment of crisis or restructuring it has been the first to suffer (Ibarz, 2000), The racial gap, therefore, cannot be analyzed in a unidimensional way, but rather as the combination of a series of factors that, taken together, reduce the quality of life of African Americans and prevent them from equal development in comparison with their counterparts, since economic inequality in the United States is closely related to a racial divide in income and wealth (Human Rights Watch, 2020). In the twenty-first century, two-thirds of an American’s wealth has been shown to come from his or her property and housing worth. Related to this, in terms of net worth, white households are at least ten times richer than black households, according to 2017 statistics from the Federal Reserve. On average, that of white households is US\$933,700 and that of black households US\$138,200. It is a gap that has been widening since the banking and real estate crisis that hit the country and the world between 2007 and 2009. Not all of this difference is attributable to the racial housing policy of the government, though a good portion certainly is. African American families today, whose parents and

grandparents were denied a share in the capital accumulation boom of the 1950s and 1960s, struggle mightily to catch up with their white peers. As with income, there is little mobility by wealth in the United States and, in fact, intergenerational wealth mobility is even lower than intergenerational income mobility. In 1989, the most recent year for which such data are available, 6% of black households inherited wealth from the previous generation. Of those who inherited wealth, the average inheritance was \$42,000. Four times as many white households (24%) inherited wealth, and the average inheritance was \$145,000. In that year, 18% of black households received cash gifts from parents who were still living, averaging \$800. About the same proportion of white households received such gifts, but the average amount (\$2800) was much higher. This is also the consequence of the government's racial housing and income policy of the twentieth century (Rothstein, 2017, p. 136).

In the United States in 2001, the actual average income of black families was only 58% of that of white families. That's only 10% higher as a proportion than in 1947 (Rattansi, 2007, p. 141). Despite that slight improvement, the income gap between black and white households is about the same today as it was in 1970 (Coates, 2014, p. 58). The wage gap between black and white men has not budged since the Reagan cuts to affirmative action began in the 1980s, with black men earning 73 cents to every white man's dollar (Patten, 2016). Even more alarming is racial segregation coupled with gender discrimination, as the median wealth of a single white woman has been measured at \$41,000, while for black women \$120. White women still earn only 82 cents to a white man's dollar; black women earn only 65 cents to a white man's dollar (Oluo, 2018, p. 58). In 2018, the average income for a black family stood at around \$41,000 per year, up 3.4%; the average for a white family was over \$71,000, up 8.8%, according to the United States Census Bureau (Alonso, 2020). One of the outcomes of this racial wealth gap is that about 21% of blacks live below the poverty line, compared to 8% of whites (Human Rights Watch, 2020). Patrick Sharkey, sociologist at New York University, studied the situation of children born between 1955 and 1970 and found that 4% of whites and 62% of blacks across the United States had grown up in poor neighborhoods. A generation later, the same study showed, virtually nothing had changed (Coates, 2014). This is because they are much more likely to grow up in segregated neighborhoods (Rattansi, 2007, p. 141). According to the Pew Research Center, on average blacks are twice as likely to be poor or unemployed as whites. In 2018 the Economic Policy Institute asserted that African Americans had a national unemployment rate of 6.3%, the highest in the nation, compared to 3.2% for Caucasians (analysis of Bureau of Labor Statistics Local Area Unemployment Statistics data and Current Population Survey data). Since the Second World War, the unemployment rate is twice as high for blacks as it is for whites, and black college graduates are almost twice as likely to be unemployed as white college graduates (Alonso, 2020).

One of the segregationist policies at the root of this wide gap dates back to the previous century. In the mid-twentieth century, job seekers relied on state employment offices for referrals to job openings and training programs. As a wartime measure in 1942, these agencies came under the control of a federal organization—the United States Employment Service—which generally refused to enrol African Americans in training for skilled jobs. Their instructions to local offices advised that if a firm did not specify a racial exclusion in its solicitation of workers, the office should request one, assuming that the firm might have overlooked the opportunity to state one. These practices continued after the war, when placement and training services returned to state control. In 1948, for instance, 45% of all job orders placed with the Michigan State Employment Service were for whites only, despite severe labor shortages during much of the post-war period, and so even though African Americans were available, many jobs remained vacant (Rothstein, 2017, p. 125). Discrimination in the selection process persists today, as studies have shown that if you have a “black-sounding” name, you are four times less likely to be called for a job interview (Oluo, 2018, p. 58). This impact on the labor market was termed “opportunity hoarding” by sociologist Charles Tilly (Rattansi, 2007, p. 145). Therefore, the fact that African Americans are no longer considered at a legislative level to be three-fifths of a white as they were in 1787, does not mean that, as a demographic group, they have achieved parity with their white peers in terms of income or wealth. As Senator Cory Booker warned, “The racial wealth gap reflects that we still have a long way to go to achieve the ideal of equality”.

4.3.5. *Civil Rights Movement*

The United States had a *de facto* apartheid policy that discriminated against black Americans adopted in almost every region of the country, north and south, until 1960 (Chapman, 2021). Prior to the Civil War (1861-1865), blacks were barred from hotels and places of entertainment, from the skilled trades and professional colleges, and were segregated in public places. They had to pay taxes while being prevented from voting, serving on a jury or even appearing as witnesses in court. This segregation was further increased when in 1883, a United States Supreme Court ruling allowed segregation with respect to all relationships involving close personal contact. This allowed Southern states to develop segregated schools and separate facilities on trains, buses, libraries, parks, swimming pools and other public services. Even “interracial” marriages were prohibited within the framework of Jim Crow laws, until the Supreme Court’s *Loving v. Virginia* (1967) civil rights decision invalidated the laws prohibiting it (Rattansi, 2007, p. 44). The willingness to equalize the rights granted to both blacks and whites concerned few United States leaders. The Committee on Civil Rights, appointed in December 1946 by President Harry S. Truman, was a symbol of the changing times. The committee worked to

strengthen the Civil Rights Section (CRS) of the Department of Justice. *Executive Order 9808* that created the Committee recognized the duty of the federal government to act when state and local authorities restrict or fail to protect guarantees of individual liberties and equal protection under the laws. Truman understood that “the federal government is hampered by inadequate civil rights statutes”. The solution to the problem, according to the Committee, was to increase federal and state law enforcement and recommended that the CRS be given authority to impose civil penalties. It also stressed the need for additional federal laws, including an anti-lynching law, a law to punish police brutality, a criminal law against involuntary servitude, and voter protection during elections. The report further proclaimed the need to eliminate segregation based on race, color, creed, or national origin from American life through the conditioning, by Congress, of all federal grants-in-aid and other forms of federal assistance to public and private agencies for any purpose on the absence of discrimination and segregation based on race, color, creed, or national origin. After such a report was submitted, the committee was dissolved in December 1947. A March 1948 Gallup poll revealed that 82% of respondents opposed Truman’s civil rights program. He issued *Executive Order 9981*, which prohibited discrimination in the armed forces. On the other hand, *Executive Order 9980* created a Fair Employment Officer to eliminate racial discrimination and segregation in federal employment. Subsequently, *Executive Order 10308* created a Committee to improve compliance with the nondiscrimination provisions of federal contracts. That effort did little to alter local prejudices, for national action based on universal principles of liberal equality was needed, and Congress would not budge on the Truman proposals. The inadequacy of the civil rights laws, coupled with the small size of the CRS, meant that many forms of discrimination were beyond the reach of federal judicial action. In 1957, during the Eisenhower administration, the United States Department of Justice Civil Rights Division enacted the *Civil Rights Act of 1957*. To reinforce the policy of that law, Congress passed the *Civil Rights Act of 1960*, which simply enfranchised barely 6,000 black voters (Tthesis, 2008).

On the judicial level, the appointment of jurist Earl Warren as the 24th Chief Justice of the United States Supreme Court was a turning point and a source of hope for activists advocating for equality between blacks and whites. The so-called *Warren Court* (1953-1969) changed American civil, social and political dynamics. The most important desegregation case in United States history was *Brown v. Board of Education*, a consolidation of four cases originating in Kansas, Delaware, Virginia, and South Carolina, plus the companion case, *Bolling v. Sharpe* (District of Columbia). All involved black minors applying for admission to schools that state law restricts to white children only. The ruling held that racial segregation would thereafter be considered a violation of the *Equal Protection Clause of the Fourteenth Amendment to the Constitution* (ibid, p. 250-252). On March 2, 1955, nine months before activist Rosa Parks refused to get up from a bus seat in Montgomery, Alabama, teenager

Claudette Colvin did the same and was arrested for violating racial segregation laws. On December 1, 1955, Rosa Parks sat in the white-only area of a bus, which under Alabama's Jim Crow laws was a felony. She was not an anonymous woman, rather the secretary of the Montgomery NAACP, which had long been fighting to change the institutions of the American South. Her arrest triggered a mass movement, the Montgomery bus boycott, masterminded by Martin Luther King Jr. and fellow black leaders. The boycott was successful and lasted until December 20, 1956, setting in motion a process that culminated in the United States Supreme Court ruling that the Alabama and Montgomery bus segregation laws were unconstitutional (Acemoglu, & Robinson, 2012, p. 272). Although Claudette Colvin's name was not the one that went down in the history books, in 1956 it was she and four other African American women who filed the aforementioned suit in federal court in the *Browder v. Gayle* case, which ended with a Supreme Court ruling striking down segregation ordinances on public transportation. The Montgomery bus boycott by the black community gave wings to the civil rights movement led by Dr. Martin Luther King Jr., who would end up being arrested up to twenty-nine times during his lifetime, and which would change the history of the United States.

On January 31, 1960, Joseph McNeill, a black freshman at North Carolina Agricultural and Technical College was denied service at a bus terminal lunch counter. The next day, he and three other freshmen decide to initiate a boycott. They returned on the third day with a growing following and soon, the NAACP, the Student Nonviolent Coordinating Committee, the Congress of Racial Equality and Martin Luther King, Jr. provided national leadership for the boycott movement. John F. Kennedy, during a campaign speech on September 6, 1960, pledged to help bring about equal access to public facilities and to support the right of all Americans to stand up for their rights, even if it means sitting down for them. Thousands of blacks were arrested in their quest to end gross injustice during that period of struggle. By the end of 1960, sit-ins led to 126 cities desegregating lunch counters, and by the end of 1961, that number grew to about 200. Subsequently, the march in Birmingham in April 1963 shocked the nation by the unbridled use of state power to promote white supremacy. Kennedy, in a speech delivered on June 11, 1963, referred to civil rights as a moral issue, whereby all Americans deserve "receive equal service in places of public accommodation" because they live in a nation "founded on the principle that all men are created equal". The civil rights movement reached its apex during the presidency of Lyndon Johnson, who understood that nominal freedom and equality were not enough. Social changes included desegregation, voting rights, immigration reform, protection against employment discrimination and increased welfare entitlements for the impoverished. Johnson led efforts on the *Civil Rights Acts of 1964 and 1968*, the *Voting Rights Act of 1965*, and the *Immigration Act of 1965*. He also used his appointment power to bring black talent into government, most notably by appointing Thurgood Marshall to the Supreme Court. *The Civil Rights Act of 1964*

was an omnibus law, the meaning of which would later be clarified through judicial interpretation, which remains the most comprehensive civil rights legislation in the United States. Disenfranchisement devices such as literacy tests –which the Court had upheld in *Williams v. Mississippi* (1898), *Giles v. Harris* (1903), and *Giles v. Teasley* (1904)– were immediately suspended in Alabama, Mississippi, Louisiana, Georgia, South Carolina, Virginia, and parts of North Carolina. The original law prohibited interference with voting on the basis of race and color. Prior to its enactment, 24.6% of blacks in Southern states were registered to vote; in 1967 the figure increased to 56.5%. These gains translated into increased black voting, candidate eligibility, and incumbency. Never in the history of the United States has so much been done for civil rights within a presidential administration (Tsesis, 2008).

In spite of the enormous improvements in voting rights, housing and free mobility that this citizen mobilization brought about, segregation continues to be overwhelming, due to a combination of all the factors previously reviewed (Pereda, 2015). 13% of African Americans have lost the right to vote at some point in their lives, a situation that continues to affect them seven times more than whites, because they have been imprisoned. Tomas Lopez, legal counsel for the Brennan Center for Justice in New York, explains that these laws were born mainly after the Civil War and during the Jim Crow era with the express intention of blocking African American voters. The proportion of disenfranchised African Americans is now higher than it was in 1870, when laws were passed prohibiting them from voting based on their race, and therefore, disenfranchisement laws are more effective now than they were during Jim Crow, complains Michelle Alexander. Attorney Bryan Stevenson warned that if this trend continues, within a decade the level of disenfranchisement will be as high as it has been since before the passage of the *Voting Rights Act* (Alexander, 2010). The civil rights movement that began in the 1950s has been superseded by the Black Lives Matter social movement, amongst others. The cumulative injustices orchestrated by the structures of racism against African Americans are at the heart of the BLM movement’s agitation for justice and equal treatment (BLM, 2016, p. 31). The 2020 murder of George Floyd in the city of Minneapolis was the spark that prompted a multitude of protest movements in the United States and around the world. Nevertheless, it should not be taken as the starting point of a global anti-racist movement given that, since 2013, BLM has been documenting white supremacist-motivated racist incidents targeting black citizens in the United States. Similarly, the “Say Her Name” social movement was founded in 2014 by the *African American Policy Forum* and the *Center for Intersectionality and Social Policy Studies*, which aims to raise awareness about African American women victims of police violence and brutality in the United States. Both initiatives collect data on racially motivated violence by law enforcement. Decades of activism by

anti-racist civil rights activists in the United States have previously paved the way for these movements and with it, the tip of the monumental iceberg of institutional racism.

4.3.6. *Affirmative action*

First introduced by former President J. Kennedy and expanded by his predecessor President L. Johnson in the 1960s, affirmative action sought to help reverse extreme racial gaps in federal employment and higher education (Oluo, 2018, p. 57). *Executive Order 10925* issued on March 6, 1961, made the first reference to the concept of affirmative action. It created the Equal Employment Opportunity Commission and mandated that federally funded projects take affirmative action to ensure that hiring and employment practices are free of racial bias. The intent was to get federal employers to proactively fight racial discrimination in their hiring practices and increase the African American student population above its then dismal 5%. Shortly after its inception, affirmative action was extended to all women. Affirmative action took many forms, for instance, at colleges and universities, with increased recruitment efforts, additional consideration given to skin color and gender in the selection process, academic support programs, and increased financial aid. In federal employment, there were increased recruitment efforts, additional consideration of blacks and gender, and diversity goals. Affirmative action has since been postulated as the best alternative to the criticized reparations payment proposal. Moreover, the countervailing argument sees affirmative action as a remedy for past wrongs, as through it combats bias in labor and education by requiring a certain amount of minority group hiring and admissions to force a more level playing field (ibid). Yet there is little doubt about the severe and systematic intergenerational disadvantage suffered by African Americans despite the fact that some of it is alleviated by the benefits of affirmative action programs (Rattansi, 2007, p. 143). Affirmative action can be promoted on the basis of a process of memory that ties the past to the future and, on its basis, makes it possible to place on the horizon a desirable and restitutive social state for specific groups, aimed at the construction of a society without distinctions based on gender or demographic group membership. Therefore, the aim is to accelerate the process through the extension of preferences and positive discrimination, with the main objective that its application should not persist forever, but rather that someday a level of equity will be achieved to allow the country to leave it behind (Labbé, & Barcelos, 2007, p. 383).

5. CONCLUSION

In 1662, the first legislative assembly to be established in the Americas, the so-called Virginia House of Burgesses, legally recognized slavery as a hereditary condition for life, under the legal doctrine *partus sequitur ventrem*. This hereditary condition would endure for centuries to come. For the descendants of the 12.5 million blacks who were shipped in chains from West Africa, “America was founded with a genetic birth defect on the question of race”, as United States House of Representatives member Hakeem Jeffries declared in February 2020 (Rashawn, & Perry, 2020). Inequalities are usually cumulative, whereby precarious housing, inadequate educational resources, barriers to exercising voting rights, and few local employment opportunities create cycles of disadvantage from which it is arduous to escape, especially given the interlocking web of laws and social customs that have been present in the United States since its founding (Rattansi, 2007, p. 140). The transatlantic slave trade, the *Three-Fifths Clause*, the *Black Codes*, *Jim Crow Laws*, *Redlining*, black ghettos, Slave Patrols, the *school-to-prison pipeline*, the racial wealth gap, the Civil Rights Movement, the *separate but equal* legal doctrine are all obstacles that African Americans have had to overcome for the past 246 years to try to equalize the conditions and opportunity of their white peers (Coates, 2014). Therefore, based on the historical and legislative overview provided throughout this dissertation, the vestiges of the transatlantic slave trade in the areas analyzed in the various sections of this paper have been identified. As former United States Secretary of State John C. Calhoun stated in 1848, “The two great divisions of society are not the rich and poor, but white and black, and all the former, the poor as well as the rich, belong to the upper class, and are respected and treated as equals”.

Furthermore, the second research question would have been answered and the hypothesis corroborated, since it can indeed be said that institutional racism in the United States seems to emanate from the legal institution of slavery. Considering the definition of institutionalized racism that Stokely Carmichael and Charles Hamilton formulated in 1967, all the criteria under which the existence of institutionalized racism would be confirmed are currently fulfilled and identified in the United States, under what has been analyzed throughout this paper. Institutional racism is characterized by the existence of systematic policies or laws and practices that provide differential access to society’s goods, services, and opportunities by race. Institutional racism results in evidence that shows racial gaps in all systems, as has been well verified (Morgan, De Marco, LaForett, Ayankoya, & Franco, 2020). After a linear analysis of the country’s evolution regarding the enslavement of people of African descent from 1619 to the present, one finds that “black people were enslaved and exploited, and continue to be marginalized and disregarded today” as stated by Nicole

Austin-Hillery, director of the United States program at Human Rights Watch (2020). “If the United States does not finally address the accumulated effects of historical and present harm for black people, it risks continuing to carry slavery’s legacy forward, causing new harm indefinitely into the future”. As mentioned at the beginning of this paper, the practice of race-based differential treatment was created to justify a racially exploitative economic system and thus, white supremacy is the oldest pyramid scheme in the North American nation. The ultimate goal of racism from the beginning was the profit and comfort of the white race, specifically, wealthy white men. Oppression of people of color was an easy way to obtain this wealth and power, and racism was a good way to justify it (Oluo, 2018, p. 12). In the process of developing privileges based on skin color, whites were able to develop a dysfunctional cynicism about living in a society that proclaimed values of justice in its founding charter, while helping to perpetuate racial inequalities that belied any promise of equality (Rothstein, 2017, p. 145).

Even the latest data confirms the still tangible presence of the vestiges of the slavery era, as the National Urban League’s 2020 “Equality Index: State of Black America” reported the figure at 73.8%. This number means that, instead of having at their disposal the level of equality achieved by the white North American population, that is 100%, African Americans still lack the remaining 26% of justice, according to an analysis of the following categories: economics (59.2%), health (83.8%), education (77.3%), social justice (57.5%) and civic engagement (100%). Therefore, as United Nations High Commissioner Michelle Bachelet requested before the Human Rights Council, in the United States “the status quo is untenable” as racism requires a “systemic response”. This involves a broad-spectrum strategy to dismantle systems based on centuries of violence and discrimination, through a transformative approach that addresses the interconnected areas that drive institutional racism (OHCHR, 2021). This work lays the groundwork that substantiates that unequal status for people of African descent since the days of slavery is the cause of present-day inequalities. On June 4, 1965, President L. Johnson delivered the commencement address at historically black Howard University, with the following words: “*Freedom is not enough. You do not wipe away the scars of centuries by saying: Now you are free to go where you want, and do as you desire, and choose the leaders you please. You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, “you are free to compete with all the others,” and still justly believe that you have been completely fair*”. Injustices still need to be amended, segregationist attitudes still need to be overcome, and it should therefore be remembered that “if a man enters the starting line of a race 300 years after another man, the first would have to perform some impossible feat in order to catch up” (Martin Luther King Jr., *Why We Can’t Wait*).

6. BIBLIOGRAPHY

1. (Acemoglu, D., & Robinson, J. (2012). *Por qué fracasan los países: Los orígenes del poder, la prosperidad y la pobreza*. Deusto)
2. (Alexander, M. (2010). *The new Jim Crow: Mass incarceration in the age of colorblindness*. The New Press)
3. (Allain, J. (2012). *Slavery in international law: Of human exploitation and trafficking* (pp. 105-112). Martinus Nijhoff Publishers)
4. (Allain, J. (2017). *Contemporary slavery and its definition in law*. UBC Press)
5. (Allain, J. (2019). *Forthcoming: Slavery and its obligation erga omnes*)
6. (Allain, J. (Ed). (2012). *The legal understanding of slavery: From the historical to the contemporary*. Oxford University Press)
7. (Alonso, A. (2020, June 6). Racismo, la herida abierta de América. *El Independiente*)
8. (New report calls for transformative action for racial justice. (2020, June 28). *United Nations Human Rights Office of the High Commissioner*)
9. (Andrews, E. (2019, September 3). *How many U.S. presidents owned enslaved people?*)
10. (Balkin, J. (2010, December). The reconstruction power. *New York University Law Review*, 85(6))
11. (Ballesteros, A. (2016). Hannah Arendt and the United States original crime. *CEFD*, 33)
12. (Bassiouni, C. (1991). Enslavement as an international crime. *New York University Journal of International Law and Politics*, 23)
13. (Black Lives Matter. (2016). Decrypting encrypted racism, 37-38(27). *Ethnic Studies Review*)
14. (Blackmon, D. (2008). *Slavery by another name: The re-enslavement of black Americans from the civil war to world war II*. Anchor)
15. (Blume, G., & Long, M. (2014, June). *Changes in levels of affirmative action in college admissions in response to statewide bans and judicial rulings*, 36(2), 228-252. University of Washington)
16. (Board of Governors of the Federal Reserve System. (2019). *Survey of Consumer Finances (SCF)*)
17. (Bonilla-Silva, E. (1997, June). Rethinking racism: Toward a structural interpretation. *American Sociological Review*, 62(3), 465-469)
18. (Brennan, F., & Packer, J. (Eds). (2012). *Colonialism, slavery, reparations and trade: Remediating the past?* Routledge)
19. (Buraschi, D., & Idáñez, M. (2019). *Racismo y antirracismo: Comprender para transformar*)
20. (Canning, A., & Tanglao, L. (2011, January 26). *Ohio mom Kelley Williams-Bolar jailed for sending kids to better school district*. ABC News):

21. (Carmichael, S., & Hamilton, C. (1967). *Black power: The politics of liberation in America*)
22. (Chapman, A. (2021, September 13). Rethinking the issue of reparations for Black Americans. *Bioethics*, 36(3), 235-242)
23. (Coates, T. (2014, June). The case for reparations. *The Atlantic*)
24. (Eberhardt, J. (2020, June). *How racial bias works and how to disrupt it*. TED)
25. (European Network of Equality Bodies (EQUINET). (2020, June 8). *The other pandemic: Systemic racism and its consequences*)
26. (Fainstein, N. (1993). Race, class and segregation: Discourse about African Americans. *International Journal of Urban and Regional Research*, 17(3), 384-401)
27. (Fainstein, N., & Fainstein, S. (1996). Urban regimes and black citizens: The economic and social impacts of black political incorporation in US cities. *International Journal of Urban and Regional Research*, 20(1), 22-37)
28. (Farrand, M. (Ed). *The Records of the Federal Convention of 1787*, 2, 377)
29. (Fassbender, B., & Peters, A. (Eds). (2012). *The oxford handbook of the history of international law*. Oxford University Press)
30. (Gabriel J. (2007, February). The tyranny of the minority: Jim Crow and the counter-majoritarian difficulty. *Arizona Legal Studies*, 7(3))
31. (Garland, D. (Ed). (2001). *Mass imprisonment: Social causes and consequences*. Sage Publications).
32. (Gilliam, W., Maupin, A., Reyes, C., Accavitti, M., & Shic, F. (2016, September 28). *Do early educators 'implicit biases regarding sex and race relate to behavior expectations and recommendations of preschool expulsions and suspensions?* Yale Child Study Center)
33. (Goff, P., Lloyd, T., Geller, A., Raphael, S., & Glaser, J. (2016, July). *The science of justice: Race, arrests, and police use of force*. Center for Policing Equity)
34. (Goffman, A. (2014). *On the run: Fugitive life in an American city*. Picador)
35. (Heath, D. (2019, June 19). US Congress can help heal the wounds of slavery: Hearing should endorse reparations for past harms, ending ongoing abuses. *Human Rights Watch*)
36. (Hening, W. (Ed). An Act for the Dutch and all other Strangers for Tradeing to this Place 'Act XVI, March, 1659-60. *The Statutes at Large*, 1, 540)
37. (Horowitz, J. (2019, June 17). Most Americans say the legacy of slavery still affects black people in the U.S. today. *Pew Research Center*)
38. (Horowitz, J., Brown, A., & Cox, K. (2019, April 9). Race in America 2019. *Pew Research Center*)
39. (Human Rights Watch. (2019). *United States: Racial justice. Criminal legal system. Children in the criminal and juvenile justice systems*)

40. (Human Rights Watch. (2020, June 18). *US Address slavery's legacy on Juneteenth: Adopts laws, policies to address structural racism*)
41. (Ibarz, J. (2000, November 15). Los debates sobre pobreza urbana y segregación social en EEUU. *Scripta Nova*, 76)
42. (Jones, J., & Wilson, W. (2006). *An incomplete education*. Ballantine Books)
43. (Labbé, C., & Barcelos, L. (Eds). (2007). *Afro-reparaciones*, p. 383. Universidad Nacional de Colombia)
44. (Lee, H., & King, J. (2010, November 2). America's millions of disenfranchised largely black voters. *Colorlines*)
45. (Losen, D., Hodson, C., Keith II, M., Morrison, K., & Belway, S. (2015, February). *Are we closing the school discipline gap?* The Center for Civil Rights Remedies)
46. (Lovejoy, P. (1982). The volume of the Atlantic slave trade: A synthesis. *The Journal of African History*, 23(4), 473-501)
47. (MacNamara, J. (1971). The contract buyers league: A view from the inside (pp. 77-78). *Yale Law School Legal Scholarship Repository*)
48. (Maestro, J. (2008). *The American dilemma: From slavery to the institutionalisation of the racial discrimination*)
49. (Maroño, Á. (2019, August, 22). La segregación racial, una tarea pendiente para Estados Unidos. *El Orden Mundial*)
50. (Marshall, T. (1987, November). Reflections on the bicentennial of the United States Constitution. *Harvard Law Review*, 101(1), 1-5)
51. (Massey, D., & Denton, N. (1988). Suburbanization and segregation in U.S. metropolitan areas. *American Journal of Sociology*, 94(3), 592-626)
52. (Miers, S. (2003). *Slavery in the twentieth century: The evolution of a global problem* (pp. 20-25). Altamira Press)
53. (Mintz, S. Historical context: The Constitution and slavery. *The Gilder Lehrman Institute of American History*)
54. (Munguia, H. (2015, December 9). *Here's what happens when you ban affirmative action in college admissions*. FiveThirtyEight)
55. (Nelson, L., & Lind, D. (2015, October 27). *The school-to-prison pipeline, explained: Police officers in classrooms are just the tip of the iceberg*. Vox)
56. (Office of the United Nations High Commissioner for Human Rights. (2002). *Abolishing slavery and its contemporary forms* (p. 3). HR/PUB/02/4)
57. (Oliver, M., & Shapiro, T. (1995). *Black wealth / White wealth: A new perspective on racial inequality* (p. 18). Routledge)

58. (Oluo, I. (2018). *So you want to talk about race*. Seal Press)
59. (Rothstein, R. (2017). *The color of law: A forgotten history of how our government segregated America*. Liveright Publishing Corporation)
60. (Patten, E. (2016, July 1). Racial, gender wage gaps persist in U.S. despite some progress. *Pew Research Center*)
61. (Peabody, S. (1996). *There are no slaves in France: The political culture of race and slavery in the Ancien Régime*. Oxford University Press)
62. (Perceval, J. (2013). *El racismo y la xenofobia: Excluir al diferente*. Cátedra)
63. (Pereda, C. (2015, November 2). Estados Unidos, donde el crimen también se paga con el derecho a votar. *El País*)
64. (Race and justice: The challenge. (2022). *National Association for the Advancement of Colored People (NAACP)*)
65. (Rattansi, A. (2007). *Racism*. Oxford University Press)
66. (Rashawn. R., & Perry, A. (2020, April 15). Why we need reparations for black Americans. *Policy 2020 Brookings*)
67. (Report of the sentencing project to the United Nations special rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance: Regarding racial disparities in the United States criminal justice system. (2018, March). *The Sentencing Project*)
68. (Reynolds, F. (1984). *Blacks and whites: Narrowing the gap?* Harvard University Press)
69. (Rodríguez, P. (2020, June 15). *6 claves para entender el peor estallido racial de EEUU en 50 años*. Centro de Investigación Periodística (CIPER))
70. (Ronald, L. (2005). Reparations for Mexican braceros: Lessons learned from Japanese and African American attempts at redress. *Cleveland State Law Review*, 52(273))
71. (Rovner, J. (2017, October 19). Still increase in racial disparities in juvenile justice. *New York Amsterdam News*)
72. (Seymour, D. (2009). *Abolition: A history of slavery and antislavery*. Cambridge University Press)
73. (Sharkey, P. (2013). *Stuck in place: Urban neighborhoods and the end of progress toward racial equality*. The University of Chicago Press)
74. (Sugrue, T. (1993). The structures of urban poverty: The reorganization of space and work in three periods of American history. *Princeton University Press*)
75. (Taylor, A. (2022, March 16). Wells Fargo rejected nearly half of their Black homeowners refinancing applications. *Fortune*)
76. (The Hamilton Project. (2016). *Rates of drug related criminal justice measures by race*)
77. (*The institutes of Justinian*. (2002). (15th ed.))

78. (Tsesis, A. (2008). *We shall overcome: A history of civil rights and the law* (p. 252). Yale University Press)
79. (High Commissioner: Acknowledging and confronting historical legacies crucial for racial justice. (2021, July 16). *United Nations Human Rights Office of the High Commissioner*)
80. (Watson, A. (1987). *Roman slave law*. Johns Hopkins University Press)
81. (Watson, A. (1989). *Slave law in the Americas*. University of Georgia Press)
82. (Morgan, J. D., De Marco. A. C., LaForett, D. R., Oh, S., Ayankoya, B., Morgan. W., Franco, X., & FPG's Race, Culture, and Ethnicity Committee. (2020, June 30). *What racism looks like*. Frank Porter Graham Child Development Institute, University of North Carolina at Chapel Hill)
83. (Zinn, H. (2009). *People's history of the United States: 1492-present*. Harper Collins)