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## Loving Reparations

Eric J. Miller

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## Loving Reparations

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# LOVING REPARATIONS

ERIC J. MILLER\*

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## INTRODUCTION

The night of May 31–June 1, 1921 was one of the most violent and hate-filled nights of racist violence on U.S. soil in the twentieth century. However, Damario Solomon-Simmons, the lead attorney on the 2020 lawsuit *Randle v. City of Tulsa*,<sup>1</sup> often points out that the Tulsa Race Massacre (“Massacre”) began as a love story.<sup>2</sup> The love story was certainly not between Dick Rowland, a nineteen-year-old Black shoeshiner, and Sarah Page, the white woman whose scream and charge of assault resulted in Rowland’s arrest, setting in motion the immediate events that led to the Massacre.<sup>3</sup> Instead, as Solomon-Simmons powerfully argues in his public speeches, the love story was

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\* Professor and Leo J. O’Brien Fellow, LMU Loyola Law School, Los Angeles. My thanks to Suzette Malveaux, Damario Solomon-Simmons, Dreisen Heath, Dr. Tiffany Crutcher, Adjoa Aiyetoro, and Dr. James Ford for many conversations that helped develop insights expressed in this Article.

1. I am also an attorney on the *Randle* case and worked with the Reparations Coordinating Committee on a prior lawsuit (along with Professor Suzette Malveaux, among others) on behalf of 125 survivors of the Tulsa Race Massacre. Amended Complaint, *Alexander v. Oklahoma*, No. 03-C-133-E (N.D. Okla. Mar. 18, 2004); *Alexander v. Oklahoma*, 382 F.3d 1206 (10th Cir. 2004) (dismissing litigation on statute of limitations grounds). For a discussion of the earlier litigation, see Alfred Brophy, *Charles Ogletree and Tulsa Riot Victims*, 22 HARV. BLACKLETTER L.J. 145, 146 (2006) (“The complaint, largely the brainchild of Ogletree and Eric Miller, was an important product of critical race studies.”).

2. See, e.g., Justice for Greenwood Foundation, *Prayer Rally for Justice - Mount Zion Baptist Church (Greenwood, Tulsa, OK) on May 1, 2022*, YOUTUBE at 1:05:53–1:27:17 (May 3, 2022), <https://www.youtube.com/watch?v=GPwmfuSun2E> [<https://perma.cc/DE7X-SSJU>] (including Dario Solomon-Simmons’ speech “We Seek Justice for Greenwood”).

3. ALFRED L. BROPHY, RECONSTRUCTING THE DREAMLAND: THE TULSA RIOT OF 1921: RACE, REPARATIONS, AND RECONCILIATION 24–62 (2002).

between Dick Rowland and the Black community, who turned out in a supreme act of racial solidarity and risked their lives to protect him, to prevent Rowland from being lynched.

For the litigators, the *Randle* lawsuit is also an act of “loving Blackness.” It is one of the ways we, as lawyers, manifest solidarity with the people and communities still struggling with the continuing economic, social, cultural, political, and personal devastation wrought by the actions of the white citizens of Tulsa on June 1, 1921. Those still struggling include the last three living survivors of the Massacre—Lessie Benningfield Randle, Viola Fletcher, and Hughes van Ellis—as well as Oklahoma’s Greenwood and North Tulsa communities. The litigation is part of reparations efforts on behalf of these people and communities. The lawsuit alleges that the Massacre and its aftermath are a public nuisance that continues to impact the Black communities of Greenwood and North Tulsa to this day. These communities seek to abate the impact of the Massacre by repairing the social and economic harm of the Massacre and restoring the health and safety of the residents. The transformative project of this litigation, and of reparations more generally, must be to create places and societies in which we are able to celebrate Black history, Black culture, and Black joy on their own terms.<sup>4</sup>

In her book, *Black Looks*, bell hooks articulates a politics of “loving Blackness.”<sup>5</sup> She suggests that we should “consider the possibility that to love blackness is dangerous in a white supremacist culture—so threatening, so serious a breach in the fabric of the social order, that death is the punishment.”<sup>6</sup> And later that, “[i]n a white supremacist context ‘loving blackness’ is rarely a political stance that is reflected in everyday life. When present it is deemed suspect, dangerous, and threatening.”<sup>7</sup>

Reparations for anti-Black racial oppression require creating spaces that love Blackness. Such spaces are not abstract, but physical.<sup>8</sup> For many people, Greenwood as a “Black Wall Street” held out the hope of a place where Black people were understood, cherished, and respected. However, the

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4. Rather than through the subordinating and objectifying lens of white control of Black spaces.

5. BELL HOOKS, *BLACK LOOKS: RACE AND REPRESENTATION* 9 (Routledge 2015) (1992).

6. *Id.*

7. *Id.* at 10.

8. In *Black Looks*, hooks is talking about the classroom and the college as anti-Black spaces. *See id.*

Massacre and its aftermath physically destroyed and continues to rip apart and blight the discrete communities and neighborhoods of Greenwood and North Tulsa, where Black Tulsans mostly live. Reparations for the victims of the Massacre must address the ways white Tulsans have injured Black Tulsans over the past 101 years. First, white Tulsans forced Black Tulsans to live within these neighborhoods; next, white Tulsans systematically destroyed, polluted, and blighted the streets, buildings, and amenities; and finally, white Tulsans physically split families apart and then injured the minds and bodies of Black people who remained in Greenwood and North Tulsa as part of a century-long reign of racial terror.<sup>9</sup>

A constitutive feature of Black self-determination is the creation of physical, geographic locations in which the community is able to practice, not simply tolerance or respect, but *love* for Blackness. Since self-determination is at the heart of reparations, loving Black (and Brown and Asian and Indigenous—indeed, all) people is thus a core feature of the movement for reparations for oppressed racial groups.<sup>10</sup> Loving Blackness is not *and ought not to be* restricted to Black people. In a racially diverse society, embracing different histories, cultural practices, and ways of engaging with the world is an important part of creating places and communities that protect and empower Black people (and other communities of color). Nonetheless, in the contemporary United States, given its historical and current practices of racial oppression, creating a Black-loving space is an act of transformational justice. That is the task undertaken by the various groups associated with Justice for Greenwood, a group of lawyers and community organizers, headed by attorney Solomon-Simmons, seeking legal and political reparations for the community impacted by the Massacre.

In this brief Article, after providing an overview of the Massacre, I shall address four questions that have major significance for reparations movements around the nation, and

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9. For some sense of this terrorism, see, for example, Alfred L. Brophy, *Norms, Law, and Reparations: The Case of the Ku Klux Klan in 1920s Oklahoma*, 20 HARV. BLACKLETTER L.J. 17, 29–41 (2004) (discussing the influence of the Ku Klux Klan in 1920s Tulsa).

10. See, e.g., Adjoa A. Aiyetoro & Adrienne D. Davis, *Historic and Modern Social Movements for Reparations: The National Coalition of Blacks for Reparations in American (N'cobra) and Its Antecedents*, 16 TEX. WESLEYAN L. REV. 687, 725 (2010).

indeed the world. First, how—given the history of race-targeted oppression in the United States—do we love Blackness through reparations? Second, will—again, given the history of race-targeted oppression in the United States—*only* economic reparations and, in particular, ending the racial wealth gap achieve a society that can love—not just tolerate or respect—Blackness? Third, how are the available Oklahoma state law claims currently used in litigation by lawyers and activists to frame reparations for the Massacre? And fourth, what groups—what communities and individuals—were and continue to be impacted by the Massacre, and what sorts of reparations apply to these different individuals? I shall explain how reparations for the Massacre can answer these questions.

## I. BRIEF HISTORY OF THE MASSACRE

By the beginning of the 1920s, Tulsa, Oklahoma was an oil-rich boomtown. However, it had a long history of white supremacist racial violence. In the 1820s, Oklahoma (which started as “Indian Territory,” land originally occupied by Indigenous Peoples that included the Osage) incorporated the forced resettlement of the Creeks, Choctaws, Chickasaws, Cherokees, and Seminoles as part of the Trail of Tears.<sup>11</sup> These native peoples brought with them from Georgia various Black individuals whom they had enslaved or who decided to join the five tribes on that forced migration. As a result of this original settlement of Black people and the relative absence of racial segregation in “Indian Territory,” Oklahoma became a “promised land” for Black people seeking to escape the effects of segregation in white-dominated states.<sup>12</sup> Oil transformed

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11. See, e.g., JAMES S. HIRSCH, RIOT AND REMEMBRANCE: THE TULSA RACE WAR AND ITS LEGACY 31–32 (2002). Forced migration is an all too familiar experience dating back to the founding of the United States, from the forced migration of Indigenous Peoples *across* the United States to the forced migration of Black enslaved people *to* the United States. Compare WILLIAM A. DARTY JR. & A. KIRSTEN MULLEN, FROM HERE TO EQUALITY 43 (2020) (claiming that forced migration is what distinguishes Black people in the United States from other racial groups), with Roy L. Brooks & Kirsten Widner, *In Defense of the Black/White Binary: Reclaiming a Tradition of Civil Rights Scholarship*, 12 BERKELEY J. AFR.-AM. L. & POL’Y 107 (2010) (claiming that unlike Black people, Indigenous Peoples were not discriminated against because of their race, but only because of their land).

12. SCOTT ELLSWORTH, DEATH IN A PROMISED LAND: THE TULSA RACE RIOT OF 1921 (1982); see also BROPHY, *supra* note 3, at 2 (quoting RALPH ELLISON, REMEMBERING RICHARD WRIGHT (1986), *reprinted in* THE COLLECTED ESSAYS OF RALPH ELLISON 601, 601 (John F. Callahan ed., 1995)) (arguing that, for Black

Oklahoma into a prize for white land claimants arriving in search of their fortunes.<sup>13</sup> However, the new white settlers were not content to share the land or its wealth with the people they found there. Instead, they sought to recreate the system of racial subordination from their own state in this Indigenous-and-Black-peopled territory.

By the second decade of the twentieth century, Greenwood, the Black district of Tulsa, was likely the third most prosperous town in Oklahoma after Oklahoma City and the white portions of Tulsa itself.<sup>14</sup> That Black or Indigenous Peoples could thrive in Oklahoma was clearly an affront to the white people who had made Tulsa the unlikely oil capital of Oklahoma.<sup>15</sup> For decades, from the 1910s to the 1930s, white people sought to grab oil land by terrorizing and murdering dozens of Indigenous Osage people in neighboring Osage County.<sup>16</sup> By May 31, 1921, white people turned their attention to the Black residents of Greenwood, as hundreds, perhaps thousands, of white folks traveled by train, by car, and by foot to “Little Africa.”<sup>17</sup> For the next day and a half, supported by the police who operated under the authority of Mayor T.D. Evans, the sheriff, local businesses, and even the State National Guard, those white folks set about killing, burning, and looting the most prosperous Black neighborhood west of the Mississippi and perhaps in the whole United States.<sup>18</sup> White folks intent on “running the Negro out of Little Africa”<sup>19</sup> murdered at least 300 Black people, many of whose bodies the white murderers tossed into the Arkansas River or into a series of mass graves dug around the city.<sup>20</sup> The surviving

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people, life was better in Oklahoma for it “lacked the intensities of custom, tradition and manners which ‘colored’ the institutions of the Old South”).

13. See, e.g., HIRSCH, *supra* note 11, at 6 (“Spurred by free land and then by oil, [Tulsa] attracted whites from the Deep South. These settlers established racism as custom and wrote it as law.”).

14. See, e.g., Larry O’Dell, *Riot Property Loss*, in TULSA RACE RIOT: A REPORT BY THE OKLAHOMA COMMISSION TO STUDY THE TULSA RACE RIOT OF 1921, at 143, 143–49 (2001) (providing an estimate of the property damage in Greenwood in 1921).

15. HIRSCH, *supra* note 11, at 105.

16. See, e.g., DAVID GRANN, *KILLERS OF THE FLOWER MOON: THE OSAGE MURDERS AND THE BIRTH OF THE FBI* (2017).

17. BROPHY, *supra* note 3, at 26.

18. *Id.* at 1–2, 26–27, 70.

19. *Id.* at 93.

20. See, e.g., Robert L. Brooks & Alan H. Witten, *The Investigation of Potential Mass Grave Locations for the Tulsa Race Riot*, in TULSA RACE RIOT: A REPORT BY

Black population would either flee the city as refugees or be rounded up and held in internment camps around the town.<sup>21</sup>

Thus, although the precipitating event was an altercation the previous day between nineteen-year-old Dick Rowland and a white girl in an elevator, the Massacre fit within a long line of white supremacist violence in the region. The truth is that white Tulsans had been preparing for months to attack the Black neighborhood, which threatened white dominance in the state. Instantly, news of the Rowland incident became public, and the Tulsa Tribune called for a lynching.<sup>22</sup> Black people in Tulsa were prepared as well.

In a radical act of loving Blackness—of engaging in self-determination and holding white folks accountable for their actions—the Black people of Greenwood swiftly mobilized to demand that the Tulsa police protect Rowland. Black Tulsans had good cause for concern; In August 1920, “Tulsa Police Chief John Gustafson was present at the lynching of Roy Belton and refused to do anything to stop it.”<sup>23</sup>

Within hours, the first in a series of violent confrontations began in front of the courthouse. These confrontations would continue and escalate throughout the night as the white people of Tulsa and the surrounding area became more numerous and better organized.<sup>24</sup> The State National Guard, dispatched by Governor J. B. A. Robertson and commanded on the ground by Captain Frank Van Voorhis and Lieutenants Emmett L. Barnes and Ernest V. Wood, fought through the night, attacking Black people defending their churches, homes, and businesses, rendering the neighborhood defenseless. Police, under the leadership of Tulsa Mayor T. D. Evans and Police Chief Gustafson, deputized and armed hundreds of white civilians.<sup>25</sup> This violent, white Tulsan militia, deputized by the police and

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THE OKLAHOMA COMMISSION TO STUDY THE TULSA RACE RIOT OF 1921, *supra* note 14, at 123–32 (discussing the location of mass graves).

21. See, e.g., ELLSWORTH, *supra* note 12, at 63 (“[O]ver six thousand blacks were reported as being interned on the night of June 1.”).

22. See Randy Krehbiel, *Tulsa Race Massacre: Tulsa Tribune Story Often Cited as Spark That Led to Massacre*, TULSA WORLD, [https://tulsa-world.com/tulsa-race-massacre-tulsa-tribune-story-often-cited-as-spark-that-led-to-massacre/article\\_a0c34131-af92-58a6-b857-e31620085d18.html](https://tulsa-world.com/tulsa-race-massacre-tulsa-tribune-story-often-cited-as-spark-that-led-to-massacre/article_a0c34131-af92-58a6-b857-e31620085d18.html) [https://perma.cc/8UWD-M8PG] (July 4, 2022).

23. BROPHY, *supra* note 3, at 64.

24. See generally CHARLES F. BARRETT, OKLAHOMA AFTER FIFTY YEARS: A HISTORY OF THE SOONER STATE AND ITS PEOPLE 1889-1939 (1941).

25. BROPHY, *supra* note 3, at 91.



the Sheriff, joined by sundry members of the white community, carefully parked their cars downtown just beside the Greenwood neighborhood and then murdered, looted, and burned Black residents over a thirty-five city block region.<sup>26</sup> Sometime on June 1, 1921, unidentified pilots dropped incendiary devices on Greenwood.<sup>27</sup> White people targeted Black people in the first aerial bombing attack on U.S. soil—the next was Pearl Harbor twenty years later.<sup>28</sup>

For the 101 years following the Massacre, white Tulsans sought to establish various parts of town as white spaces, and to maintain Greenwood and North Tulsa, the two neighborhoods in which Black Tulsans live, as places continually vulnerable to white violence and where white domination seeps into the fabric of the buildings, the roads, the shops, the schools, and even the homes where Black people live.<sup>29</sup>

Elijah Anderson has described *white space* as

a perceptual category that assumes a particular space to be predominantly White, one where Black people are typically unexpected, marginalized when present, and made to feel unwelcome, a space that Blacks perceive to be informally “off-limits” to people like them and where on occasion they encounter racialized disrespect and other forms of resistance.<sup>30</sup>

White Tulsans have continually, over the past century and longer, sought to reclaim Greenwood as a white space, to clear it of Black people, and to assert white domination. Within days of the Massacre, the City Council sought to rezone Greenwood to

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26. HANNIBAL B. JOHNSON, BLACK WALL STREET: FROM RIOT TO RENAISSANCE IN TULSA’S HISTORIC GREENWOOD DISTRICT 41 (1998).

27. SCOTT ELLSWORTH, THE GROUND BREAKING: THE TULSA RACE MASSACRE AND AN AMERICAN SEARCH FOR JUSTICE 32 (2021).

28. The Japanese bombed Pearl Harbor in 1941.

29. See, e.g., Amended Complaint at 1, *Alexander v. Oklahoma*, No. 03-C-133-E (N.D. Okla. Mar. 18, 2004).

30. ELIJAH ANDERSON, BLACK IN WHITE SPACE 14–15 (2022). For more information on Black and white spaces, see generally WENDY LEO MOORE, “WHITE SPACE” IN REPRODUCING RACISM: WHITE SPACE, ELITE LAW SCHOOLS, AND RACIAL INEQUALITY (2008); Bennett Capers, *The Law School as a White Space*, 106 MINN. L. REV. 2 (2021); KATHERINE MCKITTRICK, DEMONIC GROUNDS: BLACK WOMEN AND THE CARTOGRAPHIES OF STRUGGLE (2006).

prevent rebuilding and move the Black community further away from the white center of town.<sup>31</sup>

The Massacre was an overwhelming attack on Black space and an attempt to convert it into white space. The destruction was so great, it was clear that the intent was genocidal: not just to create a white space that dominates Black people, but one devoid of Black people. Within a year, thousands of Klansmen<sup>32</sup>—some estimates as high as five thousand for one march<sup>33</sup>—paraded through downtown Tulsa to emphasize terroristic white control of the streets, parks, and public spaces of the city. These marches established the whiteness of Tulsa and re-emphasize the fragility of Black presence in white space.

This fragility was reinforced by the subsequent acts of the white community in Tulsa which sought to maintain control over the Black community. White domination of public spaces continued even after these massive displays of white terror faded into the past. New ways of ripping apart the community, destroying its housing and amenities, emerged. Historian Dr. John Hope Franklin, himself the son of a Massacre survivor, once said, “There are two ways which whites destroy a black community. One is by building a freeway through it, the other is by changing the zoning laws.”<sup>34</sup>

Most recently, as the history of the Massacre has emerged from a long-standing, white supremacist “conspiracy of silence,”<sup>35</sup> a battle has also emerged to control who gets to tell the history of the Massacre and what it is that they say.<sup>36</sup> In 1921, the state, city, and Chamber of Commerce conspired to erase the Massacre from U.S. history.<sup>37</sup> Even in contemporary Tulsa, the Tulsa Commission to Commemorate the Massacre and the Greenwood Rising Historical Center— which are sponsored by the city, the Chamber of Commerce, and

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31. BROPHY, *supra* note 3, at 93–95; HIRSCH, *supra* note 11, at 174.

32. RANDY KREHBIEL, *TULSA, 1921*, at 199 (2019).

33. HIRSCH, *supra* note 11, at 166.

34. ELLSWORTH, *supra* note 12, at 109.

35. 1921 Tulsa Race Riot Reconciliation Act of 2001, OKLA. STAT. tit. 74, § 8000.1.4 (2022).

36. On the power of historical silencing, see, for example, MICHEL-ROLPH TROUILLOT, *SILENCING THE PAST: POWER AND THE PRODUCTION OF HISTORY XXIII* (2015) (“This book is about history and power. It deals with the many ways in which the production of historical narratives involves the uneven contribution of competing groups and individuals who have unequal access to the means for such production.”).

37. tit. 74, § 8000.1.

important, white-run foundations—project a white-controlled narrative that still refuses to identify and hold individual white people responsible. These institutions contribute to a “democratic deficit” in representing and remedying the Massacre.<sup>38</sup> Worse, the Commission has misappropriated the histories of the still-living survivors—Lessie Benningfield Randle, Viola Fletcher, and Hughes van Ellis—and falsely claimed that these three victims endorse their attempts to whitewash subsequent and contemporary racism in Tulsa.<sup>39</sup>

Although proposed rezoning of Greenwood proved to be unconstitutional, by the 1960s, white Tulsans had begun a program of displacing Black families euphemistically called “urban renewal” and by the 1970s, finally and permanently destroyed Greenwood and fragmented the Black community by running a freeway through the middle of the neighborhood.<sup>40</sup> “By 1978, a report by Tulsa’s Neighborhood Regeneration Project described the Greenwood District as an area ‘that is left today [with] generally abandoned and underutilized buildings, sitting in a sparse population of poor and elderly [Black people] awaiting the relocation counselors of the Urban Renewal program.’”<sup>41</sup>

Now, the major structures in Greenwood are emphatically white spaces:<sup>42</sup> the campus of Oklahoma State University, the Tulsa Drillers minor league baseball team’s ballpark, and the white-dominated Greenwood Rising historical center, designed by white Tulsans to control the contemporary narrative of the Massacre.

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38. Monica Bell, *Reckoning with State-Sanctioned Racial Violence: Lessons from the Tulsa Race Massacre*, JUST SEC. (May 29, 2021), <https://www.justsecurity.org/76699/reckoning-with-state-sanctioned-racial-violence-lessons-from-the-tulsa-race-massacre> [<https://perma.cc/297D-2T2E>].

39. *US: Failed Justice 100 Years After Tulsa Race Massacre: Commission Alienates Survivors; State, City Should Urgently Ensure Reparations*, HUM. RTS. WATCH (May 21, 2021, 2:00 AM), <https://www.hrw.org/news/2021/05/21/us-failed-justice-100-years-after-tulsa-race-massacre> [<https://perma.cc/YWT3-WKM5>].

40. HIRSCH, *supra* note 11, at 194–95; JOHNSON, *supra* note 26, at 114–16; KREHBIEL, *supra* note 32, at 210.

41. JOHNSON, *supra* note 26, at 116.

42. See, e.g., MCKITTRICK, *supra* note 30, at 6; see also TROUILLOT, *supra* note 36.

## II. LOVING BLACKNESS THROUGH REPARATIONS

What does it mean to “love” Blackness? The sort of love I wish to emphasize is love as a *political virtue*, one that enriches the ways that we live with each other in community.<sup>43</sup> Philosopher Martha Nussbaum makes an extended argument for love as a political virtue, arguing that love must be added to basic ideas of toleration or “respect grounded in the idea of human dignity” because those attitudes simply acknowledge the moral standing of other people without the sort of “imaginative engagement with the lives of others [that provides] an inner grasp of their full and equal humanity.”<sup>44</sup> Nussbaum recognizes that there is more to political love than simply engaging with others’ inner lives: we have to share the interests of others as well.<sup>45</sup>

Ekow Yankah provides one version of this shared-interest view of political love. He suggests that the sort of fellow feeling at issue requires us to “experience[] the well-being of those . . . with whom we share a civic community [as part and parcel of *our* well-being]. How well our world is going turns in part on how well our world is going for our fellow citizens.”<sup>46</sup> Yankah recognizes that part of what it means to form a community with others is to take pleasure in those others’ presence by promoting their practices and projects. Yankah points out that individuals in communities do this by “orientating ourselves around traditions, both individual and communal, and pursuing projects that extend beyond our own futures by benefiting our communities.”<sup>47</sup>

For hooks, “loving Blackness” is a form of radical accountability.<sup>48</sup> Loving Blackness entails rejecting a framework in which Black people must cater to whiteness and its interests in preserving racial power—often by adopting the race-powered points of view and race-powered practices of white people. Loving Blackness is “a revolutionary intervention that undermines practices of domination. Loving blackness as

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43. See, e.g., Ekow N. Yankah, *The Sovereign and the Republic: A Republican View of Political Obligation*, 61 POL. LEGITIMACY 102, 111 (2019).

44. MARTHA C. NUSSBAUM, POLITICAL EMOTIONS: WHY LOVE MATTERS FOR JUSTICE 380 (2013).

45. See *id.*

46. Yankah, *supra* note 43, at 109 (emphasis added).

47. *Id.* at 110.

48. HOOKS, *supra* note 5, at 14.

political resistance transforms our ways of looking and being, and thus creates the conditions necessary for us to move against the forces of domination and death and reclaim black life.”<sup>49</sup>

If we are to love *Blackness*, then we need a definition of what Blackness is. Following hooks’s hints, Blackness is not some metaphysical state of being, but rather the concrete presences and more or less distinctive social practices of groups of Black people in geographic and institutional spaces. In the United States, historically, certain types of food, music, and social and cultural practices have been raced as Black or white. As sociologist Elijah Anderson describes it, Black social practices thrived in distinctively Black spaces, which “provided social nurturance apart from the dominant society, with its own social system of checks and balances, its own distinctive social order.”<sup>50</sup>

Because there are many Black presences and practices across geographic space and over time in the United States, there is not just one set of social practices characteristic and constitutive of Blackness. Some of these practices are positive for the Black community, some negative, some ambivalent. Many operate in response to white oppression but, as hooks reminds us, many need not.<sup>51</sup> We can love Blackness for itself, as well as recognizing where and how the practices of Blackness exist to resist white oppression.<sup>52</sup> Where they do, regarding those practices with an empathetic eye often reveals that even “bad” practices are what philosopher Tommie Shelby calls practices of “impure dissent.”<sup>53</sup> For Shelby, we should see these practices of resistance as playing with and bucking white stereotypes, rather than confirming them.<sup>54</sup>

Loving Blackness is incompatible with the social, political, and economic practices of white supremacy. The practices of white supremacy may be taken up by individuals or groups to dominate, devalue, and discount Black life and Black lives. On the contrary, the practices of loving Blackness require that we

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49. *Id.* at 20.

50. ELIJAH ANDERSON, *BLACK IN WHITE SPACE: THE ENDURING IMPACT OF COLOR IN EVERYDAY LIFE* 62 (2022).

51. HOOKS, *supra* note 5, at 9–10.

52. See TOMMIE SHELBY, *DARK GHETTOS: INJUSTICE, DISSENT, AND REFORM* 257–58 (2016); ROBIN D. G. KELLEY, *RACE REBELS: CULTURE, POLITICS, AND THE BLACK WORKING CLASS* 9–10 (1994).

53. SHELBY, *supra* note 52, at 258.

54. *Id.* at 257–58.

(all of us, including white people) are “valuing ourselves rightly”<sup>55</sup> through “a fusion of care, respect, knowledge, and responsibility.”<sup>56</sup> Loving Blackness is a political act, one that requires us to reject the contemporary political practices of racial domination and subordination that structure our lives and embrace “the oppositional spirit of solidarity and equality, communalism, and love of justice that has been our legacy.”<sup>57</sup>

The political act of loving Blackness can be understood as recovering places and people as worthy of our respect, care, understanding, and interest. Respect entails acknowledging that some place or person that is worthy of our attention is able to determine for themselves how their life is to go.<sup>58</sup> Care is expressing our *personal commitment* to their well-being—to their ability to flourish as fully-realized individuals in the world.<sup>59</sup> Responsibility, the duty to acknowledge and respond to the ways in which our actions, beliefs, and commitments impact other people, requires us to atone for these actions, beliefs, and commitments when they injure others.<sup>60</sup>

Like hooks, Elijah Anderson recognizes that white supremacy is incompatible with these ethics of care, respect, knowledge, and responsibility. He suggests:

Because of their status as “where the Black people lived,” almost by definition the wider White society considered [Black sections of the city] inferior in quality of life, politics, and economic clout. And their municipal services were seldom if ever equal to those in the White community . . . . The larger and more successful such Black communities grew, the greater became the Whites’ efforts to suppress them, particularly when Whites saw Blacks as a threat.<sup>61</sup>

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55. BELL HOOKS, *SALVATION: BLACK PEOPLE AND LOVE* 55 (2001).

56. *Id.* at 20.

57. *Id.* at 224.

58. SHELBY, *supra* note 52, at 96–99 (discussing the values of respect and self-respect). Hooks identifies this sort of attitude as part of a “decolonizing movement for black self-determination and liberation.” HOOKS, *supra* note 55, at 212.

59. See, e.g., Robin S. Dillon, *Respect and Care: Toward Moral Integration*, 22 CANADIAN J. PHIL. 105, 119 (1992).

60. HOOKS, *supra* note 55, at 221 (“[W]hite people undergoing a conversion process by which they divest themselves of white supremacist thinking would necessarily have to focus on accountability and atonement.”).

61. ANDERSON, *supra* note 30, at 63.

Given hooks's description of loving Black places and people as a political act, and Anderson's description of white supremacist suppression of the places in which Black people live, we are now in a position to ask the core question of reparations for the Greenwood and North Tulsa communities: What would it take for Tulsa to love the Black neighborhoods of Greenwood and North Tulsa today? In other words, what would it take for white Tulsans to properly value Black Tulsans and the neighborhoods in which they live as places in which Black Tulsans are given the means to flourish as fully-realized individuals with the power to determine for themselves how their lives are to go? In the next Part, I shall suggest that to love Blackness through reparations, it is necessary to do more than provide a money payment to the community and neighborhoods who remain victimized by the Massacre. Reparations demands white Tulsans treat those communities with respect and care by rebuilding those communities and neighborhoods, workplaces and schools, hospitals, parks, restaurants, and other places and spaces that protect and empower Black people as full, equal, and self-determining members of society.

### III. MORE THAN ECONOMIC REPARATIONS

For my part, cherishing the Black community in Tulsa has been expressed primarily through my participation in two lawsuits filed on behalf of survivors and descendants of the Massacre as well as the Greenwood and North Tulsa communities.

In the federal litigation filed in 2003, *Alexander v. Oklahoma*, the plaintiffs sought direct monetary damages under, among other causes of action, 42 U.S.C. § 1983, the federal enabling statute that allowed us to allege a violation of the Fourteenth Amendment protections from race-based destruction of life and property.<sup>62</sup> While there were approximately 150 living survivors seeking damages in that litigation,<sup>63</sup> nonetheless, direct monetary reparations paid to the survivors (or even to descendants of any deceased victims) would have provided only a fraction of the necessary reparations

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62. Amended Complaint at 1, *Alexander v. Oklahoma*, No. 03-C-133-E (N.D. Okla. Mar. 18, 2004).

63. *Id.* at 27–77.

required to respect, cherish, acknowledge, and atone for the Massacre.

The problem, as bell hooks argues, is that “[m]oney alone will never heal the wounds of black America. As long as white supremacy remains the order of the day, we must always work to control our representations, to offer a progressive vision.”<sup>64</sup> The sort of monetary damages available through an equal protection claim are, after all, private damages, going individually to each claimant and compensating them for the property (and in some cases, the lives of relatives) they lost. What hooks seeks, in addition to private, monetary damages, is the healing of each harmed community *as a whole community* through ending white supremacy. In other words, what hooks seeks is a public remedy rather than a private one; the sort of remedy we are pursuing in the current *Randle* litigation<sup>65</sup> through a public nuisance theory.

Some recent accounts of reparations have focused on monetary payments and advocated that the amount of damages ought to be enough to close the racial wealth gap.<sup>66</sup> For others, the focus has been to repair property damage.<sup>67</sup> However, neither of these measures properly captures the impact of a century of white terroristic supremacy on the Greenwood and North Tulsa communities.

Considered merely as private damages, the racial wealth gap measure likely undercounts the damages due to many of the families who lost their businesses and houses during the Massacre. The racial wealth gap measures the difference in wealth between the median Black family and the median white one.<sup>68</sup> However, business entrepreneurs like O. W. Gurley or J. B. Stradford or the family of funeral parlor owner Stith Ragsdale—the ancestor of Colorado Law School Dean Lolita Buckner Innis—were all upper-middle-class individuals.<sup>69</sup> The neighborhood was known as Black Wall Street precisely because

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64. HOOKS, *supra* note 55, at 224.

65. Petition at 38–39, *Randle v. City of Tulsa*, No. CV-2020-1179 (Okla. Dist. Ct. Sept. 1, 2020) (Okla. State Cts. Network).

66. See, e.g., DARITY & MULLEN, *supra* note 11, at 11.

67. See, e.g., O'DELL, *supra* note 14, at 143–51.

68. DARITY & MULLEN, *supra* note 11, at 46.

69. Don Ross, *Prologue*, in TULSA RACE RIOT: A REPORT BY THE OKLAHOMA COMMISSION TO STUDY THE TULSA RACE RIOT OF 1921, *supra* note 14, at vi–viii; John Hope Franklin & Scott Ellsworth, *History Knows No Fences: An Overview*, in TULSA RACE RIOT: A REPORT BY THE OKLAHOMA COMMISSION TO STUDY THE TULSA RACE RIOT OF 1921, *supra* note 14, at 22–23.



it was so economically successful. Comparing their losses to people earning the median wealth of a person in Tulsa, Oklahoma is likely to undercount considerably how much money they lost.

Furthermore, the harm suffered by Black people in Greenwood is an ongoing one. Some families did manage to rebuild their properties—even if they never recovered the money lost during the Massacre. But they rebuilt in the face of white resistance, and their properties were eventually lost once more to urban redevelopment.<sup>70</sup> Furthermore, what was lost was not simply *individual* wealth, but *communal* wealth as well. A great deal of our public nuisance litigation addresses the impact on the community as a whole of the practices of the city of Tulsa and other defendants in failing to provide adequate sanitation, adopting differential zoning to allow environmental blight, failing to maintain streets and lighting, splitting the community by running a freeway through it,<sup>71</sup> and all the myriad ways in which white Tulsans keep Greenwood and North Tulsa as a “white space”—or at least a grey one, in which Black lives cannot thrive as they ought.

Financial reparations, on their own, do not create protected, self-determining, physically and psychologically healthy communities. The goal of reparations cannot only be to have Black people improve their relative position within the system of white supremacy by easing some of their financial problems. The goal must be to end the system of white supremacy. We do not claim that our public nuisance litigation will do *that*. However, we do seek to use the litigation as a means of helping grassroots organizing around the idea of creating a Black space in which Black people in Tulsa can thrive. That is why we have emphasized building a hospital, making healthy food resources accessible, and developing curricula, scholarships, and representations of Black people that do not simply focus on anti-Black violence, but celebrate Black success.

The memorialization of the Massacre itself has become a battle over white and Black spaces. Memorialization is an act of power: it depends on a set of practices that constitute spaces as Black or white by determining whose stories count as credible and worth retaining, as well as determining who gets to tell

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70. See, e.g., JOHNSON, *supra* note 26, at 140.

71. See *generally* Petition, Randle v. City of Tulsa, No. CV-2020-1179 (Okla. Dist. Ct. Sept. 1, 2020) (Okla. State Cts. Network).

those stories. Through these practices of sourcing, archiving, and narrating,

[c]ommemorations sanitize . . . the messy history lived by the actors. They contribute to the continuous myth-making process that gives history its more definite shapes: they help to create, modify, or sanction the public meanings attached to historical events deemed worthy of mass celebration. As rituals that package history for public consumption, commemorations play the numbers game to create a past that seems both more real and more elementary.<sup>72</sup>

The Centennial Commission has consistently sought to recreate Greenwood as a white historical space through its memorialization practices. “The Centennial Commission has raised at least \$30 million, \$20 million of which went to build Greenwood Rising, but it has alienated Massacre survivors and many descendants of victims by failing to adequately involve them in its planning.”<sup>73</sup>

The Commission’s fundraising seeks to position it—and its mostly white-dominated foundations and supporters—at the center of Massacre-related philanthropy. However, despite massive fundraising success, the Commission expressly and insistently denies financial reparations—perhaps the major demand of the Greenwood diaspora—to the Massacre descendants and survivors. Accordingly, the price of (white-dominated) memorialization has been the continued silencing and immiseration of the Black survivors and the descendants of the Massacre victims.

The existence of Greenwood Rising, along with some other conflicts among the Black community in Greenwood and North Tulsa, have laid bare one of the worries articulated by hooks: that “privileged classes of black people assuaged their feelings of loss [at the violent end of the civil rights movements in the 1960s] by swift assimilation into the values of the dominant white mainstream.”<sup>74</sup> In other words, Black people and groups seek power *within* the structures of white supremacy by working for institutions that promote a white-dominated narrative of the Massacre rather than developing one that demands a proper

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72. TROUILLOT, *supra* note 36, at 116.

73. HUM. RTS. WATCH, *supra* note 39.

74. HOOKS, *supra* note 55, at 215.

acknowledgment and atonement in the context of Black self-determination.

The City of Tulsa and its Chamber of Commerce have tried to split the community politically by playing one group against another with promises of short-term gain in return for political support. What Justice for Greenwood—the group seeking reparations for the people impacted by the Massacre and its continuing legacy—recognizes is that the Black communities in Tulsa and in the diaspora beyond are stronger together when they join in common cause against the people and institutions that perpetrated the Massacre in 1921 and still continue to refuse to pay.

Rather than creating a hierarchical, top-down organization, Justice for Greenwood has followed a bottom-up, grassroots activism. This litigation, though it relies on some lawyers from outside of the Greenwood and North Tulsa communities, is nonetheless led by people from these communities. Many of them are descended from Massacre victims and live in the Greenwood and North Tulsa neighborhoods they represent in this litigation and political activism.<sup>75</sup> The presence of Black Tulsans at the front, leading the litigation and political activism, is essential to our reparations movement. It is, in its own legalistic way, one of the means by which we practice loving reparations.

#### IV. GROUP AND COMMUNITY ELIGIBILITY

Part of the struggle in the reparations movement is ascertaining which groups are part of the Black community we seek to respect, cherish, and value through a spirit of solidarity, equality, and love of justice. In contemporary reparations debates, who counts as part of our shared (racial) community sometimes plays out in determining who should be eligible for reparations. Eligibility effectively turns upon the sorts of reparations sought: reparations for private, individual wrongs are usually more limited than reparations for public, community wrongs.<sup>76</sup>

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75. See Petition, *Randle v. City of Tulsa*, No. CV-2020-1179 (Okla. Dist. Ct. Sept. 1, 2020) (Okla. State Cts. Network).

76. IRIS MARION YOUNG, *RESPONSIBILITY FOR JUSTICE* 171–87 (2013). This issue is best illustrated in the monetary damages sought for the then-living survivors of the Massacre in *Alexander v. Oklahoma*, as compared to the public

Justice for Greenwood has been wrestling with the problem of eligibility for reparations for some time now. In filing their complaint, Justice for Greenwood alleged that the Massacre was a public nuisance that harmed the Greenwood and North Tulsa communities not only in 1921, but continually right up to the present day. In conjunction with those legal efforts, Justice for Greenwood has a charitable organization seeking to raise money for the survivors and descendants of the Massacre.

From the outset, we have recognized that there is not just one community harmed by the Massacre, but many. That's because the Massacre and its legacy have had so many different impacts on so many different people. Our goal has always been to form alliances between the different communities of Black folks impacted by this continuing legacy of racist oppression to ensure that all the Black victims—the three living survivors, Lessie Randle, Viola Fletcher, and Hughes Van Ellis, along with the community of direct descendants of the Massacre victims and the current, long-term residents of the Black neighborhoods in Tulsa—receive reparations.

In trying to work out how to apportion reparations, our team of lawyers, fundraisers, and community activists have engaged with a diaspora that spans the United States and abroad, as well as more recent arrivals to the Greenwood and North Tulsa communities who have been directly impacted by politics that have hurt their health, their income, and their property. We are currently developing new and innovative ways of ensuring that our descendant class is able to establish their relations to the Massacre despite the state of Oklahoma and city of Tulsa failing to provide adequate documentation. But we have also provided ways to ensure that contemporary groups receive the reparations due given the harms that they have suffered.

#### CONCLUSION: WHAT DOES SOLIDARITY LOOK LIKE?

For over a hundred years, it has been white people—the city of Tulsa and its white enablers—who have sought to fragment the Black community, both literally and figuratively. They have burned a thriving neighborhood to the ground, murdered innocents, driven Black survivors of the Massacre out of Tulsa,

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nuisance abatement sought in *Randle*. Amended Complaint, *Alexander v. Oklahoma*, No. 03-C-133-E (N.D. Okla. Mar. 18, 2004); Petition, *Randle*, No. CV-2020-1179.

zoned and redlined the city, and run a freeway through the middle of the Black community. Now they want to tell the story of that Massacre at the expense of the generations of Black people who are still victimized by these acts.

Many reparationists feel a continuing, justified anger over the acts of racial terrorism that stole their wealth, injured or killed their family members, and continues to exercise a traumatic impact into the present day. What does it mean that the response to justified anger is the practice of (self-) love? Especially when the worry is that Black love has always been self-sacrificing and not self-empowering?

Here is where the practice of love, including self-love, as radical accountability can help. Loving Blackness requires different responses from different groups, each of which holds itself accountable in the face of white racial supremacy. In Tulsa, that means not only recognizing the dignity and worth of its Black citizens, but caring enough about their interests to give social, economic, and political power to Black Tulsans to determine what sorts of remedies are appropriate. Some of those remedies will provide security and well-being by building hospitals in Black neighborhoods, providing adequate sanitation, rezoning and relocating environmental hazards, properly funding schools, building parks and other amenities, and supporting Black businesses and creating Black jobs. They will allow Black Tulsans to determine how the tens of millions of dollars raised are to be spent, as well as how the history of the Massacre is told. Without loving reparations, the history of Tulsa will remain its present: “a history of race relations that allowed one race to ‘put down’ another race . . . [perpetuating] the power to subordinate,” Black Tulsans to this day.<sup>77</sup>

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77. 1921 Tulsa Race Riot Reconciliation Act of 2001, OKLA. STAT. tit. 74, § 8000.1 (2022)