

**SEEN BUT NOT RECOGNIZED: BLACK CAREGIVERS,
CHILDHOOD CRUELTIES, AND SOCIAL DISLOCATIONS IN AN
INCREASINGLY COLORED AMERICA**

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I. INTRODUCTION

*[T]hought affects physical reality. . . . [T]houghts are capable of affecting everything from the simplest machines to the most complex living beings.*¹

*[T]he most essential ingredient in creating our universe is the consciousness that observes it. . . . [T]he observer brings the observed into being, . . . nothing in the universe exists as an actual “thing” independently of our perception of it.*²

*Well, poverty is real, for the moment in which it exists. But poverty exists because people have created it with the power of their collective thoughts, beliefs, words, and actions. It is a vicious cycle that is self-perpetuating.*³

By 2060, if not before, America will be a majority-minority nation.⁴ In that nation, whites will hover around 46%, and blacks, Asians, and Latinos will occupy 13%, 8%, and 30%, respectively.⁵ By that year, according to the Pew Research Center’s projections, “[n]early one in five Americans (19 percent) will be foreign born, surpassing the historic peaks for immigrants as a share of the U.S. population (14.8 percent in 1890 and 14.7 percent in 1910).”⁶ Beyond these broad statistics, the vast majority of America’s shifting population will be

¹ LYNNE McTAGGART, *THE INTENTION EXPERIMENT: USING YOUR THOUGHTS TO CHANGE YOUR LIFE AND THE WORLD* xxi (2007).

² *Id.* at xxiv.

³ NORMA J. MILANOVICH & SHIRLEY D. McCUNE, *THE LIGHT SHALL SET YOU FREE* 300 (1996).

⁴ Howard Hogan et al., *Projecting Diversity: The Methods, Results, Assumptions and Limitations of the U.S. Census Bureau’s Population Projections*, 117 W. VA. L. REV. 1052 (2015) (“However, by 2060, the share of [the non-Hispanic White population] is projected to be just 44 percent, as its population falls from 198 million in 2014 to 182 million in 2060. . . . According to these projections, the majority-minority crossover will occur in 2044.”).

⁵ VANESSA CÁRDENAS ET AL., *CTR. FOR AM. PROGRESS, PROGRESS 2050: NEW IDEAS FOR A DIVERSE AMERICA* 4 (2011), available at https://cdn.americanprogress.org/wp-content/uploads/issues/2011/10/pdf/progress_2050.pdf.

⁶ *Id.*

mixed-race people.⁷ Hence, by 2050, demographers project that perhaps 20% of Americans “may identify with two or more races.”⁸ Equally important, Hispanics and Asian Americans will produce the most newborn babies, and older Americans “will grow and become more racially and ethnically diverse.”⁹ By 2050, America will have new youths.¹⁰ From 2001 to 2011, our under 18-year-old youths grew by less than 3%, which included “an absolute decline of white young people” and a somewhat similar decline in black youths.¹¹ Those youth populations with net growth were Hispanics, Asians, and multiracial children.¹² In 2010, for the first time, “fewer than half of all children (49.9 percent) in the youngest age group of 3-year-olds were white.”¹³ Like these youths, one-third of America’s older-but-under-65-year-olds will be people of color; thus in this nation’s future, older citizens will be more racially and ethnically diverse.¹⁴

Greater racial and ethnic diversity will not perforce better the lives of black children or children of color. For example, in 2011, in eight states, children of color made up the majority of the under-18 population; however, whether due to cultural or structural factors, they suffered through significant economic obstacles, racial disparities, and widening gaps in employment, health, and wealth.¹⁵ Still today, in 2014, communities of color generally and black communities specifically “suffer from high dropout rates, economic insecurity, and lack of health care while wealth gaps rise to record highs between whites and communities of color.”¹⁶ According to *The State of America’s Children*, the Children’s Defense Fund (“CDF”) posited that one-fourth of infants, toddlers, and pre-school children live in poverty.¹⁷ However, one in eight is extremely poor.¹⁸ By 2019, the CDF argued, “children of color who are disproportionately poor, nearly 1 in 3, will be a majority of all children

⁷ *See id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *See id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 5.

¹⁵ *See id.* at 1.

¹⁶ *Id.*; *see also* CHILDREN’S DEF. FUND, THE STATE OF BLACK CHILDREN IN AMERICA: A PORTRAIT OF CONTINUING INEQUALITY (2014), *available at* <http://www.childrensdefense.org/z-zz-child-research-data-publications/data/state-of-black-children-2014.pdf>; CHILDREN’S DEF. FUND, THE STATE OF AMERICA’S CHILDREN 2 (2014) [hereinafter THE STATE OF AMERICA’S CHILDREN], *available at* <http://www.childrensdefense.org/library/state-of-americas-children/2014-soac.pdf>.

¹⁷ THE STATE OF AMERICA’S CHILDREN, *supra* note 16, at 2.

¹⁸ *Id.*

in America and of our future workforce, military and consumers.”¹⁹ In short, America’s racialized poverty will fall disproportionately on children of color.²⁰

Let us assume that by 2019, children of color, especially blacks, will become part of a majority-minority nation. How will black children be better off? Due to policies like federal funding for needy children,²¹ grinding poverty will not be their only problem. Due to cultural values, black caregivers, even if well intentioned, will still cause their infants and toddlers to suffer by violating their bodies and minds with childhood cruelties in the earliest years of their lives.²² By childhood cruelties, I mean a broad concept like maltreatment, meaning “harsh parenting” such as physical and psychological harm and neglect.²³ As a result, underclass black families will continue to suffer through “social dislocation” issues²⁴ (or self-perpetuating pathologies),²⁵ which plagued the black community²⁶ even before W.E.B. Du Bois wrote *The Philadelphia Negro*.²⁷ By social dislocation issues, William Julius Wilson meant “rates of inner-city joblessness, teenage pregnancies, out-of-wedlock

¹⁹ *Id.*

²⁰ *See id.*

²¹ Like, for example, the Social Security Act, 42 U.S.C. §§ 601–687 (2013).

²² *See* Bessel A. van der Kolk & Alexander C. McFarlane, *The Black Hole of Trauma*, in *TRAUMATIC STRESS: THE EFFECTS OF OVERWHELMING EXPERIENCE ON MIND, BODY, AND SOCIETY* 3, 10–11 (Bessel A. van der Kolk et al. eds., 1996). *See generally* Robert L. Hampton & Richard J. Gelles, *A Profile of Violence Toward Black Children*, in *BLACK FAMILY VIOLENCE: CURRENT RESEARCH AND THEORY* 21, 21–34 (Robert L. Hampton, ed. 1991).

²³ Catherine A. Taylor et al., *Mothers’ Spanking of 3-Year-Old Children and Subsequent Risk of Children’s Aggressive Behavior*, 125 *PEDIATRICS* e1057, e1059 (2010), <http://pediatrics.aapublications.org/content/125/5/e1057>; *see also* ALICE MILLER, *FOR YOUR OWN GOOD: HIDDEN CRUELTY IN CHILD-REARING AND THE ROOTS OF VIOLENCE* ix (Hildegard Hannum & Hunter Hannum trans., 4th ed. 2002) [hereinafter MILLER, *FOR YOUR OWN GOOD*] (“And corporal punishment [which means spanking too] includes the effects of all other forms of child abuse: betrayal of the child’s confidence, dignity, and perception of reality.”).

²⁴ WILLIAM JULIUS WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* 3 (2d ed. 2012) [hereinafter WILSON, *THE TRULY DISADVANTAGED*].

²⁵ *See* U.S. DEP’T OF LABOR, OFFICE OF POLICY PLANNING AND RESEARCH, *THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION* (1965) [hereinafter MOYNIHAN REPORT], *available at* <http://web.stanford.edu/~mrosenfe/Moynihan%27s%20The%20Negro%20Family.pdf>. For a brief history of the authorship and background of this report, *see* GREGORY ACS ET AL., *URBAN INST., THE MOYNIHAN REPORT REVISITED* (2013), *available at* <http://www.urban.org/UploadedPDF/412839-The-Moynihan-Report-Revisited.pdf>; *see also* KENNETH B. CLARK, *DARK GHETTO: DILEMMAS OF SOCIAL POWER* (2d ed. 1989).

²⁶ *See generally* FOX BUTTERFIELD, *ALL GOD’S CHILDREN: THE BOSKET FAMILY AND THE AMERICAN TRADITION OF VIOLENCE* (1995) (examining the effects of racism and violence over generations of black Americans).

²⁷ *See* W.E.B. DU BOIS, *THE PHILADELPHIA NEGRO: A SOCIAL STUDY* (Shocken Books 1967) (1899).

births, female-headed families, welfare dependency, and serious crime.”²⁸ To that description, Daniel Patrick Moynihan would add poor academic performance, low aspirational levels,²⁹ poor cognitive scores,³⁰ black-on-black crime,³¹ disorganized attachment,³² and personality disorders.³³ Like Wilson, Moynihan’s *The Negro Family* looked to structural forces like slavery, Jim Crow, wages, and female-headed homes to explain the causes and consequences for the instability of the black family.³⁴ But unlike Wilson, who attributed such behavior (e.g., teenage pregnancies) mostly to structural forces and racial inequality,³⁵ Moynihan also viewed these social dislocations as following from “the weakness of the [black] family structure.”³⁶ For Moynihan, social dislocations were the “tangle of pathology that affects [the black] world.”³⁷ Unfortunately, Wilson argues that these social dislocation issues grew worse in the 1970s³⁸ during the War on Poverty³⁹ and President Lyndon Baines Johnson’s Great Society program,⁴⁰ which reflects Wilson’s mild concession that white racism alone cannot explain why black underclass families suffer deep, intractable poverty.⁴¹

²⁸ WILSON, THE TRULY DISADVANTAGED, *supra* note 24, at 3.

²⁹ MOYNIHAN REPORT, *supra* note 25, at 31.

³⁰ *Id.* at 35 (“A prime index of the disadvantage of Negro youth in the United States is their consistently poor performance on the mental tests that are a standard means of measuring ability and performance in the present generation.”).

³¹ *Id.* at 39 (“The overwhelming number of offenses committed by Negroes are directed toward other Negroes: the cost of crime to the Negro community is a combination of that to the criminal and to the victim.”).

³² *Id.* (“Recent psychological research demonstrates the personality effects of being reared in a disorganized home without a family.”).

³³ *Id.* (“Others revealed that children who hunger for immediate gratification are more prone to delinquency, along with other less social behavior. Two psychologists, Pettigrew says, maintain that inability to delay gratification is a critical factor in immature, criminal, and neurotic behavior.”).

³⁴ *See id.* at 15–33.

³⁵ *See* WILSON, THE TRULY DISADVANTAGED, *supra* note 24, at 4–5.

³⁶ MOYNIHAN REPORT, *supra* note 25, at 30.

³⁷ *Id.*

³⁸ WILSON, THE TRULY DISADVANTAGED, *supra* note 24, at 3.

³⁹ *Id.* at 129–32.

⁴⁰ *Id.* at 118, 130–31.

⁴¹ *Id.* at 10–11 (“But to suggest that the recent rise of social dislocations among the ghetto underclass is due mainly to contemporary racism, which in this context refers to the ‘conscious refusal of whites to accept blacks as equal human beings and their willful, systematic effort to deny blacks equal opportunity,’ is to ignore a set of complex issues that are difficult to explain with a race-specific thesis.”); *see also* WILLIAM JULIUS WILSON, MORE THAN JUST RACE: BEING BLACK AND POOR IN THE INNER CITY 15 (2009) [hereinafter WILSON, MORE THAN JUST RACE] (defining culture as more than “group norms, values, and attitudes toward family and work, and

Today, underclass black family instability continues unabated,⁴² as do black-on-black crimes, teenage pregnancies, and aggressive, disruptive, and disrespectful behavior by young black children in pre-K and K-12.⁴³ But why? Sociologists have refused to delve into cultural causes of such behavior.⁴⁴ By so refusing, we do not have socio-psychological studies that correlate such behavior with the black family's "distinctive attitudes, values and predispositions."⁴⁵ And without these studies, sociologists often assign such behavior to structural factors like "low incomes, joblessness," and illegal activities,⁴⁶ which can result in some scholars asserting that "America is 'pumping out boys with no honest alternative.'"⁴⁷ Such assertions require us to focus on slavery, Jim Crow, and the present effects of past oppression, and when we do, scholars effectively suggest that black caregivers' attitudes, values, and predispositions have no effect on how children understand their world and their place in it.⁴⁸ Yet, we must ask: what matters most to a black child who is born today—slavery and Jim Crow or having her basic needs and

also consider[ing] cultural repertoires (habits, styles, and skills) and the micro-level processes of meaning making and decision making—that is, the way individuals in particular groups, communities, or societies develop an understanding of how the world works and make decisions based on that understanding"). See generally *id.* at 1–24 (analyzing the structural forces that affect the inner city black underclass, taking cultural frames (shared group constructions of reality) seriously but giving greater weight to structural forces that affect blacks socially and economically).

⁴² See generally CARMEN DENAVAS-WALT & BERNADETTE D. PROCTOR, U.S. CENSUS BUREAU, INCOME AND POVERTY IN THE UNITED STATES: 2013 (2014), available at <http://www.census.gov/content/dam/Census/library/publications/2014/demo/p60-249.pdf> (presenting data on income and poverty in the United States, including data on race and families); Bobbi Bowman, *The (Poor) State of Black Families*, ROOT (Mar. 2, 2010, 6:57 AM), http://www.theroot.com/articles/politics/2010/03/the_poor_state_of_black_families_a_portrait_of_black_america_before_the_2010_census.html?page=0,1 (surveying data on marriage and families of African Americans).

⁴³ See Johanna Wald & Daniel J. Losen, *Defining and Redirecting a School-to-Prison Pipeline*, in *DECONSTRUCTING THE SCHOOL-TO-PRISON PIPELINE* 9, 9–15 (Johanna Wald & Daniel J. Losen eds., 2003), available at http://media.johnwiley.com.au/product_data/excerpt/74/07879722/0787972274.pdf. See generally WALTER S. GILLIAM, *PREKINDERGARTENERS LEFT BEHIND: EXPULSION RATES IN STATE PREKINDERGARTEN PROGRAMS* (2005), available at http://challengingbehavior.fmhi.usf.edu/explore/policy_docs/prek_expulsion.pdf (summarizing the first study of prekindergarten expulsion rates).

⁴⁴ WILSON, *THE TRULY DISADVANTAGED*, *supra* note 24, at 16 ("[T]here is little research and far less awareness of the impact of emerging cultural frames in the inner city on the social and economic outcomes of poor blacks.").

⁴⁵ Orlando Patterson, *A Poverty of the Mind*, N.Y. TIMES (Mar. 26, 2006), <http://www.nytimes.com/2006/03/26/opinion/26patterson.html?pagewanted=1&r=1&>.

⁴⁶ *Id.*

⁴⁷ *Id.* (quoting Professor Gary Orfield).

⁴⁸ See, e.g., ANDREW BILLINGSLEY, *CLIMBING JACOB'S LADDER: THE ENDURING LEGACIES OF AFRICAN-AMERICAN FAMILIES* (1993).

impulses met? And so, while we acknowledge the social and personal costs of slavery and Jim Crow that befell blacks, we must still ask why black and Latino children have engaged in aggressive, disruptive, and disrespectful behavior. While I think that we must account for many explanatory factors that contribute to social dislocation, “ghetto specific behavior,” and underclass issues, I would posit that we must focus on how black caregivers have reared their children. This focus would account for the growing body of work that says cruelty in the earliest years of an infant’s or toddler’s life correlates with or causes aggressive behavior,⁴⁹ which is more likely to take place in school.⁵⁰ Even in a nation where most children will have racial and ethnic identities, black children will still suffer from poverty and social dislocation issues, which will flow not just from structural forces like slavery, Jim Crow, modern discrimination, and capital mobility, but also from black caregivers who traumatize their children with cruelty as love in the earliest years of their life.⁵¹ It is this cruelty that more than suggests that black caregivers, especially in underclass black families, objectify their children and thus fail to recognize them as persons.⁵²

Given the foregoing, why would a majority-minority nation matter if scholars and policymakers do not take seriously the impact, not just of structural forces but also of cultural forces? Structural forces⁵³ reflect the collective consciousness about how society should be organized and its benefits

⁴⁹ See generally MILLER, FOR YOUR OWN GOOD, *supra* note 23; BRUCE D. PERRY & MAIA SZALAVITZ, THE BOY WHO WAS RAISED AS A DOG (2006) (recounting stories of a psychiatrist’s formerly abused patients and offering a look into how traumatized children can heal); van der Kolk & MacFarlane, *supra* note 22.

⁵⁰ See PERRY & SZALAVITZ, *supra* note 49, at 24–25.

⁵¹ See, e.g., Ruby F. Lassiter, *Child Rearing in Black Families: Child-Abusing Discipline*, in VIOLENCE IN BLACK FAMILIES: CORRELATES AND CONSEQUENCES 39, 39 (Robert L. Hampton ed., 1987) (“What causes a family, the unit designed to protect children, to abuse its children? More important, what can we do to prevent abuse? The first crucial step is awareness of the problem. Unfortunately, it is often difficult for members of a community or group to acknowledge or recognize the problem. . . . [T]his reluctance among blacks is probably rooted to some extent in family values and abiding reverence for children.”).

⁵² See BESSEL A. VAN DER KOLK, THE BODY KEEPS THE SCORE: BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA 59 (2014) (stating that in the context of interpersonal neurobiology and mirroring neurons, “trauma almost invariably involves not being seen, not being mirrored, and not being taken into account”).

⁵³ For a more traditional, sociological read on structural forces, see WILSON, MORE THAN JUST RACE, *supra* note 41, at 5 (defining structural forces as social facts and social processes, in which the former refers to “behavior of individuals within society,” i.e., “stereotyping, stigmatization, discrimination in hiring, job promotions, housing, and admission to education institution,” and in which the latter refers to “the ‘machinery’ of society that exists to promote ongoing relations among members of the larger group,” i.e., “law, policies, and institutional practices that exclude people on the basis of race or ethnicity.”).

distributed. Cultural forces⁵⁴ flow from how citizens like blacks have been conditioned to use their minds, words, actions, beliefs, and imaginations⁵⁵ to create and recreate their personal experiences and social realities,⁵⁶ which in part explain why black underclass caregivers still physically discipline their children in the earliest years of their lives and believe that physical discipline is a positive child-rearing tool. Given the impact on a child's neurological development, a majority-minority nation will not matter to cruelly reared children because they will still be unable to aspire to life beyond their caregivers' imaginations, to form healthy, intimate relationships, and to perform academically and cognitively.⁵⁷

For a number of complex reasons,⁵⁸ the nation ended Jim Crow, which blacks and whites helped to shape,⁵⁹ by enacting the Civil Rights Act of 1964 ("1964 Act")⁶⁰ and by funding President Johnson's Great Society programs.⁶¹ Yet, Anthony Giddens taught us that the "duality of structure"⁶² best explains

⁵⁴ For a more traditional, sociological read on cultural forces, see *id.* at 14–15 (referring to cultural forces as two types: "(1) national views and beliefs on race and (2) cultural traits – shared outlooks, modes of behavior, tradition, belief systems, worldviews, values, skills, preferences, styles of self-presentation, etiquette, and linguistic patterns – that emerge from patterns of intragroup interaction in settings created by discrimination and segregation and that reflect collective experiences within those settings.").

⁵⁵ This read of structural and cultural forces through human consciousness is mine.

⁵⁶ See, e.g., LOUIS COZOLINO, *THE NEUROSCIENCE OF HUMAN RELATIONSHIPS: ATTACHMENT AND THE DEVELOPING SOCIAL BRAIN* 7 (2006) ("Interpersonal neurobiology assumes that the brain is a social organ built via experience. Through interdisciplinary exploration it seeks to discover the workings of experience-dependent plasticity, or the ways in which the brain is constructed by experience. At the core of interpersonal neurobiology is a focus on the neural systems that shape attachment. And, in turn, interpersonal neurobiology considers how these systems are shaped by relationships. The bidirectional causality between neural structure and experience requires a continual shift in focus from the brain to social behavior and back again to the brain.").

⁵⁷ See generally MARGARET BLAUSTEIN ET AL., *NAT'L CHILD TRAUMATIC STRESS NETWORK, COMPLEX TRAUMA IN CHILDREN AND ADOLESCENTS* (Alexandra Cook et al. eds., 2003), available at http://www.nctsn.org/nctsn_assets/pdfs/edu_materials/ComplexTrauma_All.pdf (surveying the causes and effects of complex trauma and making recommendations to policy makers).

⁵⁸ See, e.g., Mary L. Dudziak, *Desegregation as a Cold War Imperative*, 41 *STAN. L. REV.* 61 (1988) (arguing that desegregation was the result of foreign policy pressures during the cold war along with the convergence of white and black interests, which aligns with Derrick Bell's interest-convergence thesis).

⁵⁹ Cf. ANTHONY GIDDENS, *CENTRAL PROBLEMS IN SOCIAL THEORY: ACTION, STRUCTURE AND CONTRADICTION IN SOCIAL ANALYSIS* 69–73 (1979). See generally DONNA L. FRANKLIN, *ENSURING INEQUALITY: THE STRUCTURAL TRANSFORMATION OF THE AFRICAN-AMERICAN FAMILY* (1997) (tracing the evolution of the black family).

⁶⁰ See WILSON, *THE TRULY DISADVANTAGED*, *supra* note 24, at 146.

⁶¹ *Id.* at 118, 130–31.

⁶² GIDDENS, *supra* note 59, at 69–73.

the rules and resources that support a given social structure,⁶³ and so in addition to ending segregation legally and structurally, our nation needed to eradicate the cultural norms and practical ways on which black caregivers had relied to survive and to rear their children.⁶⁴ Ironically, they did so by breaking their children existentially and by destroying them psychologically.⁶⁵ Besides using humiliation and manipulation, one of the most consistently used tools for breaking black children has been cruel beatings. Such beatings wrung out of black children their absolute compliance, and when they did not abide, they would receive a beating little different from what Adrian Peterson gave his four-year-old son.⁶⁶ Based on studies, black caregivers began using physical discipline on infants and toddlers in the earliest years of their lives,⁶⁷ and in the black underclass, these caregivers viewed such disciplining practices as positive.⁶⁸ To the extent that these caregivers have insecure or disorganized attachment⁶⁹ with their children, studies show that these children will not only create social dislocation issues, but also suffer poor testing scores, difficulty trusting others, aggressive acts from others or toward their peers.⁷⁰

Yet, based on E. Franklin Frazier's *The Negro Family in the United States*⁷¹ and Kenneth B. Clark's *Dark Ghetto*,⁷² Moynihan's *The Negro Family* had given us a golden, prescient opportunity to delve deeply into the self-perpetuating pathologies of the black family. To redress the causes and consequences of these pathologies, Moynihan required that we gaze critically

⁶³ *Id.*

⁶⁴ *See id.*

⁶⁵ *See, e.g.,* RALPH ELLISON, *Richard Wright's Blues*, in *SHADOW AND ACT* 77, 77–94 (1964).

⁶⁶ *See* Michael Eric Dyson, Op-Ed., *Punishment or Child Abuse?*, N.Y. TIMES, Sept. 18, 2014, at A33, available at http://www.nytimes.com/2014/09/18/opinion/punishment-or-child-abuse.html?_r=0 (“The indictment last week of the N.F.L. player Adrian Peterson by a Texas grand jury for reckless or negligent injury to a child has set into relief the harmful disciplinary practices of some black families. Mr. Peterson used a ‘switch,’ a slim, leafless tree branch, to beat his 4-year-old son, raising welts on the youngster’s legs, buttocks and scrotum. This is child abuse dressed up as acceptable punishment.”).

⁶⁷ *See* Hampton & Gelles, *supra* note 22, at 24–28.

⁶⁸ *See, e.g.,* Jeana R. Bracey, *Socializing Race: Parental Beliefs and Practices in Two African American Families* 109 (2010) (unpublished Ph.D. dissertation, University of Illinois at Urbana-Champaign), available at <http://hdl.handle.net/2142/18348> (“The Samsons acknowledged that spanking was an accepted family practice, but also considered it a valued cultural childrearing practice used particularly by working-class African Americans.”).

⁶⁹ *See* VAN DER KOLK, *supra* note 52, at 115–22 (discussing different types of organized and disorganized attachment along with their probable causes and effects).

⁷⁰ *See id.*; *see also* Cynthia Hudley & Andrei Novac, *Environmental Influences, the Developing Brain, and Aggressive Behavior*, 46 *THEORY INTO PRACTICE* 121–29 (2007).

⁷¹ *See generally* E. FRANKLIN FRAZIER, *THE NEGRO FAMILY IN THE UNITED STATES* (1939) (recounting the development of the African-American family in the United States).

⁷² *See generally* CLARK, *supra* note 25.

and analytically at why black families were so unstable, performed poorly on cognitive skills, lacked real ambition, were so aggressive, and had a great disdain for authority.⁷³ As I noted, along with other scholars then and today,⁷⁴ Moynihan attributed pathologies to structural forces and cultural norms.⁷⁴ Although black underclass cultural norms are quite complex, I will focus on the impact of childhood cruelty, which, as Ralph Ellison pointed out, can psychologically maim, if not “destroy,” the black child,⁷⁵ and that destruction can cause social dislocations or self-perpetuating pathologies like aggression, poor cognitive skills, and black-on-black crimes.⁷⁶

In 1965, along with Kenneth B. Clark, Moynihan gave us a chance to redress such self-perpetuating pathologies. Had scholars, policymakers, civil rights activists, and politicians like President Johnson not pilloried Moynihan and abandoned his report, we may have learned about the causes of social dislocation issues earlier. It would have been entirely possible that long before child psychologists, psychiatrists, and neuroscientists correlated childhood cruelty with aggression, poor school performance,⁷⁷ and mental health issues,

⁷³ See *supra* notes 25–37 and accompanying text.

⁷⁴ See *supra* notes 25–37 and accompanying text.

⁷⁵ See ELLISON, *supra* note 65, at 91. Any black child or person who seeks individuality or authenticity will suffer an immediate pull.

He becomes a stranger even to his relatives and he interprets gestures of protection as blows of oppression—from which there is no hiding place, because every area of Negro life is affected. Even parental love is given a qualitative balance akin to ‘sadism.’ And the extent of beatings and psychological maiming meted out by Southern Negro parents rivals those described by the nineteenth-century Russian writers as characteristic of peasant life under the Czars. The horrible thing is that the cruelty is also an expression of concern, of love.

Id.

⁷⁶ See, e.g., Robert L. Nix et al., *The Relation Between Mothers’ Hostile Attribution Tendencies and Children’s Externalizing Behavior Problems: The Mediating Role of Mothers’ Harsh Discipline Practices*, 70 CHILD DEV. 896 (1999) (concluding that a mothers’ harsh discipline practices against a child positively predicts for aggressive behavior problems later in the school, including prekindergarten); cf. Hudley & Novac, *supra* note 70, at 122 (“Physical discipline that is excessively harsh or abusive may sometimes create a hostile attributional bias, because these experiences may cause children to presume that everyone behaves toward them with deliberately hostile intent.”); Tick Ngee Sim & Lue Ping Ong, *Parent Physical Punishment and Child Aggression in a Singapore Chinese Preschool Sample*, 67 J. OF MARRIAGE & FAM. 85–99 (2005).

⁷⁷ See ERIC JENSEN, *How Poverty Affects Behavior and Academic Performance*, in TEACHING WITH POVERTY IN MIND: WHAT BEING POOR DOES TO KIDS’ BRAINS AND WHAT SCHOOLS CAN DO ABOUT IT 13, 22 (2009). See generally Eric P. Slade & Lawrence S. Wissow, Nat’l Insts. of Health, *The Influence of Childhood Maltreatment on Adolescents’ Academic Performance*, 26 ECON. EDUC. REV. 604 (2007), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2083567/pdf/nihms31240.pdf> (presenting research showing an association between childhood maltreatment and emotional, behavioral, and academic issues in middle school and high school).

we would have learned that social dislocation issues were caused as much by racial discrimination, labor market shifts, and the mobility of capital as by early childhood cruelty.⁷⁸ However, by pillorying Moynihan and by charging liberals with blaming the victim as William Ryan so effectively did,⁷⁹ sociologists and historians were emotionally and psychologically unable to separate from their own childhood cruelties and abusive parents.⁸⁰ Let me go further in my thesis, and present my accusations much more strongly. By looking to slavery, Jim Crow, and modern discrimination as the primary causes of social dislocation issues in the black underclass family, black and liberal scholars simply and unconsciously preferred to keep their inner maps undisturbed, and by so doing, they did not need to examine their own cruel upbringings.⁸¹ Based on this dissociation, scholars effectively abandoned black children to the crucible of underclass life and its “ghetto-specific behavior,”⁸² and the doctrine of family privacy protected underclass black families from the State’s *parens patriae* doctrine and from preventing cruelty to black infants and toddlers. Accordingly, along with a host of structural forces, I argue that black parents’ own experiences of childhood cruelty must be the most powerful variable that explains why underclass black families hurt their children cruelly, and that helps us effectively redress related social dislocation issues as our nation becomes increasingly and numerically majority-minority.

⁷⁸ See VINCENT J. FELITTI & ROBERT F. ANDA, *The Relationship of Adverse Childhood Experiences to Adult Medical Disease, Psychiatric Disorders, and Sexual Behavior: Implications for Healthcare*, in *THE IMPACT OF EARLY LIFE TRAUMA ON HEALTH AND DISEASE: THE HIDDEN EPIDEMIC 77* (Ruth A. Lanius et al. eds., 2010), available at http://www.firststar.org/Portals/0/impact_earlylifetrauma.pdf (“It became evident that traumatic life experiences during childhood and adolescence were far more common than generally recognized, were complexly interrelated and were associated decades later in a strong and proportionate manner with outcomes important to medical practice, public health, and the social fabric of a nation. In the context of everyday medical practice, we came to recognize that *the earliest years of infancy and childhood are not lost but, like a child’s footprints in wet cement, are often lifelong.*” (emphasis added)).

⁷⁹ See WILLIAM RYAN, *BLAMING THE VICTIM* xi–xii (1971).

⁸⁰ Cf. LEONARD SHENGOLD, *SOUL MURDER: THE EFFECTS OF CHILDHOOD ABUSE AND DEPRIVATION* 32 (1989) (“‘Did it really happen?’ is a burning question for the victim of soul murder. If the answer is ‘no’ or ‘I don’t know,’ the parent is spared. If the answer is ‘yes, I know,’ the former child victim can begin to separate and achieve independence from the soul murderer.”).

⁸¹ Cf. Vincent J. Felitti, *Ursprünge des Suchtverhaltens: Evidenzen aus einer Studie zu belastenden Kindheitserfahrungen [The Origins of Addiction: Evidence from the Adverse Childhood Experiences Study]*, 52 *PRAXIS DER KINDERPSYCHOLOGIE UND KINDERPSYCHIATRIE [PRAC. CHILD PSYCHOL. & CHILD PSYCHIATRY]* 547, 557 (2003) (Ger.) [hereinafter Felitti, *Origins of Addiction*], available at <http://attachmentdisorderhealing.com/wp-content/uploads/2014/02/Felitti-VJ-Origins-of-Addiction-Evidence-fr-ACE-Study-2003.pdf> (“Techniques for accomplishing such change en masse are yet to be developed because each of us, fearing the new and unknown as a potential crisis in self-esteem, often adjusts to the status quo.”).

⁸² See WILSON, *THE TRULY DISADVANTAGED*, *supra* note 24, at 14.

Part II of this essay critically explores the causal link between black caregivers' refusal to truly recognize their children as persons, complex trauma, and social dislocation issues. Part III analytically argues that complex trauma and its effects, which had not been recognized in the literature except with returning Vietnam veterans, had arguably been present in front of us, except that sociologists and historians could not see it, or they were too dissociated to recognize in others what had been perhaps true in their own upbringing. Unfortunately, this part of the paper will read as speculative musings rather than a fact or evidence-based argument. However, despite its speculative musings, I argue that childhood cruelty must be the principal explanatory variable that causes social dislocation issues, or self-perpetuating pathologies. It is in this part of the paper where I contribute to this literature on the instability of the black underclass family and where I expose early childhood cruelty as the *dark secret* that explains why blacks lag so woefully behind other racial and ethnic groups. As such, in a majority-minority nation, poor blacks, especially their children, will ironically remain angry, aggressive, uneducated, imprisoned, and cruelly maltreated, not by an ever-shrinking white minority, but by an ever-growing population of black and colored caregivers. Part IV argues that if children, especially black children, are to have a better future, then we must not presume that a majority-minority America will in and of itself ameliorate the negative impact of social dislocation issues or the tangle of pathology that will still affect the underclass black family either in 2019 or 2060. Part V concludes.

II. A CHILD'S BASIC NEED FOR RECOGNITION:
DOES CHILDHOOD CRUELTY CORRELATE WITH OR CAUSE SOCIAL
DISLOCATIONS (OR SELF-PERPETUATING PATHOLOGIES)?

A. *Miller, Perry, and van der Kolk: A Conceptual Framework*

In an America where citizens of color have become the numerical majority, will a child's basic needs and impulses be different? Will she still require her needs and impulses to be met by caregivers? In 2019 or 2050, even if we hypothesize correctly that our nation's policies, programs, and institutions will be less biased against citizens of color, will her need to be *seen* and truly *recognized* as a person differ? According to Alice Miller, a child needs to have her basic needs and impulses met by her caregiver, on whom she is depending for survival.⁸³ Basic needs are love, food, touch, warmth, tenderness, and compassion.⁸⁴ Miller writes that our child "comes into the world as a bundle of needs, relying totally on the warmth of human arms, watchful eyes, and tender

⁸³ ALICE MILLER, BANISHED KNOWLEDGE: FACING CHILDHOOD INJURIES 1-2 (Leila Vennewitz trans., 1990) [hereinafter MILLER, BANISHED KNOWLEDGE].

⁸⁴ See *id.*

caresses.”⁸⁵ Beyond these bio-emotional needs, a “baby requires the certainty that he will be protected in every situation, that his arrival is desired, that his cries are heard, that the movements of his eyes are responded to and his fears calmed.”⁸⁶ Bluntly, if a child is thirsty, he needs water. If hungry, fed. If dirty, washed. If distressed, regulated and calmed.⁸⁷ After all, a mother’s kiss on a child’s booboo or scraped knee can have a placebo effect.⁸⁸ In this way, regardless of race, sex, nationality, creed, or religion, “every child depends on others for the satisfaction of his needs because he cannot look after himself.”⁸⁹ Whether a black child is a numerical majority or minority, an infant requires a primary caregiver who will use love, compassion, and tenderness to meet his best interest and welfare.⁹⁰

Based on the research of neuroscientists on the fundamental needs of human beings, especially infants,⁹¹ they would agree with Miller,⁹² except they would say that an infant’s needs are hardwired into his brain.⁹³ And what neuroscience has discovered is that our brain has a “vast network of interconnected parts organized to help us survive and flourish.”⁹⁴ According to Bessel A. van der Kolk, even under miserable, dire, and cruel circumstances, our brain ensures our survival, and to do so, it does the following:

[R]egisters when our bodies need such things as “food, rest, protection, sex, and shelter”; maps our world so that we know “where to go to satisfy those needs”; generates “energy and actions to get us there”; warns us, along the way, “of dangers

⁸⁵ *Id.* at 1.

⁸⁶ *Id.*

⁸⁷ *See id.* at 1–2; *see also* VAN DER KOLK, *supra* note 52, at 38 (“[W]e have the ability to regulate our own physiology, including some of the so-called involuntary functions of the body and brain, through such basic activities as breathing, moving, and touching . . .”). *See generally* ALLAN N. SCHORE, *AFFECT DYSREGULATION AND DISORDERS OF THE SELF* (2003) (compiling the author’s articles during the evolution of developmental psychology and neurobiology).

⁸⁸ *See* VAN DER KOLK, *supra* note 52, at 35 (“Most treatment studies of PTSD find a significant placebo effect. . . . Maybe their reward is only the attention paid to them, the opportunity to respond to questions about how they feel and think. But maybe the mother’s kisses that soothe her child’s scrapes are ‘just’ a placebo as well.”).

⁸⁹ MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 2.

⁹⁰ *See generally* CHILD WELFARE INFO. GATEWAY, *DETERMINING THE BEST INTERESTS OF THE CHILD* (2012), *available at* https://www.childwelfare.gov/pubpdfs/best_interest.pdf.

⁹¹ *See* VAN DER KOLK, *supra* note 52, at 55–58.

⁹² *See generally* ALICE MILLER, *FREE FROM LIES: DISCOVERING YOUR TRUE NEEDS* 45–89 (Andrew Jenkins trans., 2007) [hereinafter MILLER, *FREE FROM LIES*] (surveying how adult survivors of childhood trauma can overcome that trauma).

⁹³ *See* PERRY & SZALAVITZ, *supra* note 49, at 18–21; *see also* VAN DER KOLK, *supra* note 52, at 55–58.

⁹⁴ VAN DER KOLK, *supra* note 52, at 55.

and opportunities”; and helps us adjust our actions to meet a moment’s requirements.⁹⁵

Given that an infant can only thrive in groups, he requires a caregiver who can attune to his fundamental needs and basic impulses.⁹⁶ When a caregiver meets an infant’s needs and impulses, she stimulates his “use-dependent” mechanism,⁹⁷ and by doing so, she teaches an infant by shaping his “emotional and perceptual map of the world.”⁹⁸ Once this map has been formed, ideally a very positive, nurturing one, that infant will use his developing brain to create this world. However, that world will form a critical part of that infant’s inner map.⁹⁹ And once formed, an infant’s inner map becomes rather resistant to change.¹⁰⁰ In the positive, nurturing parenting of an infant, a primary caregiver creates a default setting in the child that says, “I’m loved, desired, recognized, and supported.” By default, I mean what neuroscientists say, “neurons that ‘fire together, wire together.’”¹⁰¹ And if this default setting causes these circuits to fire, due especially to the manner in which the caregiver meets the infant’s imperative needs, then he will feel safe, loved, creative, inquisitive, spontaneous, playful, and cooperative.¹⁰²

Unfortunately, most caregivers cannot recognize an infant as a person, and they thus cannot meet that child’s fundamental needs and basic impulses. In virtually every case, an infant will know intuitively if she is wanted, adored, and special in the eyes of his primary caregivers.¹⁰³ Not only must the caregiver say so, but also must act in every way as if that infant brings far more pluses than minuses. The brain’s mirroring neurons can help create greater attunement between caregiver and infant. But that attunement can inform the infant whether she is seen as a person. For example, van der Kolk points out

⁹⁵ *Id.*

⁹⁶ *See id.* (“And since we human beings are mammals, creatures that can only survive and thrive in groups, all of these imperatives require coordination and collaboration.”).

⁹⁷ *Id.* at 56. *See generally* Bruce D. Perry et al., *Childhood Trauma, the Neurobiology of Adaptation, and “Use-Dependent” Development of the Brain: How “States” Become “Traits,”* 16 *INFANT MENTAL HEALTH J.* 271 (1995) (discussing the effects of trauma on the development and functioning of the brain).

⁹⁸ VAN DER KOLK, *supra* note 52, at 56.

⁹⁹ *See id.*

¹⁰⁰ *Id.* at 127–30. *See generally* COZOLINO, *supra* note 56 (concluding that the brain is a social organ built through experience); DANIEL J. SIEGEL, *POCKET GUIDE TO INTERPERSONAL NEUROBIOLOGY: AN INTEGRATIVE HANDBOOK OF THE MIND* (2012) (surveying the interdisciplinary field of neurobiology).

¹⁰¹ VAN DER KOLK, *supra* note 52, at 56.

¹⁰² *Id.*; *cf. id.* at 53 (“After trauma the world is experienced with a different nervous system. The survivor’s energy now becomes focused on suppressing inner chaos, at the expense of spontaneous involvement in their lives.”).

¹⁰³ *See id.* at 56.

that “our mirror neurons also make us vulnerable to others’ negativity, so that we respond to their anger with fury or are dragged down by their depression. . . . [T]rauma almost invariably involves not being seen, not being mirrored, and not being taken into account.”¹⁰⁴ Based on how mirroring neurons work, a traumatized child is an endangered being, especially if that danger comes from her caregiver, from whom she cannot escape, on whom she is dependent for her survival, and to whom she has done nothing. All that a traumatized child has done is to expect love and recognition as a person, which a caregiver can minimally do by simply looking that infant in her eyes and by saying “I see *you*.”¹⁰⁵ In short, from either Miller’s or van der Kolk’s perspective, caregivers who can see *and* recognize their infants as persons have more than likely been loved tenderly and recognized existentially by their own caregivers.

In most underclass black families, caregivers can literally *see* but not emotionally *recognize* their infants as persons. Such infants are either mere extensions of their caregivers¹⁰⁶ or little different from property,¹⁰⁷ until perhaps that child becomes as adult.¹⁰⁸ In ferretting out why black caregivers have often rejected their infants as persons, scholars usually speculate in a way that avoids the truth and that faults slavery and Jim Crow,¹⁰⁹ and later in this essay, I will offer some reasons as to why.¹¹⁰ So, when an infant requires love, tenderness, and compassion to meet his basic needs and impulses, why would that requirement be asking too much? Miller says that we can best answer that question by asking: “How were black caregivers raised?” With love? Tenderness? Compassion? Since I have become a father, caregivers—black, white, Hispanic, male, and female—have told me that children must be controlled by punishment, subdued by fear, limited by rules, broken by violence, oppressed by hierarchy, made inferior by elder worship, and trained

¹⁰⁴ *Id.* at 59.

¹⁰⁵ *See id.* at 58–60; PERRY & SZALAVITZ, *supra* note 49, at 240.

¹⁰⁶ *See* ILLINOIS EARLY LEARNING PROJECT, ILLINOIS EARLY LEARNING GUIDELINES 43 (2012), available at <http://www.illinoisearlylearning.org/Guidelines/guidelines.pdf> (stating that “[i]n the first few months of life, children see themselves as part of their primary caregiver, usually their mother”).

¹⁰⁷ *See* Brande Victorian, *Will Smith Says Because of Slavery African American Parents Tend to Treat Their Kids Like Property*, MADAME NOIRE (May 24, 2013), <http://madamenoire.com/278608/will-smith-says-because-of-slavery-african-american-parents-tend-to-treat-their-kids-like-property>.

¹⁰⁸ *See* THEODORE ROSENGARTEN, ALL GOD’S DANGERS: THE LIFE OF NATE SHAW 26 (1974).

¹⁰⁹ *See generally* RYAN, *supra* note 79; JOYCE A. LADNER, TOMORROW’S TOMORROW: THE BLACK WOMAN (1971) [hereinafter LADNER, TOMORROW’S TOMORROW].

¹¹⁰ *See infra* Part IV–V.

to be good and polite with threats, manipulations, and humiliations.¹¹¹ None of these caregivers was underclass parents; they were well-educated, middle-class parents, whose internecine war against children¹¹² confirms that Vincent J. Felitti was right to declare that child abuse was not only a major public health issue but also a pandemic social disease.¹¹³ This issue and disease come down to us through intergenerational transmission, teaching the next generation that cruelty, humiliation, and manipulation are powerful, positive adjuncts in raising a black child well.¹¹⁴

Yet, Miller would argue that black caregivers who cannot recognize their infants as persons and who thus expose them to cruelty in the earliest years of their lives have never known love.¹¹⁵ Such caregivers were born into a cold, insensitive, indifferent, and blind black family.¹¹⁶ Even if they were aroused and agitated, no one met their tears with tenderness.¹¹⁷ So how can these black caregivers offer love to this present generation of infants if they have only known cruelty as love?¹¹⁸ And while such infants will survive, they will have no idea what love is either.¹¹⁹ When these infants grow into adult

¹¹¹ See generally HERBERT G. GUTMAN, *THE BLACK FAMILY IN SLAVERY AND FREEDOM: 1750–1925*, at 219–20 (1976) (“Socializing children to respect all elderly blacks also may have taught them to hide slave feelings and beliefs from nonslaves. . . . ‘If a boy cries too early because he is suffering they will deride him. He must be stoical under trouble and his parents will not suffer complainings. Children undergo a regular [physical] discipline.’”).

¹¹² See, e.g., LEON SHASKOLSKY SHELEFF, *GENERATIONS APART: ADULT HOSTILITY TO YOUTH* 3 (1981) (focusing on the “parental and adult hostility toward the young: the hostility of a dominant group in society to one of its most vulnerable groups, the hostility of those entrusted with the care of infants, children, and youth toward the purported beneficiaries of that care”).

¹¹³ See VAN DER KOLK, *supra* note 52, at 143–47.

¹¹⁴ See, e.g., Kenneth A. Dodge et al., *The Cultural Context of Physically Disciplining Children*, in *AFRICAN AMERICAN FAMILY LIFE: ECOLOGICAL AND CULTURAL DIVERSITY* 245, 256 (Vonnie C. McLoyd et al. eds., 2005) (“For both African American and European American youth, experiencing physical discipline was related to more endorsement of its use, regardless of the timing (i.e., kindergarten, sixth grade, eighth grade), chronicity, or frequency of the discipline.”).

¹¹⁵ See MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 32 (“If a mother could feel how she is injuring her child, she would be able to discover how she was once injured herself and so could rid herself of her compulsion to repeat the past.”).

¹¹⁶ *Id.* at 2 (noting that when unloving parents came into this world, their own caregivers “met [them] with coldness, insensitivity, indifference, and blindness”).

¹¹⁷ See generally Perry, et al., *supra* note 97, at 273–77 (discussing the use-dependent nature of the brain’s development and noting that emotionally neglected children will exhibit attachment problems later in life).

¹¹⁸ See MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 2.

¹¹⁹ See *id.* See generally MILLER, *FOR YOUR OWN GOOD*, *supra* note 23, at 8–57 (discussing historical accounts of child-rearing techniques as the “Breeding Grounds of Hatred”).

children,¹²⁰ they will have repressed their suffering, banishing it completely from their consciousness.¹²¹ Although they have pushed under their painful childhood cruelty, they will adapt to such parental cruelty, believing such suffering as normal, “as the only possible one.”¹²² Writing poignantly, Miller argues that “[e]verything that [abused] person later comes to believe, advocate, and deem right is founded on his first formative experiences.”¹²³ Later, as a black caregiver, that abused person will be deaf to her infant’s cries and screams, indifferent to her suffering, and blind to the link between her own childhood suffering and her deafness, numbness, and indifference to the sheer panic and pain on an abused black child’s face.¹²⁴ Simply put, black caregivers will be cold, indifferent, and cruel to their infants if they have suffered comparable cruelty in their childhoods.

Within the underclass black family, childhood cruelty cannot be a required, positive adjunct of good parenting. But black caregivers might think otherwise in disproportionate numbers to other racial and ethnic groups. Childhood cruelty’s very acceptance by ignorant, well-meaning caregivers defies what pediatricians¹²⁵ and neuroscientists¹²⁶ continue to learn, discover, and teach us.¹²⁷ For example, they now tell us that a simple spanking may very well cause aggression in adults.¹²⁸ What then are the origins of underclass black caregiving *and* childhood cruelty? With that cause in hand, ought we not eradicate such easily curable childhood cruelty, which may come to define the adult life of young black children? After all, it is a human hand, albeit governed

¹²⁰ See generally STEVEN FARMER, *ADULT CHILDREN OF ABUSIVE PARENTS: A HEALING PROGRAM FOR THOSE WHO HAVE BEEN PHYSICALLY, SEXUALLY, OR EMOTIONALLY ABUSED* (1989) (discussing a program to help adults recover from the effects of childhood abuse).

¹²¹ See MILLER, *FOR YOUR OWN GOOD*, *supra* note 23, at 13 (“It is in fact true that over the years children forget everything that happened to them in early childhood; ‘they will never remember afterwards that they had a will’—to be sure. But, unfortunately, the rest of the sentence, ‘the severity that is required will not have any serious consequences,’ is *not* true.”).

¹²² MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 3.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ See generally Tracie O. Afifi et al., *Physical Punishment and Mental Disorders: Results from a Nationally Representative US Sample*, 130 *PEDIATRICS* 184, 184–92 (2012), available at <http://pediatrics.aappublications.org/content/130/2/184.full> (reporting on the effects of harsh physical punishment); Taylor et al., *supra* note 23 (reporting on the association between corporal punishment and future aggressive behavior).

¹²⁶ See generally PERRY & SZALAVITZ, *supra* note 49 (recounting stories of a psychiatrist’s formerly abused patients and offering a look into how traumatized children can heal).

¹²⁷ See generally Comm. on Psychosocial Aspects of Child and Family Health, *Guidance for Effective Discipline*, 101 *PEDIATRICS* 723 (1998) (advocating for a comprehensive approach to discipline rather than the ineffective approach of corporal punishment).

¹²⁸ See Taylor et al., *supra* note 23, at e1063.

by a dark will and a deep forgetting, that causes children to suffer our nation's most preventable cruelty.

B. Our Nation's Most Preventable Cruelty

To end this preventable cruelty, scholars easily cite slavery. So, some good faith, well-meaning, and quite learned scholars, especially race scholars, readily claim that childhood cruelty originated in slavery.¹²⁹ In *Roll, Jordan, Roll*, for example, Eugene Genovese tells us emphatically that white masters who brutalized slaves did no less to their own white children.¹³⁰ These scholars would say that the white master's brutality, whether by the agency of the white overseer or the black driver, conditioned black caregivers, particularly women, to break their infants and toddlers, so that they would know that the slave code required absolute obedience.¹³¹ They would also argue that a "good ass whooping" was the fastest, surest way to ensure that enslaved black children would not confess hidden quarter practices, unpermitted meetings, frolics by abroad husbands, or pilfering of the master's livestock.¹³² An undisciplined black child, they would argue, might blurt out plotted escapes.¹³³ They would say that to ensure an enslaved child could follow instruction, black caregivers would swiftly beat a child for backtalk, teeth sucking, or any hint of not knowing a child's proper place, a practice that has been followed during the 1960s,¹³⁴ today,¹³⁵ and perhaps historically in Jamaica.¹³⁶

¹²⁹ WILLIAM H. GRIER & PRICE M. COBBS, *BLACK RAGE* 138 (1968); see, e.g., STACEY PATTON, *THAT MEAN OLD YESTERDAY* (2007) (attributing her childhood cruelty at the hands of her adopted mother to the legacy of the brutal enslavement of black Africans).

¹³⁰ EUGENE D. GENOVESE, *ROLL, JORDAN, ROLL: THE WORLD THE SLAVES MADE 73-75* (First Vintage Books ed. 1976).

¹³¹ See, e.g., *State v. Mann*, 13 N.C. (2 Dev.) 263, 266 (1829) (observing that although a slave may have remedies against assaults by persons not her master, "[t]he power of the master must be absolute, to render the submission of the slave perfect").

¹³² See, e.g., MARIE JENKINS SCHWARTZ, *BORN IN BONDAGE: GROWING UP ENSLAVED IN THE ANTEBELLUM SOUTH* 101 (2000) ("When one little girl in Virginia accidentally came upon some adults preparing to eat lamb, a food normally unavailable to slaves, an old man took her 'out back of the quarter house' and whipped her severely, explaining: 'Now what you see, you don't see, and what you hear, you don't hear.'").

¹³³ See, e.g., *id.* at 100.

¹³⁴ BELL HOOKS, *SALVATION: BLACK PEOPLE AND LOVE* 22-23 (2001) ("All too often parents used harsh discipline and punishment to teach black children their 'proper place.'").

¹³⁵ See generally Lawson Bush, V, *How Black Mothers Participate in the Development of Manhood and Masculinity: What Do We Know About Black Mothers and Their Sons?*, 73 J. OF NEGRO EDUC. 381 (2004), available at http://www.jstor.org/stable/4129623?seq=1#page_scan_tab_contents (surveying the role of black mothers in the healthy development of manhood and masculinity).

¹³⁶ See, e.g., Delores E. Smith & Gail Mosby, *Jamaican Child-Rearing Practices: The Role of Corporal Punishment*, 38 ADOLESCENCE 369-81 (2003) (describing the harsh, physical discipline

In 1968, William H. Grier and Price M. Cobbs argued, “[b]eating in child-rearing actually has its psychological roots in slavery.”¹³⁷ Such scholars like Stacey Patton, who are cursed by childhood demons,¹³⁸ say that black parents during slavery beat black children brutally because they were mimicking what they had seen masters, overseers, and drivers do.¹³⁹ Sociologists like Nathan Hare argue that slavery distorted and pathologized the black family.¹⁴⁰ By presuming that slavery taught black caregivers how to be cruel to children, by presuming that black adult slaves were unaffected by post-traumatic stress disorder, and by presuming that black slaves did not rely on West African childrearing practices on the plantations when they bore children within ten years after landing in the Americas, we, especially adult children, engage in excuse making, which deepens the distorted perceptions of black adult children, and which keeps them ever hopeful that someday their cruel, brutal black caregivers will actually love them, recognize them as love-desiring persons.¹⁴¹ Some scholars like E. Franklin Frazier have argued that slavery destroyed any meaningful continuity of West African culture,¹⁴² and so we can appropriately fault whites and their racism for the instability of the black family and extant social dislocation issues.¹⁴³ Yet, other scholars like John

that Jamaican parents imposed on their children, even in public, and the social dislocation issues like teenage pregnancy, juvenile delinquency, and poor educational outcomes).

¹³⁷ GRIER & COBBS, *supra* note 129, at 138.

¹³⁸ See Stacey Patton, *Understanding Black America and the Spanking Debate*, BBC (Sept. 21, 2014), <http://www.bbc.com/news/magazine-29261462> (“As a young child, my adoptive mother stripped me naked and whipped me with switches, belts, hangers, shoes, and extension cords. She left physical and emotional scars and called her parenting techniques ‘spankings’ or ‘good butt whoopings.’”).

¹³⁹ See generally GUTMAN, *supra* note 111 (describing social norms of slaves and slave communities); Dyson, *supra* note 66.

¹⁴⁰ See, e.g., Nathan Hare, *A Look Back at E. Franklin Frazier*, 25 BLACK WORLD 4, 5 (1976) (arguing that based on E. Franklin Frazier’s seminal work, “distortions and pathology in the Black family, as in all aspects of Black society, is mainly a product of slavery and ensuing racism—or racial oppression, in the language of today”).

¹⁴¹ ARTHUR JANOV, WHY YOU GET SICK AND HOW YOU GET WELL: THE HEALING POWER OF FEELINGS 23 (1996) (“They may not permit anger—‘good girls don’t throw tantrums; nice boys don’t talk back’—to prove how respected the parents are. The child gets the idea of what is required of him quite soon. Perform, or else. It is the hopelessness of never being loved that causes the split. The child must deny the realization that his own needs will never be filled no matter what he does. He then develops substitute needs, which are neurotic.”).

¹⁴² See FRAZIER, *supra* note 71, at 3–22 (arguing that black slaves had increasingly fading memories of their African heritage, especially because white masters deliberately denied them a community where they at the very least shared a common language); see also ABRAM KARDINER & LIONEL OVESEY, THE MARK OF OPPRESSION: EXPLORATIONS IN THE PERSONALITY OF THE AMERICAN NEGRO 38–41 (1951) (making the same argument that American slavery had stripped blacks of any viable vestige of West African culture and heritage, leaving them without the wherewithal to overcome their cultural challenges).

¹⁴³ See FRAZIER, *supra* note 71, at 3–22.

Blassingame have shown us that slaves were able to retain a meaningful cultural link to their language, songs, musical instruments, dances, and food.¹⁴⁴ Shouldn't we, especially when we consider today's childhood cruelty within underclass black families, hold slavery as a meaningful explanatory variable constant? If we do, we would thus refuse to make slavery the hypothetical factor in how childhood cruelty causes or correlates with social dislocations or self-perpetuating pathologies within the black family and community? By doing so, we can look directly at the impact that harsh, cruel parenting in underclass families has on extant social dislocations, or self-perpetuating pathologies.¹⁴⁵

To pursue the causes of such dislocations or pathologies, we will need to return to Miller, Perry, and van der Kolk, and by so doing, I do not ignore claims about the present effects of past racial oppression like slavery and Jim Crow. Rather, I simply see those oppressive social forces as factors of relative insignificance today. Why? It is not that slavery and Jim Crow did not deeply traumatize enslaved human beings. Yet, how enslavement affected them would depend on a host of factors, including the degree to which newborn infants were loved tenderly by primary caregivers, even if they could only offer such tenderness for a limited, fixed time and period.¹⁴⁶ And to the extent that slavery and Jim Crow are factors, we must consider the role of human memory and the willingness of cruel caregivers to project their dark psyches onto their infants and toddlers.

Let us assume that it is 1989, approximately one generation ago. To a child born in that year, can slavery or Jim Crow explain why his black caregiver caused him to suffer cruelties? It is entirely possible for caregivers to pass on dark cruelties from their histories on to children. For example, Patricia Raybon learned to hate whites because she listened to stories by her aunts who described how Jim Crow violence took the lives of her relatives.¹⁴⁷ Like Raybon, Patton argues that due to white violence and control against the black body,¹⁴⁸ all of which flow inexorably out of slavery and Jim Crow, black

¹⁴⁴ See JOHN W. BLASSINGAME, *THE SLAVE COMMUNITY: PLANTATION LIFE IN THE ANTEBELLUM SOUTH* 41–76 (1972).

¹⁴⁵ See COZOLINO, *supra* note 56, at 229 (“[I]nterpersonal trauma is more likely to be self-perpetuating and resistant to healing.”).

¹⁴⁶ See, e.g., SCHWARTZ, *supra* note 132, at 19–47. Some slave masters gave mothers who had just delivered newborns time from the fields and time to wet nurse their infants. *Id.* So important was this respite, which insured the increasing wealth of masters, that masters attended the deliveries and where needed they paid large sums of monies to doctors to provide bed care or to render advice on the best ways to help enslaved mothers. *Id.* In some instances, they participated in the naming of children. *Id.*

¹⁴⁷ See PATRICIA RAYBON, *MY FIRST WHITE FRIEND: CONFESSIONS ON RACE, LOVE, AND FORGIVENESS* 2–5 (1997).

¹⁴⁸ See Patton, *supra* note 138. See generally DOROTHY ROBERTS, *KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY* (1997).

caregivers had systematically and cruelly debased “their children through harsh physical punishment.”¹⁴⁹ Unfortunately, such debasement also includes physical neglect and psychological maltreatment—giving children a full cocktail of cruelty. Rather than faulting black caregivers who engage in physical, emotional, and psychological cruelty, scholars have faulted remote historical moments that cannot immediately and physically threaten or harm a black infant. By doing so, they have kept the “scandalous truth”¹⁵⁰ hidden, as I show below, thus constituting what I have called the “dark secrets.”¹⁵¹

And so, that 1989 child cannot say today that slavery, Jim Crow, and even modern discrimination caused him to suffer childhood cruelties, or that they immediately and physically threatened him. Given that newborns only know their personal, subjective histories, Miller would argue that black children who have suffered childhood cruelties are engaging in what she called “splitting off” and “projection.”¹⁵² By splitting off, Miller means that these black children have suppressed and buried their natural sense of selves, their authenticity, so that they could perhaps get love or avoid more cruelties. By projection, Miller means that abused black children strongly identify with the maltreating black caregivers, so that they have a compulsion to repeat what they suffered onto innocent surrogates.¹⁵³ So, Miller would say that these black children, having repressed their authentic feelings about their cruel sufferings and having strongly identified with their cruel caregivers, will “stifle their childish, playful, and life-affirming side.”¹⁵⁴ As caregivers, whether teenagers or adults, they will pass on to their newborns the “cruelty inflicted on them, the psychic murder of the child they once were.”¹⁵⁵ And every time they “murder” their children psychically, emotionally, physically, and psychologically, black caregivers “were in essence murdering the child within themselves.”¹⁵⁶ Later, with brains hardwired to aggress, distrust, and repeat their cruel sufferings,

¹⁴⁹ Patton, *supra* note 138.

¹⁵⁰ See generally ALICE MILLER, THOU SHALT NOT BE AWARE: SOCIETY’S BETRAYAL OF THE CHILD 106–226 (Hildegard Hannum & Hunter Hannum trans., 1984) [hereinafter MILLER, THOU SHALT NOT BE AWARE] (studying internalized and repressed memories of abuse).

¹⁵¹ See Reginald Leamon Robinson, *Dark Secrets: Obedience Training, Rigid Physical Violence, Black Parenting, and Reassessing the Origins of Instability in the Black Family Through a Re-Reading of Fox Butterfield’s All God’s Children*, 55 HOWARD L.J. 393, 441 (2012) [hereinafter Robinson, *Dark Secrets*].

¹⁵² See MILLER, FOR YOUR OWN GOOD, *supra* note 23, at 79–91.

¹⁵³ See *id.* at 61 (“What becomes of this forbidden and therefore unexpressed anger? Unfortunately, it does not disappear, but is transformed with time into a more or less conscious hatred directed against either the self or substitute persons, a hatred that will seek to discharge itself in various ways permissible and suitable for an adult.”).

¹⁵⁴ Cf. *id.* at 87.

¹⁵⁵ Cf. *id.*

¹⁵⁶ Cf. *id.*

these “adult children”¹⁵⁷ cause social dislocations or engage in self-perpetuating pathologies, e.g., black-on-black crimes.

In this way, black-on-black crimes first happen at home. These black caregivers hurt their children *not* because slavery, Jim Crow, and modern discrimination immediately threaten them, forcing them to comply with written and unwritten socio-economic mores, *but* because these caregivers suffered soul-murdering cruelty when they were infants and toddlers. As such, splitting off and projection become the appropriate gateways for understanding how blacks acquired distorted perceptions of who really hurt them. By splitting off, I mean that infants, toddlers, or children will repress their traumatic maltreatment. By projecting, I mean that cruelly raised children will justify and rationalize the same narratives on which their brutal black caregivers rely to punish them physically, emotionally, and psychologically. For Miller, such narratives are “moralities,”¹⁵⁸ so that brutal black caregivers can manipulate their children. Moralities distort the abused child’s perception, so that she ignores what just happened to her body, and so that she blames external events, people, and things.¹⁵⁹ By so doing, she would have to ignore not how slavery of a remote historical time causes her terror, but how cruel caregivers have triggered their amygdalae.

C. *The Brain’s Response to Present, Immediate Threat of Childhood Cruelty*

Now that they have been taught and conditioned to ignore their early warning system built into the limbic system—the amygdala¹⁶⁰—cruel caregivers can tell their children powerful white lies. Although white racism cannot enter the emotional, physical, and psychological life of infants except through cruel black caregivers, they tell these children that white racism and white structural oppression like slavery and Jim Crow caused their suffering.

¹⁵⁷ See JANOV, *supra* note 141, at 84 (“Every neurotic is by definition a child – not a real child, but someone with a child’s needs. . . . Acting helpless at age thirty or forty and getting someone to take care of you is a good example. So is acting as if you needed no one to take care of you, pretending that you are wholly self-sufficient and without needs.”); FARMER, *supra* note 120, at 4 (“Adult Children were all abused when they were growing up. They may want to minimize the issue and deny the effects, but the conclusion is inescapable: The abuse they suffered in childhood continues to substantially affect them. . . . Conflict and struggle dominate their lives, as do persistent feelings of being victimized, exploited, and betrayed by others.”).

¹⁵⁸ See ALICE MILLER, *THE BODY NEVER LIES: THE LINGERING EFFECTS OF HURTFUL PARENTING* 13–15 (Andrew Jenkins, trans. 2006) [hereinafter MILLER, *THE BODY NEVER LIES*].

¹⁵⁹ See *id.* at 19–39.

¹⁶⁰ See VAN DER KOLK, *supra* note 52, at 42 (“It was already well known that intense emotions activate the limbic system, in particular an area within it called the amygdala. We depend on the amygdala to warn us of impending danger and to activate the body’s stress response[—fight, flight, and freeze].”).

Such caregivers will also cite God and the Bible's teachings.¹⁶¹ For example, Stacey Patton tells us that her adoptive mother had reasons for cruelly and brutally beating her.¹⁶² "Her reasons?" Patton explains, "[b]ecause the Bible said it was right, she loved me, she wanted to protect me from the mean streets, drugs, early pregnancy, and white people who she said wanted to beat me up, lock me in a jail or leave me for dead in the streets."¹⁶³ Arthur Janov writes that in order to make sense of cruel caregivers' morality, our brains will assist in the morality-making, attempting to gap-fill these justifying narratives, so that they will make sense.¹⁶⁴ That slapped, spanked, rejected, ignored, and belittled black child will at once want to avoid the caregiver and to believe and trust her morality.¹⁶⁵ As perhaps Patton did, that child will need to believe that mean streets, white racism, and black-hating cops await her if she doesn't act as a caregiver requires. Yet, deep within her, she initially realized what those slaps and spankings meant. According to Janov, "the child senses the parent really means . . . 'I don't like you!'"¹⁶⁶ But unlike the caregiver's morality, that sense causes the child "primal pain." That pain caused by shame and rejection is too much;¹⁶⁷ that child shuts it out.¹⁶⁸ The black child is too fragile, and so she adopts behaviors that deny her the truth of what she had been suffering. Like all neurotics, she behaves in this way to "deny the truth of our feelings."¹⁶⁹ When our brains function that way, cruelly beaten children become agents in their

¹⁶¹ See generally PHILIP GREVEN, SPARE THE CHILD: THE RELIGIOUS ROOTS OF PUNISHMENT AND THE PSYCHOLOGICAL IMPACT OF PHYSICAL ABUSE (1990); JANET HEIMLICH, BREAKING THEIR WILL: SHEDDING LIGHT ON RELIGIOUS CHILD MALTREATMENT (2011).

¹⁶² Patton, *supra* note 138.

¹⁶³ *Id.*

¹⁶⁴ See JANOV, *supra* note 141, at 73–77. Janov discusses how the brain's base level is the very first part of the brain that is conditioned by its earliest experiences with love and fear. *Id.* Fear then returns at a later date, when all three levels of the brain participate in creating a chain of pain, moving experiences from the lower to the higher brain. *Id.* So that a churning belly and an inability to breathe (first level) becomes "I'm not going to make it" (second level) to "I'm going to be a failure or I'm no good" (third level). *Id.*

¹⁶⁵ See COZOLINO, *supra* note 56, at 229–30 ("When interpersonal trauma occurs early in life, this approach-avoidance conflict can become a consistent state of being around which our personalities are formed. We can witness this inner conflict in the behavior of children with frightened and frightening parents. When these children are stressed, they run toward their parent while simultaneously averting their gaze, fall to the floor, or engage in other types of apparently irrational behavior.").

¹⁶⁶ JANOV, *supra* note 141, at 82.

¹⁶⁷ See COZOLINO, *supra* note 56, at 234 ("[S]hame is the visceral experience of being shunned and expelled from social connectedness. Social exclusion is painful and even stimulates the same areas of the brain that become active when we experience physical pain."); *id.* ("Prolonged and repeated shame states result in a physiological dysregulation that negatively impacts the development of networks of affective regulation and attachment circuitry.").

¹⁶⁸ JANOV, *supra* note 141, at 82–83.

¹⁶⁹ *Id.* at 83.

own existential demise¹⁷⁰ by struggling “to stay close to those who dysregulate them.”¹⁷¹

On occasion, a child’s scars from cruel beatings might look exactly like pictures or images of brutally whipped slaves, but that 1989-born black child cannot fault slavery as Patton does. In *That Mean Old Yesterday*, Patton writes:

I pay special attention to the scars of the slaves. They remind me of my own scars and my own enslavement. I list words in my head to describe them: permanent marks, wounds, indents, sores, streaks, disfigurements, shadows, burns; emblazoned, small, thick, thin, harsh, curly, wide, long, irregular, staggered, symbols of bravery, racial tattoos, and lasting effects of grief.¹⁷²

Why does Patton think about slaves? She had not been beaten brutally by a slave master or his hired hand—the overseer. Likewise, today’s cruelly beaten black children have never been slaves. If they were treated that brutally, then black caregivers more than likely were the ones who “enslaved” them.

However, brutal caregivers have required their children to repress their natural, normal warning signals and emotions from their limbic system, especially their amygdalae. For example, after my mother would brutally beat me, she often required me to turn around and walk to the bathroom to wash my face. As I turned and took my eyes off her, she would use that precise moment to hit me as many times as possible as I walked away. It was as if she had not effectively hurt me with the required number of licks. Her demands that I turn and slowly walk away followed every beating, and with each other, she satisfied her lust for her power and my pain. After the first time, I knew that she would do just that after a beating and afterward tell me to turn around and wash my face. And so, given my experience, which was recorded by my limbic system and stored in my amygdala, I would back away from her, never taking my eyes off her. My self-preservation efforts enraged her. “Don’t you dare back away from me!” she would shout. She would leap up, slashing at me with a belt and extension cords. I would run, and she would chase me and slash wildly at my back.

Slavery did not do that to me. I have never been a slave; however, I have been oppressed, and my first oppressor was not white. That personality belonged to my mother exclusively. So, Patton could know what I know, but she prefers to remain emotionally blind to the truth, to ignore her limbic system, and to reject the amygdala’s warning about immediate, physical

¹⁷⁰ See generally *id.* at 82–99.

¹⁷¹ COZOLINO, *supra* note 56, at 230.

¹⁷² PATTON, *supra* note 129, at 8 (emphasis omitted).

threats. Rather, Patton projects her cruel childhood experiences not on her adoptive mother but on America.¹⁷³ She writes, “America has never been held accountable for its crimes against black people,”¹⁷⁴ but neither has a black caregiver. According to van der Kolk, the amygdala is a “cluster of brain cells that determines whether a sound, image, or body sensation is perceived as a threat.”¹⁷⁵ And so we should fault cruel black parents because these children’s amygdalae detect only immediate threats.¹⁷⁶

Despite the emotional blindness of cruelly raised black children, Miller would fault black caregivers.¹⁷⁷ Even if they had been born in slavery or during Jim Crow, it is black caregivers who hurt their children, attempting to kill their will, maim their souls—not racism. That is an easily swallowed ruse. Rather, such caregivers literally wanted to gain control over their infants and toddlers, just as they had been mastered and broken by their parents. On this point, Miller writes:

For parents’ motives are the same today as they were then: in beating their children, they are struggling to regain the power they once lost to their own parents. For the first time, they see the vulnerability of their own earliest years, which they are unable to recall, reflected in their children.¹⁷⁸

But can cruel parents really see their child’s emotional expressions? As a corollary, I would also ask: can cruel parents actually see that their children are persons whose faces will express their needs for safety, and for respect for their bodies? If those parents had been physically maltreated, especially physically neglected, they would have trouble understanding some particular emotional displays by their children.¹⁷⁹ And it is entirely possible that maltreated parents “may interpret happy or neutral faces as masks for more malevolent emotions.”¹⁸⁰ This “perceived masking” problem affects abused children who

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ See VAN DER KOLK, *supra* note 52, at 33 (citing J. A. Gray & N. McNaughton, *The Neuropsychology of Anxiety: Reprise*, in NEBRASKA SYMPOSIUM ON MOTIVATION 63–134 (1996)); see also Colin G. DeYoung & Jeremy R. Gray, *Personality Neuroscience: Explaining Individual Differences in Affect, Behavior, and Cognition*, in THE CAMBRIDGE HANDBOOK OF PERSONALITY PSYCHOLOGY 323–46 (2009).

¹⁷⁶ See VAN DER KOLK, *supra* note 52, at 33.

¹⁷⁷ See ALICE MILLER, *THE DRAMA OF THE GIFTED CHILD: THE SEARCH FOR THE TRUE SELF* 124 (Ruth Ward trans. 1990) (1979) [hereinafter MILLER, *DRAMA OF THE GIFTED CHILD*].

¹⁷⁸ MILLER, *FOR YOUR OWN GOOD*, *supra* note 23, at 16.

¹⁷⁹ See Seth D. Pollack et al., *Recognizing Emotion in Faces: Developmental Effects of Child Abuse and Neglect*, 36 DEVELOPMENTAL PSYCHOL. 679, 684 (2000).

¹⁸⁰ *Id.* at 685.

are attempting to “read” their parents’ faces, so that they can assess emotional cues and determine if they might face cruelty from them. As a child, I had to cope with “perceived masking” because my mother often hid her violent, brutal intent behind a perversely smiling or apparently neutral face. Because I could never threaten her during my earliest developmental years, she never had to worry about assessing my emotional cues, but I did. Due to this apparently one-way assessment, my cruel mother “not only project[ed] [her] sexual and aggressive fantasies onto [her] child[ren] but also [was] able to act out these fantasies because [she] wield[ed] the power.”¹⁸¹ That is, black caregivers “interpret the actions, words, and expressions of children through the distorting filters of their own beliefs.”¹⁸² In those moments, I knew that my mother was dangerous to me, and despite my limbic system, and the siren-like trigger from my amygdala, I still eventually believed that I lived in a cruel world, one that could not *see* me or *recognize* my humanity. And even after I learned about slavery, despite my year of consciously hating whites from 1978 to 1979, I never thought that slavery explained why my cruel black mother needed to hurt me.

D. “Killing” Mine: Present Effect of Past Black Childhood Cruelty

Based on the impact of traumatic cruelty on infants and toddlers, researchers can explain why black caregivers hurt their children. Slavery and Jim Crow were historical events and structural forces by which whites traumatized enslaved humans and marginalized them. Whites thus projected their dark, crippled psyches onto other human beings simply because socio-legal practices gave them the right and power to do so. During the coverture of slavery and Jim Crow, blacks who were legally marginal to whites held absolute emotional and psychological sway over black children, particularly infants and toddlers. Such absolute power derived from West African cultural norms about childrearing. To this day, West Africans fundamentally believe that children must respect and absolutely obey their elders and parents.¹⁸³ To give effect to this belief, West African slaves had to devise adaptive schemes to rear and to keep their children alive. At the very least, that meant teaching them

¹⁸¹ See MILLER, FOR YOUR OWN GOOD, *supra* note 23, at 60 (“We can understand why this theory omitted the fact that it is the parents who not only project their sexual aggressive fantasies onto the child but also are able to act out these fantasies because they wield power.”).

¹⁸² Cf. PERRY & SZALAVITZ, *supra* note 49, at 272.

¹⁸³ See, e.g., June Ellis, *The Child in West African Society*, in WEST AFRICAN FAMILIES IN BRITAIN: A MEETING OF TWO CULTURES 39, 48 (June Ellis ed., 1978) (“The kind of reasons [offered by a group of Ga adolescents for why they would raise their children within the strictest traditions] were, ‘Because I want my child to be more respectful than I am. I want my child to work harder than I do and help me more than I help my parents.’ These views turn on the idea that a person is not ‘naturally’ good and that, to help him to be good, severity of training is necessary.”).

to strictly obey, which deliberately required brutal, physical violence,¹⁸⁴ emotional humiliation, and psychological manipulations,¹⁸⁵ which ironically prepared them appropriately to abide even their white masters.¹⁸⁶ Such practices reproduce new generations of more or less well-heeled slaves. In *Dark Secrets*, I called this practice “the twin pillars of oppression.”¹⁸⁷

In making this point, it is my position that slavery did not create the dark practice of breaking black children. Rather, I posit that West Africans brought that culturally accepted practice to America’s shores along with their chains.¹⁸⁸ During slavery, whites recklessly killed black children, and through negligence, black caregivers, usually the elderly who were ill-suited for fieldwork, allowed little black children to become endangered, maimed, and dead.¹⁸⁹ Apart from negligence, some black caregivers deliberately engaged in hardening practices that caused infants to die,¹⁹⁰ to become so aroused from these practices that they became dissociated, or to perhaps suffer emotional and psychological trauma when their brains were most susceptible to

¹⁸⁴ See, e.g., *id.* at 48 (“[P]unishment is a very important part of caring and a necessary part of good parenthood.”); see GUTMAN, *supra* note 111, at 219–20.

¹⁸⁵ See, e.g., Ellis, *supra* note 183, at 48 (“[A] substantial number of these same Ga adolescents when asked what they *liked* about their parents, specifically mentioned punishment: ‘my father punishes me to be good’; ‘she insults me . . . when I am bad.’” (alterations in original) (emphasis in original)).

¹⁸⁶ See WILMA A. DUNAWAY, *THE AFRICAN-AMERICAN FAMILY IN SLAVERY AND EMANCIPATION* 77 (2003) (“By reproduction of labor power, I mean simply that ‘the task of the family is to maintain the present work force and provide the next generation of workers, fitted with the requisite skills and values necessary for them to be productive members of the work force.’ Harsh as it sounds, the slave household was expected ‘to carry out the repressive socialisation of children. The family must raise children who have internalised hierarchical social relations, who will discipline themselves and work efficiently without constant supervision.’”).

¹⁸⁷ Robinson, *Dark Secrets*, *supra* note 150, at 413.

¹⁸⁸ See GEORGE P. RAWICK, *THE AMERICAN SLAVE: A COMPOSITE AUTOBIOGRAPHY* 7 (1972) (Upon arriving on the shores of America, where slaves first encountered slavery, the slave “brought with him his past. He brought with him the content of his mind, his memory; he recognized as socially significant that which he had been taught from childhood to see and to comprehend as significant; he gestured, laughed, cried, and used his facial muscles in ways that he had learned as a child. He valued that which his previous life had taught him to value; he feared that which he had feared in Africa; his very motions were those of his people and he passed all of this on to his children.”). See generally DUNAWAY, *supra* note 186; THOMAS L. WEBBER, *DEEP LIKE THE RIVERS: EDUCATION IN THE SLAVE QUARTER COMMUNITY, 1831–1865* (1978); GUTMAN, *supra* note 111.

¹⁸⁹ See DUNAWAY, *supra* note 186, at 71 (discussing how enslaved little children were poorly supervised and were at risk of injury due either to neglect by elder black slaves who were charged with supervising the children or to deliberate acts of aggression by the master’s children).

¹⁹⁰ See SCHWARTZ, *supra* note 132, at 43 (“[You can achieve the] hardening of children by bathing them in cold water or exposing their limbs to cold.”).

developmental harm.¹⁹¹ During Jim Crow, black caregivers sought to break their children, ostensibly to protect them, in reality to kill their existential will to rise above and exceed their parents. In *TROUBLE IN MIND*, Leon Litwack recounts how Charlie Holcomb discouraged black children from expressing their authenticity after his son, Willie, who had become a well-educated person, had been brutally killed by company store whites who had been cheating his ignorant, tenant-farmer father.¹⁹² Sharing his grandfather's now cherished teachings, Charlie told black children: "Niggers is built for service, like a mule, and dey needn't 'spect nothin' else. . . . A nigger's place is in de field."¹⁹³ In *Richard Wright's Blues*, Ralph Ellison describes how black caregivers deliberately killed their children's individuality, their authentic sense of being.¹⁹⁴ He writes:

[The Negroes' limited defense mechanism] is dual: to protect the Negro from whirling away from the undifferentiated mass of his people into the unknown, symbolized in its most abstract form by insanity, and most concretely by lynching; and to protect him from those unknown forces *within himself* which might urge him to reach out for that social and human equality which the white South says he cannot have. *Rather than throw himself against the charged wires of his prison he annihilates the impulses within him.*¹⁹⁵

To be sure, since slavery and Jim Crow to the present day, underclass black caregivers have intended to annihilate any hint that their children might have impulses that would bring ill-repute, risk, loathing, shame, insecurity, etc., to them or the so-called black community.¹⁹⁶ These impulses, even if basic needs and existential desires, could not be tolerated, and had to be destroyed.¹⁹⁷ During slavery, destruction meant hardening the infant. During Jim Crow and afterward, it meant cruel, brutal beatings. In slavery and Jim Crow's absence, it means dark psyches projected onto newborns and toddlers.¹⁹⁸ So, at a conscious level, these cruel but well-intentioned caregivers need to save their

¹⁹¹ See Perry et al., *supra* note 97, at 271–92.

¹⁹² LEON F. LITWACK, *TROUBLE IN MIND: BLACK SOUTHERNERS IN THE AGE OF JIM CROW* 4–6 (1998).

¹⁹³ *Id.* at 6.

¹⁹⁴ ELLISON, *supra* note 65, at 77–94.

¹⁹⁵ *Id.* at 90.

¹⁹⁶ See *id.* at 77–94; see also Michel Martin, *To Spank or Not To Spank?: Moms Discuss Discipline*, NPR (Sept. 30, 2008, 12:00 P.M.), <http://www.npr.org/templates/story/story.php?storyId=95207129>.

¹⁹⁷ Cf. MILLER, *FOR YOUR OWN GOOD*, *supra* note 23, at 4–6.

¹⁹⁸ See, e.g., VAN DER KOLK, *supra* note 52, at 84.

race. Yet, they unconsciously needed to validate their cruel sufferings,¹⁹⁹ which brought them to existential ruin. Mostly, they hoped to arrest their nightmarish fears²⁰⁰ so that they would be free of looming, ubiquitous images of “death.”²⁰¹ But a child’s fear of death comes from direct trauma or vicarious brutality and cruelty. Many enslaved children were traumatized by their caregivers, and they witnessed their caregivers and elders suffering under an overseer’s bullwhip. Admittedly, while enslaved humans constantly faced such trauma, brutality, and cruelty, and while they habituated and attended to daily risks, slavery or Jim Crow “death” cannot hurt or threaten a black child born in 1989. That is not contextually possible. It is not a present, physical threat that would trigger a child’s amygdala. However, as Lloyd deMause pointed out, if a child fears death, it is because his caregivers threatened directly to kill him or otherwise to harm him to death.²⁰²

Once, while my son and I were at a hospital outside of Carbondale, two adult black females stood talking in its vestibule. Nearby, a diapered toddler who was not quite two sat on a plastic chair. She would walk, but one of the female adults, her mother, had ordered her to sit there and not move. Having given that order, she could now devote her time and attention to what the other female said to her. But the toddler’s basic impulse to move proved too much. That little child needed to do, to touch, to see, to know, to learn, or to experience. She climbed down, and headed for the double doors, which opened to a drive up. Governed by photo sensors, the doors parted, and even though the toddler had not crossed the threshold, and was not at risk, for no cars were there, the mother descended on the toddler, picked her up, folded her body over her forearm, and hit her diapered bottom just once, but very, very hard. Shock initially muffled her cry, tears, and screams. As her mother plunked her down on the chair, she forcefully reminded her: “I told you not to move!” Then the little girl screamed as tears poured down her cheeks. Her eyes sought contact with her mother’s eyes, but she had turned away abruptly, seemingly picking up her conversation where she left off. I saw shame, guilt, anger, and need in the child’s eyes. More than the threat of a moving car, that child had defied her. The mother, who felt righteously indignant, was totally insensitive to her daughter’s need for love, tenderness, and reassurance. Neither black female reacted to this child’s wailing. No empathy, no sympathy, no sensitivity—nothing.²⁰³ Was it that way in slavery? Jim Crow?

¹⁹⁹ See MILLER, BANISHED KNOWLEDGE, *supra* note 83, at 21–36.

²⁰⁰ VAN DER KOLK, *supra* note 52, at 40–42.

²⁰¹ *Cf. id.* at 42 (discussing how parts of the brain work during and after trauma, especially if the traumatized person encounters stimuli that trigger a past traumatic event).

²⁰² LLOYD DEMAUSE, THE ORIGINS OF WAR IN CHILD ABUSE: THE PSYCHOLOGY AND NEUROBIOLOGY OF VIOLENCE (2010), available at <http://psychohistory.com/books/the-origins-of-war-in-child-abuse/> (last visited Mar. 2, 2015).

²⁰³ See MILLER, BANISHED KNOWLEDGE, *supra* note 83, at 21–36.

In both historical contexts, threats were real, but were black caregivers more apt to annihilate a child's impulses not to stave off deadly threats from whites but to break a child's will and to teach absolute respect for their authority and power? In these contexts, and even today, are underclass black caregivers "powerful" because they can hurt their children? Have they thus historically annihilated their children's impulses not to save them but to have compensatory power over them?

Yet, a parent's annihilation soul-murders the child, especially if she looks to her caregivers to love, protect, and care for her. Let us return to the little black female toddler at the Carbondale hospital, whom we will call "Brenda." It would be difficult to describe accurately what Brenda experienced and how her life might unfold. Even if that very, very hard spanking would not qualify as abuse, Brenda was nevertheless traumatized. To the amygdala, which reacts to immediate, physical harm, abuse or trauma might cause similar biological and physiological responses.²⁰⁴ But if her mother consistently spanks her or engages in severe physical abuse, Brenda's still-developing, toddler brain will be shaped by physical violence, even if black caregivers might uniformly say that the little girl needed a good whooping because she disobeyed her mother.²⁰⁵ Keep in mind that a caregiver's physical abuse will often be associated with other forms of abuse and neglect. Perry described such a child as "marinated in fear."²⁰⁶ It is not that objective history of slavery, for example, does not matter. For the infant, based on her limbic system, her amygdala "knows nothing of [slavery or Jim Crow] – it just detects threats."²⁰⁷

Let us consider Brenda's experience through Perry's "use-dependent" mechanisms of her brain, which simply means: "the more a system in the brain is activated, the more that system will build—or maintain—synaptic connections."²⁰⁸ And this "use it or lose it" way of making parts of Brenda's brain more sensitive, especially in the cases of childhood cruelty (or trauma), will teach her learning neurons, neural systems, and the brain how to cope with stressors and stress.²⁰⁹ Brenda's experience of cruelty by her mother is a

²⁰⁴ See Bessel A. van der Kolk & Rita E. Fisler, *Childhood Abuse and Neglect and the Loss of Self-Regulation*, 58 BULL. MENNINGER CLINIC 145, 147 (1994), available at <http://psychrights.org/research/Digest/CriticalThinkRxCites/vanderkolk.pdf> ("In most studies of child abuse, no established clear distinctions have been made between trauma, physical abuse, sexual abuse, and neglect. It has not yet been whether different forms of abuse have a different impact. Data from the trauma literature indicate that, at least on a biological level, the central nervous system responds quite consistently to any overwhelming experience, but is affected by maturational level and duration and severity of exposure.").

²⁰⁵ See Hampton & Gelles, *supra* note 22, at 44.

²⁰⁶ PERRY & SZALAVITZ, *supra* note 49, at 44.

²⁰⁷ VAN DER KOLK, *supra* note 52, at 35.

²⁰⁸ PERRY & SZALAVITZ, *supra* note 49, at 40.

²⁰⁹ See *id.*

stressor, and how such violence affects her is the stress. Stressors and stress, if they form repetitive patterns, will teach Alice how to survive.²¹⁰ Why? As Perry and Szalavitz explain, “Patterns of experience matter.”²¹¹

“Use dependence” can help us understand how childhood cruelty can be a critical experience that might teach black children about their underclass world. To do so, I will speculate about Brenda’s traumatic experiences that were caused by her mother. For these purposes, I will also presume that from the day she arrived in this world, Brenda suffered persistent and consistent levels of traumatic stress because her mother relied on a broad range of disciplinary tools that ranged from mild physical assaults to very severe abuse, to verbal humiliations and emotional manipulations. How might Brenda be affected? By affected, I mean that if she only knows cruelty as love, humiliations, and manipulations, will Brenda engage in specific ghetto behavior that Wilson would call “social dislocations issues” or that Moynihan might label “self-perpetuating pathologies”? According to neuroscientists, Alice would use her senses to process her childhood cruelty and suffering. Depending on the “pattern, intensity, and frequency of [her] neuronal activity produced by *sensing*, *processing*, and *storing* signals,” Brenda will derive a sense of the world.²¹² Through these processes, she may conclude that she lives in a Hobbesian world where her life will be hard, “nasty, brutish, and short.”²¹³ And the more frequently Brenda suffers such cruelty, “the more indelible the internal representation.”²¹⁴ Once so affected, she will filter all new experiences through this objectively false but subjectively true Hobbesian belief.²¹⁵ Once she has internalized this belief, Brenda will rely on a use-dependent mechanism, which ensures her survival.²¹⁶ Again, based on use-dependent mechanisms, every time Brenda’s mother causes her to suffer childhood cruelty, which forms a “specific pattern of repetitive neural . . . experience,”²¹⁷ Brenda’s brain will become more attuned to aggression from her mother and experienced through her senses, including her brain. Eventually, Brenda will come to believe that aggression, violence, humiliation, manipulation, and fears are totalizing. Although it is her personal, subjective history, Brenda will expect such totalizing experiences whether at home, at school, or in the streets. She will look for aggressors, constantly monitoring her space wherever she

²¹⁰ See *id.* at 41.

²¹¹ See *id.* at 40.

²¹² Perry et al., *supra* note 97, at 275.

²¹³ See THOMAS HOBBS, *LEVIATHAN* 75–79 (Pacific Publishing Studio 2011) (1651).

²¹⁴ Perry et al., *supra* note 97, at 275.

²¹⁵ *Id.* (“Experience thus creates a processing template through which all new input is filtered.”). See generally HOBBS, *supra* note 213.

²¹⁶ Perry et al., *supra* note 97, at 275.

²¹⁷ *Id.*

might be. Due to her childhood cruelty, Brenda's brain will be on high alert. As Perry and Szalavitz explain, "Since humans have always been the deadliest animal encountered by other humans, we closely monitor nonverbal signals of human menace, such as tone of voice, facial expression and body language."²¹⁸ Through patterned and repeated childhood cruelty not by whites but by black caregivers, Brenda's "state" becomes "trait."²¹⁹ In this Article, I argue that if brought about by childhood cruelty, such traits lay at the root of social dislocations issues, or self-perpetuating pathologies.

Based on Perry's writings, I would argue that these issues and pathologies become the lived experiences of black underclass families, not so much due to racism, but mostly due to the traumatic stress imposed on black children in the earliest years of their infant and toddler lives. This traumatic stress is both "patterned and repetitive."²²⁰ For infants and toddlers, it will have lasting consequences. Such black children may have "aggressive, tantrum-like outbursts."²²¹ They may exhibit unexplainably disruptive behavior, and if they have become sensitized, which means "a pattern of stimulus leads to increased sensitivity to future similar stimulus," then very small stressors can provoke large responses."²²² For example, in *ALL GOD'S CHILDREN*, Fox Butterfield wrote about Pud, a bad nigger.²²³ Living during Jim Crow, Pud embraced a simple code, one that once triggered could lead to death for the simplest transgression.²²⁴ According to his brother, "[Pud] didn't bother nobody, but if you pushed him, you had to beat him . . . Step on his foot, at a dance or walking by, just brush him, and there'd be a fight. He wasn't never scared."²²⁵ One gangsta rap artist, Big Pun, described himself as a stone cold, pathological killer, then saying that he'd "murder half the world [while] laugh[ing]" or just as easily kill someone "for steppin on [his] kicks."²²⁶ We might not get why Pud or Big Pun responded so aggressively to such slight, excusable offenses. Yet, based on "use-dependent processes," blacks, if they have suffered

²¹⁸ PERRY & SZALAVITZ, *supra* note 49, at 48.

²¹⁹ See also VAN DER KOLK, *supra* note 52, at 119–20. See generally Perry et al., *supra* note 97; PERRY & SZALAVITZ, *supra* note 49, at 76.

²²⁰ PERRY & SZALAVITZ, *supra* note 49, at 40.

²²¹ *Id.* at 42. Perry refers to Sandy, a client by a fictitious name, who at three years old and a child of a single mother, hid while her mother was killed by the person Sandy had let into the apartment. *Id.* at 31. Once the murderer discovered Sandy standing there as he kneeled over her mother's body, he cut Sandy's throat twice, telling her repeatedly: "It's for your own good, dude." *Id.* at 45.

²²² *Id.* at 39.

²²³ BUTTERFIELD, *supra* note 26, at 61.

²²⁴ *Id.* at 63.

²²⁵ *Id.*

²²⁶ BIG PUN, *Mamma*, on *ENDANGERED SPECIES* (Loud Records 2001) ("murder half the world, laugh while the other side hate me").

childhood cruelties, respond to stressors like a shove, push, stare, or “threatening” gesture with “a full-fledged fear response.”²²⁷ In those stressors, the abused black child may find stimuli, or data, that signal danger. So to us, that child’s aggression, impulse, or defiance seems strangely disconnected from the context. One moment, he is sweet, compliant, or apparently obedient; in the next, we—parents, teachers, classmates, strangers, or known associates—might find his behavior unwarranted.²²⁸ Put in neuroscience terms, our brains constantly compare new data, stimuli, or patterns against old, stored “templates and associations.”²²⁹ By matching incoming data against known templates and associations, our lower brain, “the neural systems involved in responding to threat originate,”²³⁰ attempts to keep us safe, asking: “[D]oes this incoming data potentially suggest danger?”²³¹

For the black underclass child who has suffered childhood cruelties in the earliest years of his life, danger abounds, and his brain must live with heightened fear, keeping him processing danger, especially in underclass communities, so that he can stay alive. However, that danger did not originate in the poor community. Rather, his black caregiver placed his life in danger, and he could not get cues from his cruel caregivers that suggested otherwise. They were the very source of his fear, his danger. During prolonged moments of fear and danger, he could not let his “limbic system’s ‘social cue reading’ systems take over.”²³² Due to these dangers at home, at school, or in the streets, this black child has spent his formative years not developing appropriate social cues and learning to love, trust, and rely on his caregivers, but arresting the rational, problem solving processes of his frontal cortex.²³³ As a small, helpless child, he is always ready for fight, flight, freeze,²³⁴ or fawn.²³⁵ At school or in the streets, this adaptive response becomes maladaptive, causing a cruelly

²²⁷ PERRY & SZALAVITZ, *supra* note 49, at 47.

²²⁸ *See id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.* at 48.

²³³ *See id.*

²³⁴ *See* VAN DER KOLK, *supra* note 52, at 42 (explaining that fight, flight, and freeze are the body’s stress responses).

²³⁵ *See* Carl Shubs, *Fawn: The Threat Response Beyond Fight, Flight, and Freeze*, INDEP. PSYCHOTHERAPY NETWORK, <http://www.therapyinla.com/articles/articleJune2014.html> (last visited Mar. 8, 2015); *see also* COZOLINO, *supra* note 56, at 217 (“[M]aternal depression will evoke caretaking behaviors in the child, creating a reversal of the mirroring process. Children with depressed mothers are at risk of becoming arrested in their own emotional development as they attempt to regulate their parents’ affect. Thus, the outwardly competent and ‘adultlike’ child may only be able to regulate his or her own emotions by distracting him- or herself through caring for others.”).

raised black child to ward off and struggle against brutalities as if they place that child at risk now. In short, these maladaptive strategies may cause social dislocation issues or self-perpetuating pathologies, all of which originate not in objective history of slavery or Jim Crow, but in the personal, subjective history of childhood cruelties in the earliest years of a child's life.

E. Childhood Cruelty and the Causal Evidence of Social Dislocations Not Seen

How do cruelly-raised, underclass black children become destroyers of their lives, of others, and communities? Why do these teenage children have out-of-wedlock babies, establish female-headed families, depend on welfare, or commit serious crimes? Why do they perform poorly academically, have low aspirations, or suffer from poor cognitive skills, disorganized attachment, and personality disorders? Why do they engage in black-on-black crimes? In short, why do underclass blacks hurt themselves and others, engage in social dislocations, or become entrapped in self-perpetuating pathologies, especially through actual or symbolic violence, and what does such violence have to do with childhood cruelties in the earliest years of their lives? In *FREE FROM LIES*, Miller asked: how do victims become destroyers?²³⁶ Or, as Miller pondered, how does evil enter this world?²³⁷

Broadly speaking, to answer these questions, we must look not exclusively to white racism but primarily to interpersonal trauma from black caregivers to their children who suffered cruelty in the earliest years of their lives.²³⁸ Unfortunately, these caregivers suffer at a minimum from depression.²³⁹ Once depressed, these black caregivers create “neurological, biological, and behavioral patterns that correlate with stress and distress.”²⁴⁰ An abused child with such a neurological pattern can suffer from “emotional dysregulation, depression, anxiety, and attachment difficulties.”²⁴¹ In terms of biological patterns, these children, especially females, will suffer from, and have a “natural proneness to[,] fibromyalgia, chronic fatigue syndrome, obesity, irritable bowel syndrome and chronic non-malignant pain

²³⁶ See generally MILLER, *FREE FROM LIES*, *supra* note 92, at 45–89.

²³⁷ *Id.*

²³⁸ See generally COZOLINO, *supra* note 56, at 229–40 (arguing that interpersonal trauma is most challenging and difficult because it affects the child's social brain, and when the traumatic stress is early and prolonged, such trauma affects the child's brain, health, and sense of self, which under the worst circumstances can shape for the child's entire life where she fits in a “frightening, overwhelming, and dangerous world”).

²³⁹ See *id.* at 231.

²⁴⁰ *Id.* at 217.

²⁴¹ *Id.* at 214.

syndromes.”²⁴² By behavioral, psychologists and neuroscientists mean abused children who engaged in externalizing behavior (e.g., aggression) toward others, including their parents, peers, and strangers.²⁴³ Once these patterns have gone from states to traits, as Bruce Perry would argue, then the cruel black caregivers not only has affected their children in the worst way, but also set them on a personal course that makes it probable that they will engage in the social dislocations to which Wilson referred or in self-perpetuating pathologies a la Moynihan. Specifically, Cozolino states that a depressed mother who causes her children to suffer cruelties “has downregulat[ed] neuroplastic processes in both mother and child and [has] lock[ed] them into stereotyped patterns of interaction that mutually maintain their negative states of mind.”²⁴⁴ At the very least, the “stereotyped patterns of interaction” to which Cozolino refers could be Wilson’s notion of “ghetto specific behavior,” and if so, then it is quite likely that early child cruelty within poor black families causes the very self-perpetuating pathologies that Moynihan wrongly hoped that President Johnson’s Great Society program would redress.

Accordingly, we must ask: are black caregivers’ harsh physical disciplinary practices, which perforce reject the personhood of black children, the primary factor that makes social dislocations issues too intractable and that ensures that black children will lag behind their peers economically, academically, and professionally? Yet, in redressing social dislocation issues or in healing self-perpetuating pathologies, sociologists refuse to ask these kinds of questions. As I have noted, they default to objective, structural histories like slavery and Jim Crow. In truth, as I will explain below, they avoid these questions because black scholars, especially of the radical and conservative ilk, have a need to remain in their suffering and “self-deception.”²⁴⁵ By self-deception, Miller would explain that a black child’s adaptive survival strategy, in which he intuitively engages because his brain, especially his primitive lower brain, tells him that he is living with a human to whom he cannot look to for love, care, and safety because it is his caregiver who threatens him. As van der Kolk noted, the amygdala knows only present threats, and as Perry and van der Kolk pointed out, our brain scans, sorts, and processes new data to assess survival or threat to survival. In order to repress the feeling of threat, to ignore the physical pain of childhood cruelty, and to live with his maltreater, a black underclass child, who cannot flee, pretends not

²⁴² FELITTI & ANDA, *supra* note 78, at 78.

²⁴³ See, e.g., Nix et al., *supra* note 76, at 897 (stating that based on previous research, which correlates “parents’ aggressive behaviors toward their children and children’s aggressive behavior toward others. . . . Bandura proposed that children often adopt the interpersonal strategies their parents display.” (citing ALBERT BANDURA, A SOCIAL LEARNING (1977); ALBERT BANDURA, AGGRESSION: A SOCIAL LEARNING ANALYSIS (1973))).

²⁴⁴ COZOLINO, *supra* note 56, at 217.

²⁴⁵ See generally MILLER, FREE FROM LIES, *supra* note 92, at 39.

to know the truth of his personal, subjective history by engaging in emotional blindness or self-deception. On this point, Miller powerfully writes:

Children cannot escape their own parents, so they cannot afford to see through them either. Blindness makes it possible to survive. This is the way the abuse of children has functioned since time immemorial. *Blindness and forgiveness are essential to survival.* But at the same time they lead to repetition and they perpetuate cycles of cruelty.²⁴⁶

In this way, childhood cruelty causes or correlates with social dislocations and self-perpetuating pathologies. Why have we not discovered this connection? According to Miller, we, especially race scholars, historians, and sociologists, refuse to “understand that so-called love cannot survive abuse, deception, and exploitation without seeking new victims.”²⁴⁷

Today, throughout our society, and especially in underclass black communities, children and adult children of childhood cruelty create new victims. Is that not what Adrian Peterson did when he brutally beat his four-year-old child with a switch—a thin, green limb from a tree that leaves open, blood-seeping welts on the human body?²⁴⁸ Was not the deception confessed when Peterson’s mother admitted that she had done no less with her son,²⁴⁹ who not only plays a violent sport, but also brutally beats a helpless, defenseless child? And was that deception not inescapably noted when adult children, more than likely brutally beaten as children, came to Peterson’s aid,²⁵⁰ so that they could keep themselves self-deceived by not unflinchingly looking at their own cruel childhood reality?²⁵¹

²⁴⁶ MILLER, *THE BODY NEVER LIES*, *supra* note 158, at 168 (emphasis in original).

²⁴⁷ *Id.*

²⁴⁸ Dyson, *supra* note 66; Patrick Rische, *Adrian Peterson’s “Switch” Worse Than Ray Rice’s Fist for NFL’s Public Image*, FORBES (Sept. 12, 2014, 10:42 PM), <http://www.forbes.com/sites/prishe/2014/09/12/adrian-petersons-child-abuse-further-damages-nfls-image-creates-opportunity-for-goodell/>.

²⁴⁹ See *Adrian Peterson’s Mother: ‘When You Whip Those You Love, It’s Not About Abuse, But Love,’* HUFFINGTON POST (Sept. 18, 2014), http://www.huffingtonpost.com/2014/09/18/adrian-peterson-mother-defends_n_5842230.html.

²⁵⁰ See generally *id.* (noting that Peterson’s mother stated that Peterson “was only trying to discipline his son [the] same way he was disciplined when he was growing up” and that most parents “disciplined our kids a little more than we meant sometimes”).

²⁵¹ See MILLER, *THE BODY NEVER LIES*, *supra* note 158, at 168 (“And if it requires new victims, it is no longer love but at best the longing for love. Only unflinching realization of one’s own past reality, of what really happened can break through the chain of abuse.”).

Yet, cruel childhood beatings get recorded by and stored in children's bodies,²⁵² and even helpless, dependent, defenseless children get deeply angry when they have been mistreated by their caregivers.²⁵³ That mistreatment leads to what Miller called "impotent fury."²⁵⁴ By "impotent fury," Miller referred to a deep, near murderous rage that "comes to life again when an adult child's own child is born."²⁵⁵ To themselves, they will deny this fury, easily laughing off the terror they once felt as brutalized or humiliated children, and they will openly claim to have forgiven their cruel caregivers. Long gone are their teary eyes, gnashed teeth, clenched jaws, balled up fists, and deep, murderous rage for taking away their hard-earned bag of marbles, just because they did not immediately make themselves present when he said "come here!" But repression is not forgiveness.²⁵⁶ Today, over meals, such cruelly treated adult children will laugh away their caregiver's cruelty, perhaps relying unconsciously on their thalamus, an area inside the limbic system, to concoct an acceptable tale.²⁵⁷ That is what the thalamus does. "The thalamus stirs all the input from our perceptions into a fully blended autobiographical soup, an integrated, coherent experience of 'this is what is happening to me.'"²⁵⁸ By the time that child becomes an adult, he has got a well-formed, rationalized, and socially acceptable lie to tell about his cruel caregiver, one that sounds like either "she did the best she could for me," or "he gave me the skills to sense danger a long way off before it got to me."²⁵⁹ Or worse yet, he will say: "I got whippings, but look how well I turned out."²⁶⁰ Having repressed their

²⁵² *Id.* at 203. See generally PETER A. LEVINE & MAGGIE KLINE, *TRAUMA THROUGH THE CHILD'S EYES: AWAKENING THE ORDINARY MIRACLE OF HEALING* (2006); MILLER, *THOU SHALT NOT BE AWARE*, *supra* note 150, at 315.

²⁵³ VAN DER KOLK, *supra* note 52, at 304; see MILLER, *THE BODY NEVER LIES*, *supra* note 158, at 315; PERRY & SZALAVITZ, *supra* note 49, at 200 (citing a story about a child learning to let go of anger).

²⁵⁴ See MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 38.

²⁵⁵ *Id.* at 40.

²⁵⁶ See MILLER, *THE BODY NEVER LIES*, *supra* note 158, at 164–68.

²⁵⁷ See VAN DER KOLK, *supra* note 52, at 60 (explaining that the thalamus helps the body understand what is happening to it based on a person's perception of the situation).

²⁵⁸ *Id.*; see also JANOV, *supra* note 141, at 190–92.

²⁵⁹ See KEITH MICHAEL BROWN, *SACRED BOND: BLACK MEN AND THEIR MOTHERS* 5, 8 (1998) (referring to James Love, a narcotics officer, and his mother, Henrietta Love, Brown writes, in paraphrasing James' words after receiving a beating for sneaking out of the house without permission, "[t]he second I pushed the back door open, that woman beat my ass. In total darkness. I didn't know what the hell happened to me. A light never came on; all you could hear was 'Ooh, ow, ooh, ow.' . . . 'Now go to bed,' she said. That was my last whipping, because it was the last time I tried that lady. To this day, we laugh about it. It's one of the family jokes. Mama can beat your ass in total darkness.").

²⁶⁰ See MURRAY STRAUS & DENISE A. DONNELLY, *BEATING THE DEVIL OUT OF THEM: CORPORAL PUNISHMENT IN AMERICAN FAMILIES AND ITS EFFECTS ON CHILDREN* 116 (2001) ("At

authentic feelings (e.g., rage), having relied on their thalamus to make sense of the cruelty (e.g., mom loved me), they will find ways to justify their black caregivers' cruelty. This self-deception will lead to violence, either against themselves or others.

Unfortunately, self-deception first arrives as self-help. Although these black children cannot recall the cruelties of their earliest childhood years,²⁶¹ they have a "long-lasting emotional state, whether measured by depression or suicide attempts,"²⁶² that they unconsciously protect through "devices such as somatization and dissociation, or by self-help attempts that are misguidedly addressed solely as long-term health risks – perhaps because as physicians are less than comfortable acknowledging the manifest short-term benefits these 'health risks' offer to the patient dealing with hidden trauma."²⁶³ And so as a short-term, self-help strategy, black children of cruel childhoods will likely drink, smoke, have sex, take drugs, overmedicate, overeat, etc.²⁶⁴ Having never expressed their authentic feelings and having never had a caregiver who would validate their anger, rage, shame, resentment, and humiliation, these short-term, self-help strategies keep black children's true, repressed feelings at bay, perhaps deepening their stress, distress, or depression. Regardless, these children will continue to wear their masks.²⁶⁵ One such mask can be obesity,²⁶⁶ which keeps threatening interest at bay and which serves as body armor. In this

the 1993 annual meeting of the Eastern Sociological Society, two of the most respected African-American social scientists, Elija Anderson and Charles Willie, both said: 'I was whupped, and I'm OK.'").

²⁶¹ FELITTI & ANDA, *supra* note 78, at 80 ("there is a distinct relationship of ACE ['Adverse Childhood Experience'] Score and impaired memory of childhood, and we understand this phenomenon to be reflective of dissociative responses to emotional trauma.").

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ See MILLER, *THE BODY NEVER LIES*, *supra* note 158, at 174; FELITTI & ANDA, *supra* note 78, at 83 ("[A]dverse experiences in childhood are related to adult disease by two basic etiologic mechanisms: [1] conventional risk factors that actually are attempts at self-help through the use of agents like nicotine, with its documented, multiple psychoactive benefits, in addition to its now well-recognized cardiovascular risks[; and] [2] the effects of chronic stress as mediated through the mechanisms of chronic hypercortisolemia, pro-inflammatory cytokines and other stress responses on the developing brain and body system, dysfunction of the stress response and pathophysiological mechanisms yet to be discovered.").

²⁶⁵ See MILLER, *THE BODY NEVER LIES*, *supra* note 158, at 174.

²⁶⁶ See generally *Overweight and Obesity Among African-American Youth: Fact Sheet*, Leadership for Healthy Communities, ROBERT WOOD JOHNSON FOUNDATION (May 2010), available at <http://www.cahperd.org/cms-assets/documents/28168-686161.overweightobesity.africanameryouth.pdf>. Unfortunately, unlike the findings in Felitti and Anda's epidemiological study on adverse childhood experience, this study attributes obesity in part to mass communication messaging that comes from television, and it makes no mention of early childhood experiences. In writing such as this one, I say that they treat children and adults as if they were born but not raised by parents.

way, obesity can suggest that such black children have struggled with an “approach-avoidance conflict.”²⁶⁷ They need to feel connected to others, even if those others are cruel black parents, because they need to heal. At the same time, they distrust them because they “become fearful and dysregulated in relationships.”²⁶⁸ But if they cannot learn to trust again, especially if other children ridicule them (think shame and humiliation),²⁶⁹ such children will “retreat” into the “safe isolation” of their bodies.²⁷⁰ In this way, overeating, which is socially encouraged in some context and which has some psychoactive benefits,²⁷¹ cannot redress the deep emotional disturbance that these black children have repressed. To what will such children turn? Given that they cannot trust their caregivers while needing them, and given that they may suffer from social isolation, they may become chronically depressed. As Felitti and Anda reveal, one of the responses by such adult children will be attempted suicides.²⁷² Consider black suicide.

When acting against others, they discharge their anger,²⁷³ and the easiest acceptable targets are children, because under the doctrine of parental privilege,²⁷⁴ caregivers can use physical discipline against even infants if it is

²⁶⁷ COZOLINO, *supra* note 56, at 230.

²⁶⁸ *Id.*

²⁶⁹ *Cf. id.* at 234 (“[S]hame offers no redemption. At its core, shame is the emotional reaction to the loss of attunement with the caretaker. The power of shame comes from the experience of attunement as life sustaining, in part, because, for young primates, separation and rejection equal death.”).

²⁷⁰ *See, e.g.,* Daniel Stein et al., *Psychosocial Perspectives and the Issue of Prevention in Childhood Obesity*, 2 FRONT PUB. HEALTH 104 (2014), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4116804/>.

²⁷¹ FELITTI & ANDA, *supra* note 78, at 80 (“We repeatedly hear from patients of the benefits of these ‘health risks.’ . . . ‘Sit down and have something to eat. You’ll feel better.’”).

²⁷² *Id.* at 79 (stating that there is a strong relationship between ACE Score and later suicide attempts).

²⁷³ MILLER, BANISHED KNOWLEDGE, *supra* note 83, at 38 (“[A]t last the anger can be discharged – once again at the expense of a defenseless creature.”).

²⁷⁴ *See, e.g.,* ALA. CODE § 13A-3-24(1) (West, Westlaw through 2014 Legis. Sess.); ALASKA STAT. ANN. § 11.81.430(a)(1) (West, Westlaw through 2014 Legis. Sess.); ARIZ. REV. STAT. ANN. § 13-403(1) (West, Westlaw through 2015); ARK. STAT. ANN. § 5-2-605(1) (West, Westlaw through 2014); WEST’S ANN. CA. PENAL CODE § 273d (West, Westlaw through 2014); COLO. REV. STAT. ANN. § 18-1-703(1)(a) (West, Westlaw through 2014); CONN. GEN. STAT. ANN. § 53a-18(1) (West, Westlaw through 2015); DEL. CODE ANN., tit. 11, § 468(1) (West, Westlaw through 2014); GA. CODE ANN. § 16-3-20(3) (West, Westlaw through 2014); HAW. REV. STAT. ANN. § 703-309(1) (West, Westlaw through 2014); KY. REV. STAT. ANN. § 503.110(1) (West, Westlaw through 2014); MICH. COMP. LAWS ANN. § 750.136b(7) (West, Westlaw through 2014); MINN. STAT. ANN. § 609.06(6) (West, Westlaw through 2014); MO. ANN. STAT. § 563.061(1) (West, Westlaw through 2014); MONT. CODE ANN. § 45-3-107 (West, Westlaw through 2014); NEB. REV. STAT. ANN. § 28-1413(1) (West, Westlaw through 2014); N.H. REV. STAT. ANN. § 627:6(1) (West, Westlaw through 2014); N.J. STAT. ANN. § 2C:3-8 (West, Westlaw through 2014); N.Y.

reasonable²⁷⁵ and if it teaches right from wrong.²⁷⁶ At a very deep place within the cruel caregiver, she really wants to vent her fury and discharge her anger against her black caregivers.²⁷⁷ For example, one black woman put her infant in an oven and burned him fatally.²⁷⁸ A black uncle, for example, who was a martial artist, beat to death his nephew because the young boy did not pack his clothes within the time granted by his uncle.²⁷⁹ Referring to pathological behavior, although it is unclear if in either of these examples the mother or uncle had been clinically diagnosed, Ken Magid and Carole A. McKelvey write:

At the core of the unattached is a deep-seated rage, far beyond normal anger. This rage is suppressed in their psyche. Now we all have some degree of rage, but the rage of psychopaths is that born of unfulfilled needs as infants. Incomprehensible pain is forever locked in their souls, because of the abandonment they felt as infants.²⁸⁰

So, what does an underclass child do with his rage, if, since his infancy, the caregiver on whom he wanted to depend for love, tenderness, and compassion not only rejects him by hurting him with cruelty, but also dares him through threats of more violence, rejection, or abandonment not to see the truth about what she is doing to mutilate his soul? After a few good whuppings, he will say nothing; perhaps Peterson was that way. But now, in the run up to and on football Sunday, he gets to hurt, damage, threaten, humiliate, and abuse as

PENAL LAW § 35.10(1) (West, Westlaw through 2014); N.D. CENT. CODE ANN. § 12.1-05-01 (West, Westlaw through 2014); OK. STAT. ANN. tit. 21, § 643(4) (West, Westlaw through 2014); OR. REV. STAT. ANN. § 161.205(1) (West, Westlaw through 2014); 18 PA. STAT. ANN. § 509(1) (West, Westlaw through 2014); S.D. CODIFIED LAWS § 22-18-5 (West, Westlaw through 2014); TEX. PENAL CODE ANN. § 9.61 (West, Westlaw through 2013); UTAH CODE ANN. § 76-2-401(i)(c) (West, Westlaw through 2014); WASH. REV. CODE ANN. § 9A.16.100 (West, Westlaw through 2014); WIS. STAT. ANN. § 939.45(5)(b) (West, Westlaw through 2014); *see also* Kandice K. Johnson, *Crime or Punishment: The Parental Corporal Punishment Defense—Reasonable and Necessary, or Excused Abuse?*, 1998 U. ILL. L. REV. 413, 417.

²⁷⁵ *See* Johnson, *supra* note 274, at 417.

²⁷⁶ *See id.* at 423–25.

²⁷⁷ *See* MILLER, *THE BODY NEVER LIES*, *supra* note 158, at 177 (“Genuine communication is based on facts; it enables people to tell others about their thoughts and feelings. By contrast, confusing communication is based on the distortion of the facts and blaming others for the unwanted emotions that are actually directed at one’s childhood parents.”).

²⁷⁸ *Miss. Mom Charged After Son’s Body Found in Oven*, FOX NEWS (Mar. 2, 2011), <http://www.foxnews.com/us/2011/03/02/miss-mom-charged-sons-body-oven/>.

²⁷⁹ *Karate Black Belt Beat Nephew, 6, to Death for Not Picking Out His School Clothes*, DAILYMAIL (Nov. 6, 2012, 8:20 AM), <http://www.dailymail.co.uk/news/article-2228681/Karate-black-belt-Paul-Adams-Jr-beat-nephew-6-death-picking-school-clothes.html>.

²⁸⁰ KEN MAGID & CAROLE A. MCKELVEY, *The Trust Bandits*, in *HIGH RISK: CHILDREN WITHOUT A CONSCIENCE* 26 (1988).

many other humans as he can within the bounds of football's good taste. Unfortunately, underclass black children who suffer through such cruelty do not have legitimate ways of exacting revenge on humans, and with each tackle, cuss, demeaning gesture, he can repress even more why he plays football and seeks to dominate other humans on the gridiron battlefield. Denied the right to cry ("Stop that crying, or I'll really give you a reason to cry!"), and fearing further cruelty ("I brought you into this world, and I can take you out!"), he represses his truth; he, as we all, will pay a heavy price. Why? To repress the purity of that much anger, fury, rage, and hatred, that black child must marshal immeasurable amounts of human energy. He must hold back his authentic truth, even if his existential *potentia* pays the price.²⁸¹ As Miller writes, "repression is a perfidious fairy who will supply help at the moment but will eventually exact a price for this help."²⁸² By the by, that black child will torment himself, enter into destructive relationships, take up with irresponsible friends, and circle the drain with them, and in the end, he will not remember that provenance of his suffering came not from whites and white racism, but from his "own parents and others involved in [his] upbringing."²⁸³ That "labor of repression,"²⁸⁴ ensures that this cruelly-raised, black child will vent his anger, fury, rage, anger, and hatred not at his cruel, brutal black caregivers, but at America, whites, and white racism.²⁸⁵

In 2015, while America's racism may be a problem in the lives of blacks, especially underclass poor blacks, what really matters is that child's personal, subjective history of cruelty in the earliest years of his life. That child's life is thus impoverished not just because his family lacks resources or is headed by a single black female, but also, and primarily, because his black caregiver failed to give him a quality "early nurturing environment," which could have lasting effects on whether he will suffer from health problems, substance dependency, financial well being, and criminal activity.²⁸⁶ And if he

²⁸¹ See MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 40; see also ROLLO MAY, *THE DISCOVERY OF BEING: WRITING IN EXISTENTIAL PSYCHOLOGY* 16–17 (1983) ("These potentialities will be partly shared with other persons but will in every case form a unique pattern in each individual.").

²⁸² See MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 40.

²⁸³ See *id.* at 40–41 ("This child will continue to torment herself in destructive relationships, taking up with irresponsible partners and suffering from them; but she is unlikely to be able to grasp that the origin of all this suffering is to be found in her own parents and others involved in her upbringing.").

²⁸⁴ *Id.* at 41 ("That former labor of repression to ensure survival renders such an insight impossible, contrary now to the interests of the adult who as once that child.").

²⁸⁵ Cf. *id.* ("If, to survive, a child is required to ignore certain things, the chances are that she will be required to continue to ignore those things for the rest of her life.").

²⁸⁶ John Pickering, *Today's Parents Are Much Too Hard on Themselves*, WASH. POST (Jan. 13, 2015), <http://www.washingtonpost.com/posteverything/wp/2015/01/13/todays-parents-are-much-too-hard-on-themselves>.

later commits violent crimes, he will do so against other blacks, perhaps suggesting that white racism does not really drive him to hurt other human beings. For example, in 2013, based on the FBI Uniform Crime Report, 2,217 black males killed 2,245 blacks.²⁸⁷ Of that number, male-to-male murders were 2,073.²⁸⁸ Without a context, I cannot say with certainty why this rate of black-on-black male violence exists. Although we know that children who suffer childhood cruelty will become more aggressive,²⁸⁹ and although we know that children who are exposed to traumatic events with specific patterns and durations will develop overactive and sensitive neural systems, “leading to a host of emotional, behavioral and cognitive problems long after the traumatic event is over,”²⁹⁰ scholars, especially sociologists and historians, have been unwilling to correlate such murderous rage against other blacks with childhood cruelty in the earliest years of the black infant’s life.²⁹¹ For example, Benjamin Mays attributed black-on-black violence, perhaps mostly among males, to white racism. “I believe to this day that Negroes in my county fought among themselves because they were taking out on other Negroes what they really wanted but feared to take out on whites.”²⁹² It was the case that, during Mays’ upbringing, black children were severely beaten,²⁹³ not only by their parents but also by other neighborhood adults.²⁹⁴ But in the Jim Crow era, scholars could easily argue that blacks were aggressive because whites hurt, murdered, and humiliated blacks with virtual impunity. Yet, long before adult blacks

The importance of self-control at both the individual and community level has been captured in a powerful longitudinal study which found that the level of self-control of children at age 3 could predict their later physical health, substance dependence, financial wellbeing and involvement in crime at age 32.

Id.

²⁸⁷ *Expanded Homicide Data Table 6*, FED. BUREAU INVESTIGATION (2013), http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/offenses-known-to-law-enforcement/expanded-homicide/expanded_homicide_data_table_6_murder_race_and_sex_of_victim_by_race_and_sex_of_offender_2013.xls.

²⁸⁸ *Id.*

²⁸⁹ *See, e.g.*, Taylor et al., *supra* note 23, at e1063.

²⁹⁰ PERRY & SZALAVITZ, *supra* note 49, at 50.

²⁹¹ *See, e.g.*, CARL HUSEMOLLER NIGHTINGALE, ON THE EDGE: A HISTORY OF POOR BLACK CHILDREN AND THEIR AMERICAN DREAMS 22 (1993) (noting that apart from gun violence and drive-by shootings in the 1960s and early 1970s, “violent death became more common for people who had little or less to do with gangs or drugs: young women, middle-aged women (a population whose murder rate reflects trends in domestic violence), and children under the age of four (whose violent deaths usually results from child abuse)” (internal citation omitted)).

²⁹² BENJAMIN MAYS, BORN TO REBEL: AN AUTOBIOGRAPHY 26 (Univ. of Ga. Press 2003) (1971).

²⁹³ *See id.* at 12–13.

²⁹⁴ *Id.*

encountered Jim Crow's disfiguring violence, black infants were forced to repress the cruelty that they suffered at the hands of black caregivers.

Along with a host of complex socio-cultural factors, it is black caregivers' cruelty that contributes to what Wilson called "ghetto-specific behavior." But for Wilson and other scholars, childhood cruelty is not a factor or co-factor in homicide or other acts of aggression toward other human beings. In *THE TRULY DISADVANTAGED*, Wilson critiques a number of dislocation issues, which fall under the inner city's tangle of pathology.²⁹⁵ He is attempting to explain social dislocation issues or self-perpetuating pathologies, so that he can inform, but not crystallize, racial stereotypes.²⁹⁶ And so, he analyzes and explains "race and violent crime."²⁹⁷ He begins by telling us that in 1984, although blacks in the United States were one-ninth of the population, "nearly one of every two persons arrested for murder and nonnegligent manslaughter was black."²⁹⁸ It gets worse. In that year, "41 percent of all murder victims were black."²⁹⁹ Put neatly, blacks in 1984 were getting arrested disproportionately to their share of the population for robbery and aggravated assaults. Lastly, "the rate of black imprisonment in 1984 was 6.25 times greater than the rate of white imprisonment."³⁰⁰

But as I read further through Wilson's analyses, he compares different major cities. He examines the crime and arrest rates for Hispanics.³⁰¹ He of course pours over the crime statistics for Chicago, especially the Robert Taylor Homes and Cabrini-Green—the then largest public housing project in Chicago. He does not say poverty equals violence. However, he suggests it. Before passing through this subsection of the tangle of pathology, he links living in public housing, violence, and welfare dependency, looking specifically at Aid to Families with Dependent Children ("AFDC").³⁰² It is clear that Wilson believes that structural forces, especially those that can contribute to or rob inner-city blacks of meaningful work, explain welfare dependency and black violence. By so doing, he is required to make the link between single black females and their poverty. That poverty not only robs blacks of greater social and economic opportunities, but also limits the success of black children.³⁰³ And while Wilson does not make this point explicit, he more than suggests that

²⁹⁵ See WILSON, *THE TRULY DISADVANTAGED*, *supra* note 24, at 21–29.

²⁹⁶ *Id.* at 21–22.

²⁹⁷ See *id.* at 24.

²⁹⁸ *Id.* at 22.

²⁹⁹ *Id.*

³⁰⁰ *Id.*

³⁰¹ See generally *id.*

³⁰² See *id.* at 23–26.

³⁰³ *Id.* at 27.

those burdens by implication must cause frustrations, one result of which must be violence.

However, as Carl Nightingale noted, sociological evidence in the 1990s “shows that the extraordinary levels of violence suffered by African-American communities cannot be accounted for solely by high levels of black poverty.”³⁰⁴ Although Nightingale avoids the poverty equals violence argument, he does search for a social or cultural cause. He points out that black children were surrounded by violence, whether actual or symbolic, and even if they manage to dodge the statistically high chance of catching a drive-by bullet, they have lost good friends and close relatives to violent deaths. Witnessing violence, especially acrimony, impacts black children. In this sense, black children grow up to become violent aggressors or they fall victim to it because they are completely enmeshed in a totalizing experience of violence.³⁰⁵

Yet, Nightingale wants to crystallize this connection between childhood experiences, violent statistics, and abandonment. At this point, he is quite close to correlating child maltreatment with later aggression, disruptions, and perhaps what Perry called sensitization.³⁰⁶ To do so, he examines two communities in Philadelphia—Bojack and Chaunty.³⁰⁷ In these communities, symbolic acts of violence abound. They are “noncooperative” acts, which are “manipulation, defiance, verbal abuse, and fighting.”³⁰⁸ But as these black children grow up, they must face an inevitable struggle that will determine if they are going to “make aggressive behavior part of their own daily habits and social styles.”³⁰⁹ First, at a conscious level, they need an “extremely complicated set of street-smart values that decree an edgy mistrust of others and a cynical sense that manipulation and force win out.”³¹⁰ Moreover, these black children know that, ethically, they must deal the duty to engage in “cooperative responsibility and mutual obligation toward family members, neighbors, and peers.”³¹¹ Second, at a subconscious level, these black children must cope with “overwhelmingly painful emotions” that they have collected since their earliest days.³¹² This “reservoir[] of their emotional memor[ies]” causes them to struggle,³¹³ and Nightingale attempts to explain their struggle by ethnographically decoding the gaming, hypermasculinity, pimping, jiving,

³⁰⁴ NIGHTINGALE, *supra* note 291, at 22.

³⁰⁵ *See id.* at 23.

³⁰⁶ *See generally* PERRY & SZALAVITZ, *supra* note 44.

³⁰⁷ NIGHTINGALE, *supra* note 291, at 23.

³⁰⁸ *Id.*

³⁰⁹ *Id.*

³¹⁰ *Id.*

³¹¹ *Id.*

³¹² *Id.*

³¹³ *Id.*

signifying, hustling, all with a linguistic inventiveness³¹⁴ that could rival Langston Hughes's Jesse B. Semple.³¹⁵

Unfortunately, Nightingale fails to ask why black caregivers encouraged their children to fight, especially male children. He attempts to explain how these cultural norms of aggression, including a near slave-and-Jim-Crow replay of blacks fighting each other for the white man's entertainment. In this instance, it is blacks fighting each other, and other blacks treating such violence as local, neighborhood entertainment. Nightingale cannot see that childhood cruelty, which is passed intergenerationally from black caregivers to their children, could easily and persuasively explain why street gangs, hypermasculinity, teenage pregnancy, and aggression became vital parts of the social life of black underclass families and their children, who were more than likely first exposed to cruelty during the earliest years of their lives.

While Wilson focused on structural forces, Nightingale attempted to examine the social and cultural origins of underclass violence. Because neither of them understood that childhood cruelty had strongly influenced these children's inner mapping and had thus taught them that based on their personal, subjective histories, the world was violent, and by violence, they would survive. By taking these approaches to understanding underclass violence as a social dislocation issue or a self-perpetuating pathology, scholars like Wilson and Nightingale cannot effectively help us eradicate these issues.

*F. Eradicating Social Dislocations or Self-Perpetuating Pathologies:
Johnson's War on Poverty and the Great Society Programs*

In 1964, President Lyndon Baines Johnson, during a speech in Ann Arbor, Michigan, spoke of the "Great Society," under which he wanted not just to "do what is right but to know what is right."³¹⁶ In President Johnson's ideal society, people could build a better life for themselves and their children.³¹⁷ By deploying this "Society" and by defining his administration by it, President Johnson was cobbling together the "scattered hopes of the American past," ones that had been stoked by President Roosevelt's New Deal.³¹⁸ In addition to besting prior presidential aspirations, President Johnson had been shaped by his boyhood experiences in Cotulla, Texas,³¹⁹ and congressional achievements in Pedernales Valley, Texas.³²⁰ With his ideal, President Johnson meant to take us

³¹⁴ See *id.* at 23–39.

³¹⁵ See generally LANGSTON HUGHES, *THE BEST OF SIMPLE* (1961).

³¹⁶ DORIS KEARNS, *LYNDON JOHNSON AND THE AMERICAN DREAM* 215 (1976).

³¹⁷ *Id.*

³¹⁸ *Id.* at 215.

³¹⁹ *Id.* at 229–30.

³²⁰ *Id.* at 214.

beyond national wealth and personal incomes as end games. Rather, President Johnson challenged every citizen to share in America's progress. But President Johnson wanted more than equal opportunity. He wanted to ensure that "no one should be deprived of the essentials of a decent life."³²¹ Everyone should have such a life, and no one should suffer the "possibility of total defeat" in pursuit of it.³²² In short, given the nation's wealth, President Johnson "wanted [people] to have it at once."³²³

Under the Great Society, President Johnson wanted blacks to have a decent life, and so the Civil Rights Act of 1964 was vital because its passage lessened the likelihood that blacks might suffer the "possibility of total defeat."³²⁴ Still, more was needed like the Voting Rights Act of 1965. After the brutal beatings by Wallace's police in Selma,³²⁵ President Johnson, in a speech to Congress, spoke "for the dignity of man," the destiny of democracy, and "man's endless search for freedom."³²⁶ As President Johnson made clear, Selma's brutality raised no constitutional issue. No moral issue wafted in the air. Against the Constitution's command, Governor Wallace had wronged Americans' right to vote. In President Johnson's words, "It is the effort of American Negroes to secure for themselves the full blessing of American life. Their cause must be our cause too. . . . [It] is all of us who must overcome the crippling legacy of bigotry and injustice."³²⁷

Since slavery, that legacy had thwarted blacks' effort to enjoy the full blessings of American life. It had refused to see blacks as legally cognizable subjects under the Constitution. In his speech before a joint house of Congress, President Johnson made clear that he would use his presidency, his chance, to garner the American life. President Johnson's sincerity was real. Since he was a child, he knew the political realities of "blacks and their white adversaries."³²⁸

Under the 1964 Act, Congress sought to enforce a citizen's, especially blacks, constitutional right to vote, to give federal courts the power to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to

³²¹ *Id.* at 215.

³²² *Id.* at 215–16.

³²³ *Id.* at 216.

³²⁴ *Id.* at 215–16.

³²⁵ *Id.* at 228.

³²⁶ *Id.* at 229.

³²⁷ *Id.*

³²⁸ *Id.* at 230.

prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.³²⁹

With the Civil Rights Act of 1964, President Johnson vitiated the reasoning in the *Civil Rights Cases*³³⁰ and *Plessy v. Ferguson*.³³¹ *Brown v. Board of Education*³³² only supplanted *Plessy*'s apartheid doctrine in public schools. Getting elected by a strong voter majority, believing he had a mandate, and enjoying a majority in the House and Senate, President Johnson's Great Society programs, especially with the 1964 Act, achieved a new direction for America's citizenship, including and perhaps especially blacks.³³³ To make this point, President Johnson beta-tested his thinking when he made the commencement address at Howard University in 1965.³³⁴ In *To Fulfill These Rights*, President Johnson spoke of the "revolution of the Negro American."³³⁵ But in 1965, President Johnson could acknowledge that whites and America's institutions had "deprived [blacks] of freedom, [and,] crippled by hatred, the doors of opportunity [were] closed to hope."³³⁶ Specifically, after citing Winston Churchill's "end of the beginning" premise,³³⁷ President Johnson said:

That beginning is freedom; and the barriers to that freedom are tumbling down. Freedom is the right to share, share fully and equally, in American society—to vote, to hold a job, to enter a public space, to go to school. It is the right to be treated in every part of our national life as a person equal in dignity and promise to all others.³³⁸

Under the 1964 Act, which President Johnson had not yet signed into law when he gave his address at Howard University, blacks would not have to face discriminatory practices that prohibited them from having access to public

³²⁹ See generally Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C.A. § 2000(a) (West 2014)).

³³⁰ 109 U.S. 3 (1883).

³³¹ 163 U.S. 537 (1896).

³³² 347 U.S. 483 (1954).

³³³ See KEARNS, *supra* note 316, at 212–13.

³³⁴ President Lyndon B. Johnson, *To Fulfill These Rights: Commencement Address at Howard University*, (June 4, 1965) [hereinafter Johnson Speech], available at <http://www.lbjlib.utexas.edu/johnson/archives.hom/speeches.hom/650604.asp>.

³³⁵ *Id.*

³³⁶ *Id.*

³³⁷ See Winston Churchill, Prime Minister of the U.K., *The Bright Gleam of Victory*, Speech at the Lord Mayor's Day Luncheon at the Mansion House, London (Nov. 10, 1942), available at <http://www.winstonchurchill.org/resources/speeches/1941-1945-war-leader/the-end-of-the-beginning>.

³³⁸ Johnson Speech, *supra* note 334.

accommodations based solely on their race and color.³³⁹ It would also outlaw such discrimination based on religion and national origin. Specifically, white politicians and their local agents (racist citizens, cops, and employees) could require blacks to drink from segregated fountains.³⁴⁰ Local black codes required that blacks not only sit in the back of the bus, but also yield whatever seat they occupied to any white person who requested it. And so, blacks had to drink from colored fountains, rest in colored rooms at bus stations, sleep in their cars or find chitterling “rooms” when traveling on interstate highways because they could not stay at hotels and motels owned by whites.³⁴¹ Blacks also had to search out local blacks in order to find places at which they could eat.³⁴²

Yet, as President Johnson stated, “freedom is not enough.”³⁴³ What more was needed? Blacks wanted, nay, demanded, that they have a liberty and equality to that of whites. No longer were they willing to accept a permanent second-class citizenship. Moynihan noted that blacks were rejecting liberty-without-equality that came with the end of slavery,³⁴⁴ which whites had honed into a fine weapon of oppression in the name of Jim Crow.³⁴⁵ This lesser legal equality would formally end with the Civil Rights Acts of 1964 and the Voting Rights Act of 1965.³⁴⁶ And so, to advance blacks beyond mere rhetoric, and to give them the kind of recognition that whites and public officials had long denied them, President Johnson offered blacks “not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as a result.”³⁴⁷ Put bluntly, the 1964 Act would grant to blacks a kind of human recognition that would not die aborning. Under the Act, they would

³³⁹ Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C.A. § 2000(a) (West 2014)).

³⁴⁰ See KEVIN BOYLE, *ARC OF JUSTICE: A SAGA OF RACE, CIVIL RIGHTS, AND MURDER IN THE JAZZ AGE* 56 (2004).

³⁴¹ See, e.g., *Heart of Atlanta Motel v. United States*, 379 U.S. 241 (1964) (upholding the constitutionality of the Civil Rights Act of 1964, affirming that under the Commerce Clause, Congress had the power to enforce Title II of the Act, and denying Heart of Atlanta Motel the protected power to select its guests as it saw fit).

³⁴² See SHELBY STEELE, *WHITE GUILT: HOW BLACKS AND WHITES TOGETHER DESTROYED THE POWER OF THE CIVIL RIGHTS MOVEMENT* 25 (2007).

³⁴³ Johnson Speech, *supra* note 334.

³⁴⁴ MOYNIHAN REPORT, *supra* note 25, at 16.

³⁴⁵ See generally Eric Foner, *The Contested History of American Freedom*, HIST. SOC'Y PA., <http://digitalhistory.hsp.org/pafm/essay/contested-history-american-freedom> (last visited Feb. 25, 2015) (discussing the contested meaning of freedom throughout American history).

³⁴⁶ Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C.A. § 2000(a) (West 2014)); Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437 (codified as amended at 52 U.S.C.A. §10101 (West 2014)).

³⁴⁷ Johnson Speech, *supra* note 334.

have a new standing before the law, one that granted them new, real access to America's largesse.

One of America's greatest largesses is public access: public accommodations, facilities, education, and employment. Title II of the 1964 Act would end such race-based exclusions.³⁴⁸ Title III prohibited public facility discrimination based on a person's race, color, religion, or national origin, and this statutory prohibition applied to facilities owned, operated, or managed by state or local governments, including courthouses and jails.³⁴⁹ After the 1964 Act's passage, humiliating moments, which weary black travelers faced when they drove on public highways, were prohibited. Sit-ins became old, well-worn tactics, unnecessary in President Johnson's Great Society, where racial injustice, discrimination, and poverty no longer existed. Title IV ended invidious discrimination in public schools, which granted historically excluded races like blacks access not only to public schools but also public colleges and universities.³⁵⁰ Before the 1964 Act, blacks gained access to higher education by legally assaulting *Plessy* segregation.³⁵¹ Eventually, in *Bakke*, the United States Supreme Court would clarify how race could be used in affirmative admissions programs without offending the Fourteenth Amendment's Equal Protection clause.³⁵² Title VII declared hiring and employment tactics, that had prevented blacks and other historically subjugated citizens from having equal access to job opportunities illegal.³⁵³ These were opportunities that whites, just about everywhere, took for granted.³⁵⁴ Later, *Griggs v. Duke Power Company*³⁵⁵ rejected disparate impact, which was often indirect mechanisms on which whites relied to impose historic incidences of past invidious discrimination on blacks.³⁵⁶ Despite the impact of *Washington v. Davis*³⁵⁷ and

³⁴⁸ See *Civil Rights: Law and History*, FINDLAW, <http://civilrights.findlaw.com/civil-rights-overview/civil-rights-law-and-history.html> (last visited Feb. 21, 2015).

³⁴⁹ *Id.*

³⁵⁰ *Id.*

³⁵¹ See, e.g., *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938) (upholding that states must provide in-state education for blacks at all-white institutions or build segregation higher educational institutions within the state).

³⁵² See *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978) (rejecting racial quotas in the admissions departments of higher education institutions, but affirming the use of race as a plus factor in admissions decisions).

³⁵³ See *Civil Rights: Law and History*, *supra* note 348.

³⁵⁴ See Philip Hamburger, *Privileges or Immunities*, 105 Nw. U. L. REV. 1, 131 (2011).

³⁵⁵ 401 U.S. 424 (1971) (validating the legislative purpose of Title VII, which was created to achieve equality of employment opportunities; the Court struck down Duke's testing requirements because they prevented blacks from being hired and from attaining promotions for better paying positions).

³⁵⁶ See *id.*

its intent requirements,³⁵⁸ blacks still enjoyed even incomplete formal, legal equality, on which they relied, to demand a quality of liberty that hinged on equal outcomes. Long before the Civil Rights Act was enacted, blacks have essentially demanded that they be seen, not invisible as Ralph Ellison's opus dramatized,³⁵⁹ and recognized as human being. For some, they adopted the slogan "I am a Man!"³⁶⁰

In July 1964, when President Johnson signed the Civil Rights Act into law, blacks were finally recognized as fully endowed legal subjects, even though they still struggled for decades to secure those constitutional rights to ongoing litigation and social strife.³⁶¹ Regardless, blacks had garnered a major breakthrough; they were no longer legally invisible. Yet, they did not confer this recognition on their children.

Put differently, although the 1964 Act ended the humiliation and oppression to which blacks were subjected by whites, especially that which befell the black male,³⁶² how was the Act truly going to help blacks, especially the black family? Moynihan clearly stated that without a massive federal program, the Great Society and its federal legislation would amount to yet another phase in which blacks were granted liberty without equality.³⁶³ For Moynihan, the focal point had to be the black family, not only because it was one of the most important socialization units in our society,³⁶⁴ but also because it was clearly the site from which self-perpetuating pathologies flowed and by which successive generations were affected.³⁶⁵ Moreover, even if the 1964 Act could effectively end slavery's venal cousin—Jim Crow—blacks would still not be expected to simply overcome 3,200 years of violently imposed slavery and nearly 100 years of American-style apartheid simply by enacting new, even

³⁵⁷ 426 U.S. 229 (1976) (upholding the D.C. Metropolitan Police Department's use of hiring and testing procedures despite their disparate impact on racial minorities because facially neutral requirements without an intent to discriminate do not violate the Equal Protection Clause).

³⁵⁸ See generally Charles R. Lawrence III, *The Id, Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987).

³⁵⁹ See RALPH ELLISON, *INVISIBLE MAN* 3 (1952).

³⁶⁰ STEVE ESTES, *I AM A MAN!: RACE, MANHOOD, AND THE CIVIL RIGHTS MOVEMENT* 2 (2005).

³⁶¹ See Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C.A. § 2000(a) (West 2014)).

³⁶² *Id.*; MOYNIHAN REPORT, *supra* note 25, at 16 ("[S]egregation . . . is surely more destructive to the male than to the female personality. Keeping the Negro 'in his place' can be translated as keeping the Negro male in his place: the female was not a threat to anyone. . . . The 'sassy nigger' was lynched.").

³⁶³ See Daniel P. Moynihan, *The Schism in Black America*, 27 PUB. INT. 3 (1972).

³⁶⁴ See generally MOYNIHAN REPORT, *supra* note 25.

³⁶⁵ See CLARK, *supra* note 25, at 81-110; FRAZIER, *supra* note 71, at 23; MOYNIHAN REPORT, *supra* note 25; see also Walter R. Allen, *African American Family Life in Societal Context: Crisis and Hope*, 10 SOC. F. 569, 577 (1995).

sweeping affirmative action legislation. Nothing about the Act itself signaled exactly how formal, legal equality alone would enable blacks and their families to overcome poverty and ignorance, which Frazier argued weakened the family,³⁶⁶ a problem that was also present when Moynihan wrote his report, *The Negro Family*. The 1964 Act viewed poverty, discrimination, and injustice as simply external forces that wrongfully impacted blacks. However, within the family, black parents deftly shielded their children from such impositions by consciously rearing them so that they would never know, firsthand, such travesties. At least, not until they took their innocence into the white world where marauding racists used insults, humiliation, and trauma to strip them of it. Unfortunately, in the 1960s or today, conscious parenting does not describe most black families.³⁶⁷

Perhaps, it was highly unsuitable to ask the 1964 Act, a statutory remedy, to have carried such a high, existential burden. Speaking differently, perhaps I am actually faulting the limited ken of President Johnson and federal legislators for not understanding that it is not possible for blacks to have suffered for so long in slavery and under Jim Crow without some degree of complicity. In part, that complicity is a parenting culture that reproduced new slave laborers who were fit for hierarchal plantation life and broken “new negroes” who were amenable to Jim Crow’s strictures. This charge will ring to some as unfair and yet another instance of blaming the victim.³⁶⁸

Yet, blame culpable parents we must.³⁶⁹ And to do so, I adopt an approach that accounts for social structure and human agency, which I discussed in *Human Agency*,³⁷⁰ except that in my approach, human intentions or intentional thought can strongly influence and create personal experiences

³⁶⁶ FRAZIER, *supra* note 71, at 340.

³⁶⁷ See Shefali Tsabary, *Why Everything We Know About Discipline Is Wrong*, HUFFINGTON POST (Feb. 3, 2014), http://www.huffingtonpost.com/shefali-tsabary/why-everything-we-know-about-discipline-is-wrong_b_4711010.html.

³⁶⁸ See William Ryan, *Savage Discovery: The Moynihan Report*, NATION, Nov. 22, 1965, reprinted in LEE RAINWATER & WILLIAM L. YANCEY, *THE MOYNIHAN REPORT AND THE POLITICS OF CONTROVERSY* 457, 462–63 (1967), available at http://www.columbia.edu/itc/hs/pubhealth/p9740/readings/william_ryan.pdf.

³⁶⁹ See MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 21 (“Can we blame a woman who didn’t know any better? Today I would say that we not only can but must blame such a parent so that we can bring to light what happens to children hour by hour and also enable the unhappy mother to become aware of what was inflicted on then in their childhood.”).

³⁷⁰ See Reginald Leamon Robinson, *Human Agency, Negated Subjectivity, and White Structural Oppression: An Analysis of Critical Race Practice/Praxis*, 53 AM. U. L. REV. 1361, 1369–1411 (2004) [hereinafter Robinson, *Human Agency*] (discussing and analyzing human agency in the context of *Critical Race Theory* and Anthony Giddens’s *Structuration Theory*, and concluding that Race Critics have subscribed to apolitical positions, which cannot admit that blacks or other historical marginalized people are powerful reality creators, thus effectively making decisions that not only respond to sociological context but also inform and influence the unfolding context).

and social realities.³⁷¹ Moreover, under this approach, I highlighted the interpersonal dynamics between black parents and their children for several reasons. First, prior to 1965, scholars—whether legal, historical, or sociological, who have examined how slavery and Jim Crow impacted the black family and promoted poverty—have told us that blacks were reduced to child-like personalities, that empowering cultural norms were ripped from blacks’ memories, and that breeding practices and the selling of slaves like chattel undermined the black family.³⁷² Second, after 1990, when politicians wrestled with poverty, welfare spending and dependency, and features of the Family Support Act, which Moynihan championed in 1969, scholars like William Julius Wilson focused not on interpersonal dynamics but on helping “black people find living-wage employment.”³⁷³ Third, politicians like the visionary President Johnson have given us programs like the Great Society, which still guide our social welfare policies today. Fourth, despite Moynihan’s *The Negro Family*, which made the culture of the black family a relevant issue and which required massive federal support to eradicate poverty, and which made clear that poverty and unemployment drove blacks to the welfare rolls,³⁷⁴ the Family Support Act of 1988 only managed to get President Bill Clinton’s support in 1993 for ending extant AFDC policies and practices.³⁷⁵

None of these foregoing approaches deals directly with interpersonal dynamics. These dynamics become critical because structural approaches like reducing welfare benefits and requiring the able-bodied person to work will not, and did not, alter how black children internalized the trauma they suffered at the hands of their black caregivers. Those harsh, punitive disciplining practices destroyed black children’s self-concept, cognitive ability, self-regulation, and health, and distorted their perception of the world, so that they projected dark thoughts and very strong emotions that attract confirmatory personal experiences and social realities. Those experiences and realities say that whites will never love, accept, or recognize such black children, the very morality on which cruel black caregivers relied to destroy, damage, and pathologize their innocent, helpless, and dependent infants and toddlers. It is the very morality such black children need to confirm, so that they never have to recover their repressed truth of their personal, subjective histories. But by

³⁷¹ See MCTAGGART, *supra* note 1, at xxiv (“The observer effect in quantum experimentation gives to another heretical notion: that living consciousness is somehow central to this process of transforming the unconstructed quantum world into something resembling everyday reality. It suggests not only that *the observer brings the observed into being*, but also that *nothing in the universe exists as an actual ‘thing’ independently of our perception of it.*” (emphasis added)).

³⁷² See, e.g., Robinson, *Human Agency*, *supra* note 370; see also FRAZIER, *supra* note 71, at 182–214.

³⁷³ Patterson, *supra* note 45, at 169.

³⁷⁴ *Id.* at 171.

³⁷⁵ *Id.* at 168–69.

repressing their histories, even though that survival approach will not alter the dark inner mapping of their brain, such children remain ever hopeful that their cruel black caregivers will actually, eventually, love them. According to Janov, once a black child struggles to garner the love of her cruel parents, that child has locked away her feelings where they will remain unconscious.³⁷⁶ He writes further: “The struggle begins: to make her [mother] and then others ‘like me.’ The feeling is unconscious and acted out unconsciously. Explaining this to someone who is acting out won’t change anything. Feelings, not ideas, are driving behavior. You don’t need new ideas; you need connection.”³⁷⁷

In this way, politicians, policymakers, and scholars cannot ignore structural barriers. But, they must appreciate that civil rights policies will fail, especially if they are designed to end poverty, promote educational outcomes, or end black family instability and juvenile delinquency if the source behind these social phenomena are principally emotional and stem from childhood trauma caused not by slavery or Jim Crow—which can exacerbate negative childrearing practices—but by black parents who traumatize their children.³⁷⁸

Given that the 1964 Act imposed legal equality on blacks and other members of its protected class at the structural level, scholars must take Janov’s observations about our limbic system seriously. Around issues like family values and cultural norms, we are governed subliminally by repressed trauma, which remains beyond our ken.³⁷⁹ For example, we already know that black adults who were required to strictly obey and absolutely respect their parents will more than likely require the same of their children.³⁸⁰ As Steven Farmer writes:

The abuse they suffered in childhood continues to substantially affect them. . . . They [repeatedly engage] in self-defeating patterns of behavior, yet they cling to familiar habits because they know no other way. Conflict and struggle dominate their lives, as do persistent feelings of being victimized, exploited, and betrayed by others.³⁸¹

Now, if Farmer’s observations were rewritten to read: “black lives are dominated by conflict and struggle, and they feel that society victimizes them,

³⁷⁶ See JANOV, *supra* note 141, at 195.

³⁷⁷ *Id.*

³⁷⁸ See generally DEMAUSE, *supra* note 202 (stating that when infants suffer maltreatment from their caregivers, their brains release cortisol, which shuts down their prefrontal cortex and hyper activates their amygdala—all of which “‘indelibly imprinting, burning in’ the memory of the threatening mother”).

³⁷⁹ See LEONARD MLODINOW, *SUBLIMINAL: HOW YOUR UNCONSCIOUS MIND RULES YOUR BEHAVIOR* 117–18 (2012).

³⁸⁰ See, e.g., FARMER, *supra* note 120, at 6.

³⁸¹ *Id.* at 4.

whites exploit them, and institutions betray them,” then we have placed the 1964 Act beyond poor black families, unless social programs reconnect them to the sources of their trauma, which means critically examining the trauma within the black family, and social welfare policies embrace legislative efforts like Moynihan’s Family Support Act. President Clinton’s Personal Responsibility and Work Opportunity Reconciliation Act of 1996 attempted to deal with welfare dependency without any interpersonal intervention on why the poor engage in self-defeating and destructive acts.³⁸²

III. SOUL-DEFEATED BLACK CHILDREN: HOW CHILDHOOD CRUELTY PERPETUATE THE BLACK UNDERCLASS’ SOCIAL DISLOCATIONS OR SELF-PERPETUATING PATHOLOGIES

A. *Childhood Cruelty by Black Custom*

During and since the end of slavery, and the brief period of *détente* between black and whites during Reconstruction, black parents generally relied on West African parenting customs to raise their children.³⁸³ Based on custom, parenting beliefs were shaped not only by elders, caregivers, and parents,³⁸⁴ but also by the varying social, cultural, political, and existential conditions in which they found themselves.³⁸⁵ These customary beliefs about parenting required not just absolute obedience, but also inviolate respect given by black children.³⁸⁶

³⁸² Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2015.

³⁸³ See GUTMAN, *supra* note 111, at 219.

³⁸⁴ See Meyers Fortes, *Kinship and Marriage Among the Ashanti*, in *AFRICAN SYSTEMS OF KINSHIP AND MARRIAGE* 252, 264 (A. R. Radcliffe-Brown & Daryll Forde eds., 1967) (“Like a mother’s control of her children, a queen mother’s authority depends on moral rather than legal sanctions and her position is a symbol of the decisive function of motherhood in the social system.”).

³⁸⁵ See WEBBER, *supra* note 188, at 159 (“Mother was the central figure in the quarter family’s educational role. From the time she first suckled her child at her breast, rocked him in her lap, or sang him to sleep, she began the process of transmitting values, beliefs, feelings, that would be reinforced later more deliberately.”). According to Ellison, Wright argues that because quick and casual violence was imposed upon him when he felt powerless, his destiny, and his response, “likewise was violence, and it has been his need to give that violence significance which has shaped his writings.” ELLISON, *supra* note 65, at 83.

³⁸⁶ See Ellis, *supra* note 183, at 48 (stating that “punishment is a very important part of caring and a necessary part of good parenthood”); Fortes, *supra* note 384, at 263 (“[T]he critical feature, Ashanti say, is the bond between mother and child. They look upon it as an absolutely binding more relationship. . . . Though she is loath to punish, and never disowns a child, an Ashanti mother expects obedience and affectionate respect from her children.”).

By custom, black parents or caregivers would be charged with protecting their children against the “world at large.”³⁸⁷ In that world, which includes slavery and Jim Crow, they prepared their children preemptively through hardening practices,³⁸⁸ ones that more than likely caused, if not contributed to, early infant mortality.³⁸⁹ These caregivers also protected their children by relying on emotional, physical, and psychological violence, which were viewed as normal, “positive” tools.³⁹⁰ These caregivers, who Ellison impliedly viewed as “forces before which man feels powerless,”³⁹¹ humiliated, manipulated, threatened, and assaulted their children.³⁹² Their reasons were simple: fear gave her cause, and her children’s—especially her boys’—natural impulses gave her the need.³⁹³ To kill normal, developmental impulses, to kill the black mind, which Valéry defined it, “armed with its inexhaustible questions,”³⁹⁴ black parents demand allegiance to communitarian norms,³⁹⁵ by which Ellison, who adopted Edward Bland’s concept of the pre-individual, meant “the Southern community renders the fulfillment of human destiny impossible.”³⁹⁶ Accordingly, by privileging “race” over the individual, a black child can never exist in her own right “but only to the extent that others hope to make the race suffer vicariously through him.”³⁹⁷ And so, in that world, black

³⁸⁷ Fortes, *supra* note 384, at 264 (“In the individual’s life-history his or her mother stands for unquestioning protection and support against the world at large.”); WEBBER, *supra* note 188, at 166 (To prevent another slave from beating her son on the orders of the plantation mistress, after the son bit the mistress when she began to beat him for no apparent reason, the mother who had watched the slave William approach to beat her son said while brandishing a carving knife: “That’s my child and if you hit him, I’ll kill you.”).

³⁸⁸ SCHWARTZ, *supra* note 132, at 107–08.

³⁸⁹ *Id.*

³⁹⁰ See STRAUS & DONNELLY, *supra* note 260, at 117 (“[B]lack parents’ use of physical beatings is part of the black culture.”).

³⁹¹ ELLISON, *supra* note 65, at 83 (quoting RICHARD WRIGHT, *BLACK BOY* (1951)).

³⁹² See, e.g., SCHWARTZ, *supra* note 132, at 101 (“When one little girl in Virginia accidentally came upon some adults preparing to eat lamb, a food normally unavailable to slaves, an old man took her ‘out back of the quarter house’ and whipped her severely, explaining: ‘Now what you see, you don’t see, and what you hear, you don’t hear.’”). *Id.* at 100 (“Adult slaves worried about the tendency of young children to blurt out information to the white folks that would prove detrimental to their interest. Penny Thompson told her master of a plot to help slaves escape from his plantation in Alabama.”). *Id.* at 101; see also ELLISON, *supra* note 65, at 85.

³⁹³ See BUTTERFIELD, *supra* note 26, at 46–67 (examining how Aaron raised his children, especially Pud, who had a different way of being in the New South, and attempting to restrain Pud’s natural, normal reaction to Aaron’s need to hamstring his children’s natural impulses or curiosities).

³⁹⁴ ELLISON, *supra* note 65, at 81.

³⁹⁵ *Id.* at 81, 83–84.

³⁹⁶ *Id.* at 81.

³⁹⁷ *Id.* at 84.

caregivers must imagine the most horrible suffering caused by whites, and then induce artificial fear in the black child,³⁹⁸ who may have at that point never had a negative, offensive encounter with whites.³⁹⁹ By impressing such white “omniscience and omnipotence” on black children,⁴⁰⁰ black caregivers turn whites into God, and by the use of taboos and “ruthless physical violence,”⁴⁰¹ black caregivers become God’s right hand—white *will*, black *cruelty*!

Such cruelty exacts a heavy price. It destroys what Ellison called a black child’s “innate dignity,” “sense of nobility,” “tendency to dream,” the compulsion to realize her dreams, perennial dissatisfaction with failure, and the urge to be satisfied,⁴⁰² which cannot be overcome except through objective accidents,⁴⁰³ and often requires an enlightened witness.⁴⁰⁴ Occurring during the child’s earliest days, this destruction represents *soul-defeats* to her vitality, spontaneity, and authenticity,⁴⁰⁵ such that the black child becomes completely obedient and devotedly respectful because she fears that her black caregiver will completely reject her.⁴⁰⁶ Gone are her “natural impulses” and “inexhaustible questions,” and in their place is an artificial self—the broken, crippled, and distorted detritus of her already subjugated black caregivers, who were first and foremost pinioned not by whites but by blacks.⁴⁰⁷ Due to the “beatings and psychological maimings meted out by Southern Negro parents,”⁴⁰⁸ the black child becomes distorted, an *unreal* self,⁴⁰⁹ one that barely

³⁹⁸ *Id.*

³⁹⁹ *Id.* (stating that in Richard Wright’s case, despite the ruthless physical violence through which he suffered, he had “no close contacts with whites until after the child’s normal formative period”).

⁴⁰⁰ *Id.*

⁴⁰¹ *Id.*

⁴⁰² *Id.* at 81.

⁴⁰³ *Id.* at 84.

⁴⁰⁴ See generally ALICE MILLER, *THE TRUTH WILL SET YOU FREE* (2002) [hereinafter MILLER, *TRUTH WILL SET YOU FREE*].

⁴⁰⁵ See generally MILLER, *FOR YOUR OWN GOOD*, *supra* note 23.

⁴⁰⁶ See MILLER, *THOU SHALT NOT BE AWARE*, *supra* note 150, at 79–81.

⁴⁰⁷ See generally Robinson, *Dark Secrets*, *supra* note 151; Reginald Leamon Robinson, *Precious: A Tale of Three Explanations for Childhood Maltreatment*, 1 COLUM. J. RACE & L. 434 (2012).

⁴⁰⁸ ELLISON, *supra* note 65, at 91.

⁴⁰⁹ See JANOV, *supra* note 141, at 22 (The maltreated child consciously or subconsciously shifts away from her natural impulses or authentic feelings once she realizes that she will not be loved as she really is, and so to get love and to halt the brutality, which means pleasing the parent, she acts increasingly “unreal, that is, not in accord with the reality of [her] own needs and desires. In a short time the neurotic behavior becomes automatic.”).

masks the broken child's spirit.⁴¹⁰ Yet, cruel black mothers,⁴¹¹ having laid waste to their children's individuality, would laud the child's unreal self as obedient and respectful,⁴¹² and as one who knows her proper place.⁴¹³ Roundly affected and personally shaped by these earliest soul-defeats, perennially altered by these beatings and maimings, and deeply affected by fear of a mother's lost love, that child—without such accidents and support—could grow into an adult who engages in “compulsive re-exposure,” which perpetuates actions, thoughts, and beliefs that can leave her *soul*-defeated.⁴¹⁴

As Ellison pointed out, broken, *soul*-defeated black children, who have suffered maiming, and who have repressed their dignity, nobility, dreams, creations, and goal-seeking urgency, have no individuality that black caregivers are duty bound to recognize.⁴¹⁵ Edward Bland emphatically stated: “He knows that he never exists in his own right, but only to the extent that others hope to make the race suffer vicariously through him.”⁴¹⁶ Consistent with West African customs, such children only have a status that flows from their mothers, who

⁴¹⁰ See *id.* at 21 (“The unreal self is the cover of those feelings and becomes the façade required by neurotic parents in order to fulfill needs of their own.”).

⁴¹¹ See DUNAWAY, *supra* note 186, at 78 (“All mothers were stric’ . . . that made children stand fear everywhere they went.”).

⁴¹² JANOV, *supra* note 141, at 21 (Janov argues that if a child begins to suppress his first feelings, the neurotic process has begun, and then by that time, the child develops dual selves: one real, the other unreal, and “[t]he unreal self is the cover of those feelings and becomes the façade required by neurotic parents in order to fulfill needs of their own”).

If there is absolutely no possibility of reacting appropriately to hurt, humiliation, and coercion, then these experiences cannot be integrated into the personality; the feelings they evoke are repressed, and the need to articulate them remains unsatisfied, without any hope of being fulfilled. It is this lack of hope of ever being able to express repressed traumata by means of relevant feelings that most often caused severe psychology problems. We already know that neuroses are a result of repression, not of events themselves.

MILLER, FOR YOUR OWN GOOD, *supra* note 23, at 7.

⁴¹³ See, e.g., HOOKS, *supra* note 134, at 22–23 (“[You were] [t]aught to accept subordination, black children naturally felt in a state of psychological conflict. On one hand we had to possess enough self-esteem to seek education and self-advancement, yet on the other hand we had to know our place and stay in it. All too often parents used harsh discipline and punishment to teach black children their ‘proper place.’”).

⁴¹⁴ See MILLER, THOU SHALT NOT BE AWARE, *supra* note 150, at 80–81; see also van der Kolk & McFarlane, *supra* note 22, at 11 (“[S]elf-destructive activities were not primarily related to conflict, guilt, and superego pressure, but to more primitive behavior patterns originating in painful encounters with hostile caretakers during the first years of life.” (quoting Cynthia A. Simpson & Garry L. Porter, *Self-Mutilation in Children and Adolescents*, 45 BULL. MENNINGER CLINIC 428, 428–38 (1981))).

⁴¹⁵ ELLISON, *supra* note 65, at 84.

⁴¹⁶ *Id.*

have already embraced communal norms,⁴¹⁷ thus placing their children at great risk for living a “whole pattern of life” that’s a mere extension of their caregivers’ “ignorance, cruelty, and fear.”⁴¹⁸ One tragic result of *soul*-defeating children in the earliest years of their life, which means that their basic “need for mirroring, echoing, respect, attention, and mutual understanding” was never met,⁴¹⁹ is that they adopt a range of maladaptive strategies in their day-to-day lives that allow them to relive and attempt to overcome those defeats.⁴²⁰ In Wright’s case, he rebelled, using NATIVE SON’s Bigger Thomas as his angry, murderous, criminal persona.⁴²¹ Many black children, who are not recognized, do not rebel. Or if their rebellions fail, black children still today may learn a “masochistic submissiveness and a denial of the impulse toward Western culture when stirred within [them].”⁴²² Worse still, black children will distrust their worlds, believing that the *soul*-defeats of their earliest years originated not in their personal, subjective histories but in the world at large.⁴²³ Trained away from curiosity and adventure, disciplined against projecting their creative power beyond the ignorant borders of the black community, and beaten under the Bible’s Fifth Commandment as protecting them against America’s permanent racism, how will they respond when politicians like President Johnson promises a new vision of equality, opportunity, education, and racial justice?⁴²⁴ Clearly, many blacks said yes. Some, especially those who persisted in poverty and ignorance, said no. Having been so *soul*-defeated, some black children preferred, perhaps unconsciously, to annihilate the impulses within

⁴¹⁷ Cf. Fortes, *supra* note 384, at 264 (“As Ashanti often point out, a person’s status, rank, and fundamental rights stem from his mother and that is why she is the most important person in his life.”).

⁴¹⁸ ELLISON, *supra* note 65, at 85.

⁴¹⁹ See MILLER, THOU SHALT NOT BE AWARE, *supra* note 150, at 80.

⁴²⁰ See van der Kolk & McFarlane, *supra* note 22, at 7.

Once hardened, character continues to have a protective function. It “binds” impulses in stable ways, limits flexibility, and constitutes an armor against the external world. Thus, the meaning that individuals cull out of the present depends on their prior experience and on the many subtle and indirect ways that their personal pasts have been incorporated into their current attitudes and beliefs. This can lead to a range of maladaptive responses in their current lives, to which “neurotics” keep responding as if they were reliving the past.

Id. (citing DAVID SHAPIRO, NEUROTIC STYLES 7–8 (1965)); see also MILLER, THOU SHALT NOT BE AWARE, *supra* note 150, at 79 (“Usually they resort to a passive or an active reenactment of their dependency and obedience in early childhood.”).

⁴²¹ See also ELLISON, *supra* note 65, at 83. See generally RICHARD WRIGHT, NATIVE SON (1964).

⁴²² See ELLISON, *supra* note 65, at 91–92.

⁴²³ See generally FARMER, *supra* note 120.

⁴²⁴ See generally KEARNS, *supra* note 316, at 210–50 (discussing how President Johnson’s Great Society vision would offer something to just about everyone, from Medicare, to poverty relief, to legal protection for blacks, to fair labeling for consumers).

themselves, rather than risk existential death by throwing themselves against walls of their personal prisons, all built by cruel, maltreating black parents.⁴²⁵

Yet, how do *soul*-defeated black children respond to President Johnson's vision, including the Civil Rights Act of 1964?⁴²⁶ Assuming that such children have repressed their dignity, nobility, dreams, creations, and goal-seeking urgency, and assuming that they have rarely had their individuality, authenticity, spontaneity, and vitality recognized by their caregivers, it would appear that such children would not view his vision and Jim Crow ending federal law as having great promise for the one thing that they want more than anything—getting loved for who they are deeply inside. To be clear, I am not making an overly deterministic point. Since the 1960s, many *soul*-defeated black children have left their birth homes, found work, raised families, and sought and acquired educations, directly and indirectly taking advantage of President Johnson's vision of the Great Society. However, even if such children shook off their brutal parents' yoke—for example, made a conscious decision to succeed on their own—Alice Miller would say that their lives would still be unconsciously guided by these soul-defeats in the earliest years of their lives.⁴²⁷ She argues that “attitudes deeply rooted in unconscious feelings of early childhood cannot be given up until they become conscious and have been experienced not only in the present but in relation to the past.”⁴²⁸ As such, President Johnson's vision, including the passage of progressive legislation like the Civil Rights Act of 1964, would not have been enough in and of itself to resolve the tension within the maltreated unconscious of black children. First, they would remain ever hopeful that if they abided their parents' distorted teachings, they would be loved.⁴²⁹ Second, they would harbor love-hate relationships with their cruel caregivers—of which America itself is one, because unconsciously such children had perhaps deep “grief over the impossibility of fulfilling [their] desire for revenge.”⁴³⁰ Perhaps the heat of

⁴²⁵ ELLISON, *supra* note 65, at 90 (paraphrasing Ellison's eloquent sentence: “Rather than throw himself against the charged wires of his prison he annihilates the impulses within him”).

⁴²⁶ Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C.A. § 2000(a) (West 2014)).

⁴²⁷ See generally MLODINOW, *supra* note 379.

⁴²⁸ Cf. MILLER, THOU SHALT NOT BE AWARE, *supra* note 150, at 76–77.

⁴²⁹ Cf. *id.* at 76. Through therapy, Anita had learned her father used affection toward his daughter so that he could masturbate “while holding her on his lap,” which led her to become a prostitute, so that she could exact revenge against proxies for her father, and so that she could require them to pay for having sex with her. *Id.* at 74–78. Consciously, she could now have her pleasure, and she would assume the sadistic role, thus requiring them to pay not only by humiliating and dominating them, but also by getting paid. *Id.* However, unconsciously, she was still “simply being repeated in a different form, for Anita had never been able to give up her early hope of finding a protective father.” *Id.*

⁴³⁰ Cf. *id.* at 77. Anita's procurers or pimps were proxies for her sexually abusive father. *Id.* During therapy, Anita was able to

revenge explains why so many young black males use the trope “bitch,”⁴³¹ which, as I argued in *Hoes, Bitches, and the Search for Enlightened Witnesses*, suggests that black sons have corrosive hatred and murderous anger toward their cruel caregivers.⁴³²

As a result, *soul*-defeated black children cannot see meaningfully beyond this nearly insoluble tension. Rather, they will engage in adaptive strategies, which ideally faults America and validates the distorted teachings by their cruel caregivers. By so doing, these black children will perpetuate pathologies, such as crime, drug addiction, poverty, dropout rates, and teenage pregnancy. Today, as Kenneth Dodge and others argue, such outcomes strongly correlate with cruel parenting.⁴³³ On the contrary, other scholars like Joyce A. Ladner have easily laid these pathologies at the threshold of white racist colonists;⁴³⁴ we know that such pathologies correlate strongly with black parents’ cruelty to their infant children in the earliest years of life.⁴³⁵ Unfortunately, one of the many results that flows from black parents who maltreat their children is *interrelatedness* issues⁴³⁶ or *intimate distrust*,⁴³⁷

relate to her own father the intense feelings of helpless rage and of being totally and hopelessly at the mercy of her hated and loved procurers. Added to this was her grief over the impossibility of fulfilling her earlier desires for revenge. In spite of fifteen years of victories over men, these desires could never be satisfied because the little girl she had once been and her situation in those days no longer existed.

Id.

⁴³¹ See Orlando Patterson, *Blacklash: The Crisis of Gender Relations Among African Americans*, 62 *TRANSITION* 4, 15 (1993).

⁴³² See Reginald Leamon Robinson, *Hoes, Bitches, and the Search for Enlightened Witnesses: Gangsta Rap Lyrics and the Real Truth of Black Mother-Son Love*, in *HIP HOP AND THE LAW: THE KEY WRITINGS THAT FORMED A MOVEMENT* (Donald Tibbs et al. eds., 2015) (forthcoming Carolina Academic Press).

⁴³³ See Kenneth A. Dodge et al., *The Cultural Context of Physically Disciplining Children*, in *AFRICAN AMERICAN FAMILY LIFE: ECOLOGICAL AND CULTURAL DIVERSITY* 245, 251 (Vonnie C. McLoyd et al. eds., 2005) (“A broad body of research has documented the positive correlations between parents’ use of physical punishment and subsequent child anti-social outcomes, including aggressive behavior, delinquency, and criminality.”).

⁴³⁴ See LADNER, *TOMORROW’S TOMORROW*, *supra* note 109, at 6 (“The challenge to social scientists for a redefinition of the basic *problem* has been raised in terms of the ‘colonial analogy.’ It has been argued that the relationship between the *researcher* and his *subjects*, by definition, resembles that of the oppressor and oppressed, because it is the oppressor who defines the problem.”).

⁴³⁵ See MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 2 (“[An infant child] relies on those around him to hear his cries The only possible recourse a baby has when his screams are ignored is to repress his distress, which is tantamount to mutilating his soul, for the result is an interference with his ability to feel, to be aware, and to remember.”).

⁴³⁶ Alexandra Cook et al., *Complex Trauma in Children and Adolescents*, 21 *FOCAL POINT* 4 (2007) (“Lack of a secure attachment can result in a loss of core capacities for self-regulation and interpersonal relatedness.”).

which might explain why after slavery, and especially during Jim Crow, black parents would abandon their families and reject their children,⁴³⁸ and why black children at the very least could not trust America's new vision of social, economic, and legal equality. While I am not discounting structural issues like slavery, Jim Crow, and institutional policies that specifically targeted blacks for marginalization, I posit that structural privations never accompany an infant to the crib. It was black hands who placed that black infant there, and it was black hands that oppressed black infants and toddlers. It was black faces that refused to recognize, to mirror, and to account for a black infant's basic needs and impulses.⁴³⁹ While white racism's toxicity has wafted historically in the cultural and psychological air that black children breathe, it has always been cruel black parents who first and slowly poisoned their children by refusing to recognize them for who they were born to be and by requiring them to accept that black-white race relations forced them to break their potentially gifted infants and toddlers. With those lies, with that morality, black caregivers, who had long since forgotten how to feel pain and who never had a caring adult take notice of their pain, black caregivers could easily brutalize their children while ignoring the fear, pain, and suffering obviously etched on their little black faces.⁴⁴⁰

In TOMORROW'S TOMORROW, sociologists like Ladner simply cannot see those little black faces either.⁴⁴¹ Such sociologists cannot see that once black caregivers drive their children's perception away from the terrifying cruelty of their personal, subjective histories, these black children could not appreciate fully the import of progressive legislation like the 1964 Act.⁴⁴² Once so cruelly maltreated, those black children become numb to the world.⁴⁴³ They become detached from everyday life,⁴⁴⁴ of which the enactment of the 1964 Act would have been a critical part. Why embrace what this Act promised? Would it not reject them, mock their desire for recognition, belittle their drive for success? How would the Act's promise differ from a black caregiver's

⁴³⁷ Dodge et al., *supra* note 433, at 251 (“[O]ne of the long-term effects of even mild physical punishment, which was only defined negatively as not criminally abusive is that] the parent and child fail to develop a trusting, intimate relationship that is necessary for the child’s development of internalization standards of behavior and that child learns a style of losing control in conflict situations.”).

⁴³⁸ See, e.g., BUTTERFIELD, *supra* note 26, at 89 (noting that Marie abandoned her children).

⁴³⁹ Cf. VAN DER KOLK, *supra* note 52, at 59 (“[T]rauma almost invariably involves not being seen, not being mirrored, and not being taken into account.”).

⁴⁴⁰ See generally *id.* at 123–35.

⁴⁴¹ See generally LADNER, TOMORROW'S TOMORROW, *supra* note 109.

⁴⁴² *Id.*

⁴⁴³ Cf. van der Kolk & McFarlane, *supra* note 22, at 12.

⁴⁴⁴ Cf. *id.*

promise of love that never came?⁴⁴⁵ Despite the War on Poverty, those black children, who would have told that the cruelty they suffer as infants and toddlers was protecting them from a “nigger hating” world and who could have benefitted from such Great Society programs, would rather distrust what even a visionary president like Lyndon Baines Johnson wanted to do for blacks. Despite the cruelty in the earliest years of their lives, such black children needed to believe that America was too racist to love them and too ignorant to recognize them. Still worse, they would say that they were not good, ready, bright, or smart enough, and by so believing, they would accept the blame for why the 1964 Act and the War on Poverty, which sought to end social dislocations, would ultimately fail them. If so, like all traumatized children, then these black children needed “to hold on to an image of the parent as good in order to deal with the intensity of fear and rage which is the effect of the tormenting experiences.”⁴⁴⁶ As such, the 1964 Act, the War on Poverty, and the Great Society programs were likely to die aborning for some underclass black children who had been broken by black caregivers’ cruelly maltreated.

To account for the limits of the 1964 Act and for the extant problems of social dislocations, we would have to acknowledge that black caregivers break, and need to destroy, their children. A broken child is an *unreal* child. An unrecognized child is a humiliated and manipulated child. To succeed at effectively breaking a child, black parents must begin emotionally and physically assaulting their infants and toddlers, long before white racism, structural oppression, and institutional policies can lay waste to a black child’s authenticity.⁴⁴⁷ Black parents who break their children and who refused to recognize them do not do so because whites were, or are, racists. That is the lie they use to distort and to manipulate their children. In truth, they maltreat their infants and toddlers because they have suffered the same thing. Arthur Janov states: “A parent who needs to feel respected because he was humiliated constantly by his parents may demand obsequious and respecting children who do not sass him or say anything negative.”⁴⁴⁸ This intergenerational transmission of maltreatment stretches back through contemporary society, Jim

⁴⁴⁵ Cf. *id.* (“Once traumatized individuals become haunted by intrusive re-experiences of their trauma, they generally start organizing their lives around avoiding having the emotions that these intrusions evoke.”).

⁴⁴⁶ *Id.* at 15 (quoting P.P. Reiker & E.H. Carmen, *The Victim-to-Patient Process: The Disconfirmation and Transformation of Abuse*, 56 AM. J. ORTHOPSYCHIATRY 360, 368 (1986)).

⁴⁴⁷ See MILLER, BANISHED KNOWLEDGE, *supra* note 83, at 2 (“[An infant child] relies on those around him to hear his cries The only possible recourse a baby has when his screams are ignored is to repress his distress, which is tantamount to mutilating his soul, for the result is an interference with his ability to feel, to be aware, and to remember.”).

⁴⁴⁸ JANOV, *supra* note 141, at 21.

Crow, and slavery to West Africa.⁴⁴⁹ This transmission strongly hints at social dislocation issues or self-perpetuating pathologies.⁴⁵⁰

In this way, black parents who impose obedience training and absolute respect through what I have called rigid physical violence⁴⁵¹ create not only unloved children who cannot love, but also unfulfilled children whose “needs supersede any other activity in the human until they are met.”⁴⁵² They will reject black women who tend to be angry, commanding, or controlling.⁴⁵³ They will begrudgingly, if at all, support their children. They will anesthetize their pain with alcohol, sex, drugs, food, and violence. They will confirm their ignorance by ditching education. They will embrace their internalized worthlessness by committing crimes and expecting to go to jail.⁴⁵⁴ They will get vengeance against their brutal mothers by vilifying black women⁴⁵⁵ and

⁴⁴⁹ See JUDITH TIMYAN, REGIONAL UNICEF WORKSHOP, CULTURAL ASPECTS OF PSYCHOSOCIAL DEVELOPMENT: AN EXAMINATION OF WEST AFRICAN CHILDRearing PRACTICES 18 (1988) (“In West African societies a remarkable emphasis is placed on learning to be obedient and responsible. . . . In a Ghanaian study, most parents interviewed equated ‘bringing up a child’ with ‘control and rigid discipline.’ . . . The child is taught at a very young age to do exactly as he is told without asking for an explanation.”); Ellis, *supra* note 183, at 49 (noting the kinds of reasons offered by Ga parents for why they raised their children to respect and to obey them, they said: “Because I want my child to be more respectful than I am.”); Smith & Mosby, *supra* note 136, at 373 (“Several authors have expressed the view that the extreme authoritarian style, along with the excessive discipline meted out to children, stems from the region’s West African heritage combined with learned behavior, specifically from the brutality of slavery.”).

⁴⁵⁰ See CLARK, *supra* note 25, at 81.

⁴⁵¹ See generally Robinson, *Dark Secrets*, *supra* note 151.

⁴⁵² JANOV, *supra* note 141, at 21.

⁴⁵³ *Id.* at 195. Once the child hears from the mother, perhaps for the hundredth time, “You are useless and stupid. Get out of my sight!”—which gets processed as “Mother hates me!” and gets refined as “She’s angry because I’m bad. She hates me!”—she then finds this experience intolerable, and the child undertakes a struggle that begins the neurotic process. *Id.* Once this experience now recorded by the amygdala, the child will be affected in the future. *Id.* Janov writes:

Once Mother is disgusted over and over with a child, that same tone of contempt from anyone can cause the hippocampus to retrieve the memory. This is accomplished by the scanning mechanism: The current event is labeled as to the kind of feeling it is, whose frequency then resonates with a past coded feeling, dredging it up from the limbic storehouse toward conscious-awareness. A torrent of information that activates physical systems is then experienced as anxiety. The anxiety is a danger signal that the original event is approaching consciousness.

Id. at 195–96.

⁴⁵⁴ See generally MICHELLE ALEXANDER, THE NEW JIM CROW (2010).

⁴⁵⁵ See also T. DENEAN SHARPLEY-WHITING, PIMPS UP, HO’S DOWN: HIP HOP’S HOLD ON YOUNG BLACK WOMEN (2007). See generally Robinson, *Hoes, Bitches, and the Search for Enlightened Witnesses*, *supra* note 432.

beating their intimate partners.⁴⁵⁶ In 1964 when Moynihan wrote *The Negro Family*, these social phenomena were present, and they remain extant today, but far worse and intransigent.⁴⁵⁷ By implication, then, it would follow that the black family's disorganization, instability, or weakness cannot be located exclusively within the historical context of slavery and Jim Crow. Given that the black family still struggles with instability, it is equally plausible to argue that not structural oppression and racial subjugation but interpersonal dynamics between black parents and their children can be better explanatory variables for persistent poverty, poor educational outcomes, and delinquency issues. If so, then complex trauma from parent to child must be our starting point because, unlike 1964, we know today that such trauma has been positively linked to "psychiatric and addictive disorders, chronic medical illness, and legal, vocational, and family problems."⁴⁵⁸

In 1964 and today, black family problems, which grow out of repression that is related to obedience training, cannot be eradicated by federal legislation like the Civil Rights Act of 1964. It will also not be eliminated simply because America becomes a majority-minority nation. Why? They emanate from customary, cultural, and core beliefs about whether psychically damaged parents can or must recognize their children as more than mere extensions of themselves. Accordingly, I argue that the Civil Rights Act of 1964 had limited efficacy to positively impact successive generations of blacks, principally because the structural impediment to that success was not simply white racism but black parents who were determined, for inherently personal reasons, to teach their children obedience and absolute respect, even if such teaching required them to do more harm to their children than white racism has perhaps ever done.

By highlighting interpersonal dynamics, I am still quite aware of macro-structural features of society;⁴⁵⁹ however, I avoid structural determinism, which inappropriately limits our existential possibilities and psychological inquires. Such determinism rejects blacks as historical actors, who not only have agency,⁴⁶⁰ but who also have what Anthony Giddens called "practical consciousness,"⁴⁶¹ which simply means that they know how to use

⁴⁵⁶ See, e.g., Lettie L. Lockhart, *Spousal Violence: A Cross-Racial Perspective*, in BLACK FAMILY VIOLENCE: CURRENT RESEARCH AND THEORY 85–101 (Robert L. Hampton ed., 1991).

⁴⁵⁷ See generally MOYNIHAN REPORT, *supra* note 25.

⁴⁵⁸ Cook et al., *supra* note 436, at 4.

⁴⁵⁹ See, e.g., Casey T. Taft et al., *Intimate Partner Violence Against African American Women: An Examination of the Socio-Cultural Context*, 14 AGGRESSION & VIOLENT BEHAV. 50–58 (2009).

⁴⁶⁰ See GIDDENS, *supra* note 59, at 3 ("To be a human being is to be a purposive agent, who both has reasons for his or her activities and is able, if asked, to elaborate discursively upon those reasons (including lying about them).").

⁴⁶¹ *Id.* at xxiii.

rules and resources—for example, structure—to rationally achieve their ends, even if they appear irrational or non-rational to folks who live outside the black underclass.⁴⁶² I also do not avoid so-called holy “race” ground, as scholars did after Moynihan was pilloried,⁴⁶³ because I fear that Miller’s depth psychology will lead me to conclude that underclass black families suffer at best from neuroses and at worst from self-perpetuating pathologies. Accordingly, I argue much as Walter Allen did when he endorsed Andrew Billingsley’s⁴⁶⁴ “social systems perspective of the black family.”⁴⁶⁵ With such an ethological approach, we must focus on the interpersonal dynamics within the family, especially between black caregivers and their children,⁴⁶⁶ even as these families weather the cold, brutal winds of racism, ignorance, cruelty, trauma, and economic privation, not all of which originated from outside of the black family, if we truly wish to understand the dark link between black child maltreatment by their caregivers *and* intergenerational poverty and injustice.⁴⁶⁷ All too often this dark link, which shelters a deep, dark secret, goes unappreciated. As a result, emotionally blind⁴⁶⁸ but critically important scholars, those unwilling to see that “cruelty as love,” which remains the malignant centerpiece of authoritarian black parenting, like William Julius Wilson⁴⁶⁹ and Patricia Hill Collins,⁴⁷⁰ write beautifully and analytically about oppression experiences of black families and women by ultimately tracing the etiology of such experiences to external, objective forces like white racism.⁴⁷¹

⁴⁶² *Id.* (“What agents know about what they do, and why they do it – their knowledgeability as agent – is largely carried in practical consciousness. Practical consciousness consists of all the things which actors know tacitly about how to ‘go on’ in the contexts of social life without being able to give them direct discursive expression.”).

⁴⁶³ See generally Kay S. Hymowitz, *The Black Family: 40 Years of Lies*, CITY J. (Summer 2005), http://www.city-journal.org/html/15_3_black_family.html.

⁴⁶⁴ See ANDREW BILLINGSLEY, *BLACK FAMILIES IN WHITE AMERICA* (1968).

⁴⁶⁵ See Allen, *supra* note 365, at 584.

⁴⁶⁶ See Mary D. Salter Ainsworth & John Bowlby, *The Ethological Approach to Personality Development*, 46 AM. PSYCHOLOGIST 333–41 (1991).

⁴⁶⁷ Cf. DALTON CONLEY, *THE PECKING ORDER: WHICH SIBLINGS SUCCEED AND WHY* 8 (2004) (arguing that the “family is, in short, no shelter from the cold winds of capitalism; rather it is part and parcel of that system. What I hope you end up with is a nuanced understanding of how social sorting works – in America writ large, and in your family writ small.”).

⁴⁶⁸ MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 31.

⁴⁶⁹ See generally WILSON, *THE TRULY DISADVANTAGED*, *supra* note 24; WILSON, *MORE THAN JUST RACE*, *supra* note 41.

⁴⁷⁰ See generally PATRICIA HILL COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* (2d ed. 2000).

⁴⁷¹ See generally WILLIAM JULIUS WILSON, *GETTING BEYOND RACE* (2012) [hereinafter WILSON, *GETTING BEYOND RACE*].

B. *Black Scholars and the Unpardonable Question*

Few of these scholars will ever ask, *how do black children who enter this world healthy initially get exposed to ignorance, brutality, trauma, and privations?* Whether born into slavery, during Jim Crow, or today, that innocent, dependent infant child comes to us needing love and her needs met.⁴⁷² If her cries go ignored or hushed, if her hunger gets belatedly redressed, if her skin is rarely soothed by gentle hands, if she suffers under an assault of any kind, and if her mind is manipulated with tales of white racists who kill “nigger” babies who cannot control themselves or follow orders,⁴⁷³ she will repress deeply basic, normal needs. That child’s repressive act helps her survive the pain of rejection,⁴⁷⁴ but the repression mutilates her soul.⁴⁷⁵ Such a child can develop personality disorders.⁴⁷⁶ Once so affected, that child, who will more than likely be strongly identified with her tormentor,⁴⁷⁷ will need to make sense of her world, and if her personal, subjective childhood history is filled with coldness, trauma, and dysfunction, then she is apt to believe that her personal experiences and social realities will be perforce laced with them too. And they will be. Consider the black mother, Patricia Godley, who used drugs, was arrested for possession, and got help through a drug treatment program.⁴⁷⁸ She admitted that she had never been a parent to her eldest, Warren, who had just been murdered, nor to her youngest son either.⁴⁷⁹ Why? Patricia stated, “[Warren] saw me at my worst.”⁴⁸⁰ When Warren was born, Patricia “was on methadone trying to cure her heroin addiction.”⁴⁸¹ How did her pregnancy affect Warren gestationally? Her youngest son was born three years later.⁴⁸²

⁴⁷² MILLER, BANISHED KNOWLEDGE, *supra* note 83, at 2.

⁴⁷³ See LITWACK, *supra* note 192, at 44–45 (relating a story of a grandmother telling kids that the reason whites were taking away a black man in chains was because someone said that he didn’t behave himself when he was in town).

⁴⁷⁴ See generally JANOV, *supra* note 141.

⁴⁷⁵ See MILLER, BANISHED KNOWLEDGE, *supra* note 83, at 2.

⁴⁷⁶ See, e.g., ALLAN N. SCHORE, AFFECT DYSREGULATION AND DISORDERS OF THE SELF 429–30 (2003).

⁴⁷⁷ JANOV, *supra* note 141, at 22 (Splitting off (or repression) and projection (idealization of the parent) means that while the maltreated child consciously shifts away from her authentic feelings and being so that she can please her parent, she acts increasingly “unreal, that is, not in accord with the reality of [her] own needs and desires. In a short time the neurotic behavior becomes automatic.”).

⁴⁷⁸ ANDREW BILLINGSLEY, CLIMBING JACOB’S LADDER: THE ENDURING LEGACIES OF AFRICAN-AMERICAN FAMILIES 165–66 (1994) [hereinafter BILLINGSLEY, JACOB’S LADDER].

⁴⁷⁹ *Id.*

⁴⁸⁰ *Id.* at 165.

⁴⁸¹ *Id.*

⁴⁸² *Id.*

Was she similarly unable to meet his needs, too? While she was jailed, Patricia broke her drug dependency, and her mother raised her three children. It is axiomatic that Patricia woefully failed to meet her infant and toddler children's needs for attachment. Neither Warren nor her next child listened to her. "She had a very low opinion of herself," saying "[she] never thought [she] would amount to anything."⁴⁸³ As vital as this self-reflection might be, what is really important is how she related to her infants and toddlers. Did she act on her compulsion to kill in them what had been killed in her? Did she consistently meet their needs? Did she hit them? Did she scream at them? In her drug-induced stupor, did she abandon them physically and emotionally? Did she jab needles in her arm within sight and sound of her infants and toddlers? Did she validate her infants and toddlers by encouraging a reasoned discourse or did she just issue fiat and directives? Without raising these kinds of inquiries, which directly implicate the interpersonal dynamics not just of Patricia Godley but also of other black families, Billingsley offered a rather clichéd observation: "It is almost as though he did not have a chance in life."⁴⁸⁴

For this reason, I focus not only on structural and institutional hurdles that the 1964 Act was to tear down, but also interpersonal dynamics between black parents and their children. With healthy attachments, even children born to poor, illiterate parents can break out of the cycle of poverty, illiteracy, and intergenerational transmissions of traumatic maltreatment. Poverty does not necessarily present for abuse or poor attachment. Rather, what ultimately matters are the parents' core beliefs and how those beliefs were transmitted from parent to child. As such, Billingsley's central, critical inquiry should have been on the personal and social implications of Patricia failing to meet her infants' and toddlers' needs. While she did not create the ghetto, Patricia certainly contributed to its worst features, principally because she too had suffered a personal, subjective childhood history of traumatic maltreatment, to which she was emotionally blind.⁴⁸⁵ Rather than make this existentially uncomfortable inquiry, which temporarily holds white racism and institutional oppression at bay, Billingsley waxed on about how chemical dependency, "and other illegal drugs such as crack, marijuana, and PCP, [are] tearing at the very fabric of the African-American community."⁴⁸⁶ However, blacks primarily use drugs so that they can numb themselves against their already repressed, internalized trauma. Hence, the drugs do not signal that the black community's fabric has been torn. Chemical dependency, including alcohol, attempts to mask the depth of the black family's fracture.

⁴⁸³ *Id.*

⁴⁸⁴ *Id.*

⁴⁸⁵ *See generally id.* at 165–66.

⁴⁸⁶ *Id.* at 166.

Perhaps I have focused too heavily on interpersonal dynamics. I am aware that any sociologist would remind me that a host of factors might explain why the 1964 Act, especially after President Johnson dumped Moynihan's black family culture and self-perpetuating pathology message and after the Watts Riots soured and angered President Johnson,⁴⁸⁷ had limited efficacy to alter the dysfunctional trajectory then and now of the black family.⁴⁸⁸ I would agree. However, I think that I am, after a different approach, one that begins with the powerful impact that black parents and caregivers have on black children at a time when we cannot easily measure the impact of child maltreatment because, in the short run, we see no negative side effects.⁴⁸⁹ While I will openly acknowledge that the black family has endured withering harm, oppression, and subjugation that would rend any normal community, I also point out that since slavery and perhaps before, blacks have been committed to obedience training that has powerfully destructive features, which were present when Du Bois,⁴⁹⁰ Frazier, Clark, and Moynihan undertook their sociological studies of the black family. Such features are still present, even if we lay the cause on what Aird called the "constant assault" on the black family.⁴⁹¹ In light of my argument, I would rewrite Aird's notion to say, "the constant cruelty on black children." Here are the data. In 2006, Aird wrote:

[N]early 80% of births to black women were out of wedlock. Approximately, 35% of black children live with two parents, compared to 84% of Asian children, 76% of white children, and 66% of Hispanic children. Black children, who make up about 15% of all children under the age of eighteen in the United States, account for 35% of the children in foster care. Black males are far more likely than other males to be incarcerated. Although differences among women are smaller than they are among men, black females are more likely than other females to be incarcerated.⁴⁹²

It is so easy to conclude that the foregoing data flow inexorably from white racism, structural barriers, and institutional policies. They do not. They clearly stem from interpersonal dynamics between black parents and caregivers and their children. Black adults are no more than adult children because they

⁴⁸⁷ See also Hymowitz, *supra* note 463. See generally JAMES T. PATTERSON, *FREEDOM IS NOT ENOUGH* (2010).

⁴⁸⁸ See MOYNIHAN REPORT, *supra* note 25; Enola G. Aird, *Toward a Renaissance for the African-American Family: Confronting the Lie of Black Inferiority*, 58 EMORY L.J. 7 (2008).

⁴⁸⁹ See generally PO BRONSON & ASHLEY MERRYMAN, *NURTURE SHOCK* (2009); Hampton & Gelles, *supra* note 22; Janov, *supra* note 141.

⁴⁹⁰ See generally DU BOIS, *supra* note 27.

⁴⁹¹ Aird, *supra* note 488, at 7.

⁴⁹² *Id.* at 8 (citations omitted).

still carry long-forgotten emotional scars within their bodies, and they make choices that stem from not only what happened to them, but also what did not happen for them. From Du Bois to the present, the evidence has been put before us. For a host of existential and emotional reasons, blacks and scholars prefer to blame whites and America's history of black oppression. What is clear is that while we must account for structural forces and institutional mechanisms on which whites have relied to limit blacks, especially those who live in poverty, we must focus keenly on the black family's interpersonal dynamics. The 1964 Act did not, and it could not. It could do no more than the keen minds behind its vision. At that time, few took traumatic maltreatment seriously. Few scholars had directly written about it. All of that changed in 1962 when C. Henry Kempe and his colleagues published *The Battered-Child Syndrome*,⁴⁹³ which eventually altered our thinking about the traumatic dangers faced by infants, toddlers, and young children. It took years before this syndrome could be offered as evidence to convict maltreating parents.⁴⁹⁴ It also took years before state legislatures were enacting statutory protections and sanctions based on this syndrome. Until then, Moynihan had perhaps the best approach: focus on the self-perpetuating pathologies of the black families. It was unfortunate for him that blacks and whites, especially liberal scholars, were too emotionally blind to force black family culture to the front burner, lest they risked that they would be called racists.⁴⁹⁵

IV. BEYOND THE 1964 ACT AND INTO BLACK PATHOLOGY:
EMOTIONAL BLINDNESS, INTELLECTUAL NEGLECT, AND WHY BLACK
SCHOLARS REFUSED TO DEFEND POOR BLACK CHILDREN

Under the 1964 Act, black children did not have any special standing. Under Title IV, they could no longer be denied access to public schools and facilities. And although black children were recognized as persons under the Fourteenth Amendment, the civil rights legislations, including the 1964 Act, gave them no rights that they could assert against their parents. That is not my argument. Rather, it is my point that black parents have culturally, customarily, and historically rejected their children as rights bearers who deserved to be recognized as persons. So the West African custom, which required a child to know her proper place, lest he would suffer humiliation at best and a brutal thrashing at worse, existed during slavery.⁴⁹⁶ Thus, custom is still viable today.

⁴⁹³ C. Henry Kempe et al., *The Battered-Child Syndrome*, 181 J. Am. Med. Ass'n 17 (1962).

⁴⁹⁴ See also FED. R. EVID 703. See generally *Daubert v. Merrell Dow Pharm.*, 509 U.S. 579 (1993), *aff'd*, 43 F.3d 1311 (9th Cir. 1995); *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923).

⁴⁹⁵ See generally PATTERSON, *supra* note 487, at 129–44.

⁴⁹⁶ WEBBER, *supra* note 188, at 165 (“Children was mostly seen, not heard, different from youngens of today talking backward and forward cross their mummies and pappies. Chillen dat did dat den would git de breath slapped out on ‘em.”).

But in the early 1960s, blacks wanted what they could never imagine conferring on their children. They wanted equality, which carried with it all of the dignities presumed by whites, that had no bearing on how they raised their own children. I would argue that they saw no link between teenage pregnancies, hyper-masculinity, and poor educational outcomes *and* the interpersonal dynamics that they fostered with their own children. They blithely attributed such negative social realities to slavery and Jim Crow, thus permitting them to remain emotionally blind to what was done to them and thus what they had done to generations of black children. In this section and the next one, I examine Moynihan's courage to link poverty, welfare dependency, and head of household to black family culture, and why black scholars vilified Moynihan and other liberal scholars who too came to appreciate what the *Coleman Report* confirmed.⁴⁹⁷ In educational outcomes, for example, family norms matter.

In 1964, the Civil Rights Act finally granted to blacks legal rights and the liberty that was enshrined in the Constitution. However, the Watts Riots more than suggested that legal rights and recognition of blacks' constitutional claim would be insufficient to redress extant poverty and other ills within the black family.⁴⁹⁸ It was Moynihan's view that poverty correlated with large black families⁴⁹⁹ and that unemployment exacerbated poverty and destroyed the "Negro family structure."⁵⁰⁰ In order to redress what we considered beyond the grasp of the civil rights movement, Moynihan consulted with Kenneth Clark, Hylan Lewis, Howard University sociologist, and Herbert Hill, labor secretary for the NAACP, and after putting Paul Barton and Ellen Broderick to work on the research, Moynihan advanced his thesis: "the principal effect of exploitation, discrimination, poverty, and unemployment on the Negro community has been a profound weakening of Negro family structure. . . . The process has reached the point where the problem is feeding on itself—the situation is getting *worse* not better."⁵⁰¹

⁴⁹⁷ JAMES S. COLEMAN ET AL., EQUALITY OF EDUCATIONAL OPPORTUNITY (1966), available at <http://files.eric.ed.gov/fulltext/ED012275.pdf> (commonly referred to as the "*Coleman Report*").

⁴⁹⁸ See generally *Watts Riots*, CIV. RTS. DIGITAL LIBR., http://crdl.usg.edu/events/watts_riots/ Welcome (last visited Mar. 9, 2015).

⁴⁹⁹ MOYNIHAN REPORT, *supra* note 25, at 29 ("[M]iddle class Negroes have even fewer children than middle class whites, indicating a desire to conserve the advances they have made and to insure that their children do as well or better. Negro women who marry early to uneducated laborers have more children than white women in the same situation; Negro women who marry at the common age for the middle class to educated men doing technical or professional work have only four fifths as many children as their white counterparts.").

⁵⁰⁰ PATTERSON, *supra* note 487, at 21; MOYNIHAN REPORT, *supra* note 25, at 20 ("The fundamental, overwhelming fact is that *Negro unemployment*, with the exception of a few years during World War II and the Korean War, *has continued at disaster levels for 35 years.*" (emphasis in original)).

⁵⁰¹ PATTERSON, *supra* note 487, at 24.

By implication, Moynihan felt that existing federal anti-poverty programs could not give real content to President Johnson's Great Society programs and to equality of outcomes that blacks now demanded.⁵⁰² Clearly, by 1965, the savage, brutal efforts by whites and state and local government were doomed. White southern attitudes were changing, and blacks gave real vent to exercising their civil rights meaningfully.⁵⁰³ As Bayard Rustin expressed it, blacks were "now concerned not merely with removing the barriers to full *opportunity* but with achieving the fact of *equality*."⁵⁰⁴ Equality, for Rustin, meant "a distribution of achievements among Negroes roughly comparable to that among whites."⁵⁰⁵ Moynihan worried how to get "equality of results . . . [to] follow."⁵⁰⁶ This worry created a fundamental schism between where blacks were in light of their existential potential and "where they want, and ought to be."⁵⁰⁷ To get to equal outcomes, Moynihan demanded that policymakers take an unflinching look at the source of black poverty⁵⁰⁸ and other indices of family pathology, e.g., "female family head, children in broken homes, and illegitimacy."⁵⁰⁹ His unflinching look led to this conclusion: "*Negro social structure, in particular the Negro family, battered and harassed by discrimination, injustice, and uprooting, is in the deepest trouble. [And despite the success of some], many more are falling further and further behind.*"⁵¹⁰

Based on mainstream norms, Moynihan obviously did not mean all black families. Neither did Du Bois, Frazier, and Clark when they critically examined the sociological failings of the black family. For example, Moynihan noted that a clear contrast existed between middle-class blacks and those who languished in poverty. He wrote, "the Negro community is in fact dividing between a stable middle-class group that is steadily growing stronger and more successful, and an increasingly disorganized and disadvantaged lower-class group."⁵¹¹ And while Moynihan looked at the historical context out of which the black family crawled, he did not consider why black fathers were so easily rendered absent from their families and children. Frazier suggested that black

⁵⁰² *Id.* at 24–25.

⁵⁰³ MOYNIHAN REPORT, *supra* note 25, at i.

⁵⁰⁴ *Id.* at 3.

⁵⁰⁵ *Id.*

⁵⁰⁶ *Id.*

⁵⁰⁷ *Id.* at 4.

⁵⁰⁸ *Id.*

⁵⁰⁹ *Id.* at 19.

⁵¹⁰ *Id.* at 4 (emphasis added).

⁵¹¹ *Id.* at 5–6.

men did not wish to be subordinated to black females' demands and rights.⁵¹² Apart from efforts by black females to control their husbands, black men were perhaps less attuned to trusting intimate relationships because, during the critical phases of their neurological development, black caregivers either refused or, having no real experience with nurturing caregivers themselves, simply could not model such intimacy and interrelatedness with their children.⁵¹³ As a result, having never had their basic emotional needs met by highly attuned caregivers, black fathers could easily abandon their children psychologically, emotionally, physically, and financially, thus causing their children to fall deeper into poverty.⁵¹⁴ To ensure that *opportunities* and *equality* for which blacks were suing did not just redound to the black middle class, Moynihan knew that in addition to new federal anti-poverty programs, he had to bring the culture of the black family into sharp relief. Why was it that one-quarter of black women who were married "are divorced, separated, or are living apart from their husbands"?⁵¹⁵ That percentage was higher in the northeast.⁵¹⁶ Why were one-quarter, or 23.6%, of black births to mothers with unknown fathers?⁵¹⁷ While divorce rates were increasing for whites and blacks, why was it higher and increasing among blacks?⁵¹⁸ Why were black families increasingly headed by black females?⁵¹⁹ Why was this phenomenon resulting from a "high rate of divorce, separation, and desertion"?⁵²⁰ Moynihan understood that these indices of pathology led to welfare dependency, even though he noted that most (1.3 out of 1.8 million) children are not receiving AFDC assistance.⁵²¹ However, at some point, these children have or will

⁵¹² FRAZIER, *supra* note 71, at 122 ("A mulatto college student, whose grandmother lived apart from her husband after attempting unsuccessfully to 'subordinate him,' thought that she typified the spirit of the [Caucasian] women 'who have always demanded and asserted their rights, whatever may be the costs.'").

⁵¹³ See Cook et al., *supra* note 436, at 4 ("[Lack of secured attachment] can result in a loss of core capacities for self-regulation and interpersonal relatedness.").

⁵¹⁴ See Karen A. Polonko, *Exploring Assumptions About Child Neglect in Relation to the Broader Field of Child Maltreatment*, 29 J. HEALTH & HUM. SERVS. ADMIN. 260, 262-63 (2006), available at http://jstor.org/stable/25790694?seq=1#page_scan_tab_contents ("We must begin to include ways in which fathers neglect and abandon their children, not only with respect to their 'prescribed' role of primary responsibility for economic provision for children, but also in terms of their lack of involvement and care.").

⁵¹⁵ MOYNIHAN REPORT, *supra* note 25, at 7.

⁵¹⁶ *Id.* at 8.

⁵¹⁷ *Id.*

⁵¹⁸ *Id.* at 9.

⁵¹⁹ *Id.*

⁵²⁰ *Id.*

⁵²¹ *Id.* at 12.

receive such welfare support.⁵²² In sum, given the foregoing, the black family was breaking down and failing at its socially required functions, one indicator of which was the expanding welfare program, but its expansion and support did not stem or explain why the black family steadily disintegrated.⁵²³

For Moynihan, the black family's steady disintegration runs from slavery and Jim Crow into contemporary society. These historical precursors broke down the family, and during Jim Crow, the black male was targeted, especially for complete submissiveness or brutal subjugation. Along the way, citing Margaret Mead, Moynihan asserts that the black man could not perform one of his central functions: being a good provider.⁵²⁴ Notwithstanding the universalization of patriarchal norms, Moynihan's point is clear: slavery and Jim Crow sabotaged the rigid roles between black men and women, and in the shakeout, black women became "accustomed to playing the dominant role in family and marriage relations."⁵²⁵ Urbanization, which has been detailed by others including Butterfield, Clark, and Frazier, further caused "their family life [to] become disrupted and their poverty will force them to depend upon charity."⁵²⁶ Unemployment and poverty, which are fraternal twins, contribute to the disintegration of the black family, with unemployment triggering a broad range of actions, including abandonment and desertion of families.⁵²⁷ In short, when black males cannot find work consistently, the black family suffers increasing instability.⁵²⁸ As joblessness forces black males to reject their families, poverty enters, bringing with it lower social prestige and declining morality.⁵²⁹

After setting forth these issues, Moynihan had to deliver the answer to his implied question: Why were poor black families suffering disintegration and disadvantage? Here is his answer:

[M]ost Negro youth are in *danger* of being caught up in the tangle of pathology that affects their world, and probably a majority are [sic] so entrapped. Many of those who escape do so for one generation only; as things now are, their children may have to run the gauntlet all over again. That is not the least

⁵²² *Id.*

⁵²³ *Id.* at 14.

⁵²⁴ *Id.* at 15–16 ("In every known human society, everywhere in the world, the young male learns that when he grows up one of the things which he must do in order to be a full member of society is to provide food for some female and her young.")

⁵²⁵ *Id.* at 17 (citing FRAZIER, *supra* note 71, at 125).

⁵²⁶ *Id.* at 18 (citing FRAZIER, *supra* note 71, at 487).

⁵²⁷ See MOYNIHAN REPORT, *supra* note 25, at 10.

⁵²⁸ See *id.* at 10–11.

⁵²⁹ *Id.* at 19–21.

vicious aspect of the world that white America has made for the Negro.⁵³⁰

Although Moynihan takes a Structuralist view,⁵³¹ in which blacks bear literally no responsibility for the danger to which he referred, it is clear that black families have a very weak structure, which facilitates this tangle of pathology. By pathology, Moynihan means “divorce, separation, and desertion, female family head, children in broken homes, and illegitimacy.”⁵³² While it is quite patronizing to relieve blacks of any personal responsibility for how they use their core beliefs to create their personal experiences and social realities, most of which have been internalized by the interpersonal dynamics between black parents and their children, an issue which I will take up in the next section, it is nevertheless clear that Moynihan faults slavery and Jim Crow. Further, he wrongly states that “[i]f it were not for the hostility and fear many whites exhibit toward Negroes, they in turn would be less afflicted by hostility and fear and so on.”⁵³³ As I will argue vigorously in the next section, blacks were burdened by anger, fear, aggression, hatred, and self-loathing not simply because whites were racist, even though it is clear that, since slavery, black mothers taught their children that whites were the enemy,⁵³⁴ which under poisonous pedagogy distracts them from the harm, humiliation, and violence that their own parents inflict upon them. Rather, black violence, whether it is intimate partner violence, child maltreatment, murder, battery, or aggressive tendencies, flows inexorably from childhood maltreatment by black parents to their children.⁵³⁵ That Moynihan attributed black fear and hostility solely to whites reveals the degree to which he was emotionally blind to his own experiences with parental maltreatment. Despite his existential blindness,

⁵³⁰ *Id.* at 30.

⁵³¹ See generally Robinson, *Human Agency*, *supra* note 370 (arguing against a purely Structuralist deterministic view of human conduct, but for a duality of structure framework in which blacks, whether poor or affluent, are powerful reality creators and co-creators, who actively participate in and reinforce empowering and disempowering practices in their families and communities).

⁵³² MOYNIHAN REPORT, *supra* note 25, at 19.

⁵³³ *Id.* at 30.

⁵³⁴ WEBBER, *supra* note 188, at 172 (“The slave . . . is brought up to look upon every white man as an enemy of him and his race . . .”).

⁵³⁵ MILLER, BANISHED KNOWLEDGE, *supra* note 83, at 24–29 (discussing how repressed rage and resentment caused one adult child who was severely maltreated to become a serial killer, murdering 360 women); MILLER, DRAMA OF THE GIFTED CHILD, *supra* note 177, at 2 (“The repression of brutal abuse experienced during childhood drives many people to destroy their lives and the lives of others. In an unconscious thirst for revenge, they may engage in acts of violence, burning homes and businesses and physically attacking other people, using their destruction to hide the truth from themselves and avoid feeling the despair of the tormented child they once were.”); MILLER, FREE FROM LIES, *supra* note 92, at 45–51 (discussing how severely maltreated children go from “victims” to “destroyers”).

Moynihan's view meant that after controlling for slavery, Jim Crow, joblessness, welfare dependency, and wage labor issues, what is left is a pathologically weak black family structure, which is the "principal source of most of the aberrant, inadequate, or anti-social behavior that did not establish, but now serves to perpetuate the cycle of poverty and deprivation."⁵³⁶ In the end, slavery destroyed the black family, and "white America broke the will of the Negro people."⁵³⁷ While blacks are seeking to reassert their will, they will likely suffer frustrated efforts if the federal government fails to restore the black family.⁵³⁸

Although Moynihan's prophetic words also focused attention on matriarchal structures and the crushing burden on black men, and although he noted that whites caused some of the pathologies that afflicted the black family,⁵³⁹ why was this part of Moynihan's report viewed as incendiary by black scholars?⁵⁴⁰ After all, Du Bois and others have said no less. Later, after the failure of his Family Assistance Plan, Moynihan reflected on his Report, and in *Schism in Black America*; he stated emphatically: "poverty is now inextricably associated with family structure."⁵⁴¹ Yet, black scholars forced an "unproductive dialogue,"⁵⁴² not simply because they thought that Moynihan and other liberal scholars were racists, but more than likely because they did not wish to peel back the inner workings of the black family, in which black mothers predominantly maltreated their children, having very little understanding that while they thought that rigid physical discipline was a positive, indispensable tool for effective childrearing,⁵⁴³ maltreatment, whether emotional or physical, caused a host of negative outcomes that Moynihan had identified in his report.⁵⁴⁴

Although Moynihan's report on the black family has proven to be prescient,⁵⁴⁵ black scholars argued that Moynihan had shifted the blame from economics and racism to the pathologies of the black underclass.⁵⁴⁶ In effect, he was blaming the victims. While the work of ethnology like Elliot Liebow's

⁵³⁶ MOYNIHAN REPORT, *supra* note 25, at 30.

⁵³⁷ *Id.*

⁵³⁸ *Id.*

⁵³⁹ See PATTERSON, *supra* note 487, at 54.

⁵⁴⁰ *Id.*

⁵⁴¹ Moynihan, *Schism in Black America*, *supra* note 363, at 8 (emphasis added); see PATTERSON, *supra* note 487, at 129.

⁵⁴² See PATTERSON, *supra* note 487, at 129–44.

⁵⁴³ See, e.g., Bracey, *Socializing Race*, *supra* note 68.

⁵⁴⁴ See generally MOYNIHAN REPORT, *supra* note 25.

⁵⁴⁵ See generally *id.*

⁵⁴⁶ PATTERSON, *supra* note 487, at 130–31.

TALLY'S CORNER⁵⁴⁷ seemingly confirmed Moynihan's predictions, Patterson wrote that liberal scholars who rejected Moynihan's "tangle of pathology" premise had "perpetuated the great silence."⁵⁴⁸ Patterson went on to make a larger point, when he argued,

[I]t had also hardened into an orthodoxy that virtually excused lower-class black people from much if any responsibility for their own difficulties and that discouraged white scholars, fearing to be pilloried as racists, from raising the subject of black family problems.⁵⁴⁹

By the 1960s and 1970s, some scholars and activists adopted rigid thinking around the black family, all of which more or less reacted to Moynihan's stinging conclusions. They had declared that "African Americans, no matter how oppressed, were not psychologically damaged."⁵⁵⁰ In the face of white oppression, blacks were creative, resistant,⁵⁵¹ and adaptive.⁵⁵² Race pride had thus led to demagoguery. Accordingly, in 1968, while paying no mind to one-quarter of poor black families,⁵⁵³ Andrew Billingsley wrote,

The African-American family is neither dead nor dying, nor vanishing. Instead, the family remains a resilient and adaptive institution reflecting the most basic values, hopes, and aspirations of the descendants of African people in America. . . . Many scholars have argued that African-American family structure is weak. We have argued that African-American family structure is strong.⁵⁵⁴

Another sociologist, Robert Staple, clearly had rejected Moynihan's indictment of the underclass black family, when he wrote,

This study of Black families, commonly referred to as the Moynihan report, generated a largely critical response. In effect, Moynihan had made a generalized indictment of all Black families. And although he cited the antecedents of slavery and high unemployment as important variables historically, he shifted the burden of Black deprivation onto the

⁵⁴⁷ See generally ELLIOT LIEBOW, TALLY'S CORNER: A STUDY OF NEGRO STREETCORNER MEN (1967).

⁵⁴⁸ PATTERSON, *supra* note 487, at 129–30.

⁵⁴⁹ *Id.* at 130.

⁵⁵⁰ *Id.* at 131.

⁵⁵¹ *Id.*

⁵⁵² See, e.g., RAWICK, *supra* note 188, at 10.

⁵⁵³ Hymowitz, *supra* note 463.

⁵⁵⁴ BILLINGSLEY, JACOB'S LADDER, *supra* note 478, at 17.

Black family rather than indicting the American social structure.⁵⁵⁵

In 1971, Joyce Ladner took umbrage at Moynihan's attack on the black family, and she urged black scholars to "develop a total intellectual offensive against the false universality of white concepts whether they are expressed by William Styron or Daniel Patrick Moynihan."⁵⁵⁶ Continuing in this vein, Robert Hill departed from the pathological approach to studying black family life, and noted that social scientists like Nathan Glazer and Moynihan "continue to portray black families as disorganized, pathological and disintegrating."⁵⁵⁷ Staples also observed that Moynihan had dealt with the black family structurally, which meant that his report focused on the underclass family's form and roles of parents, thus ignoring the "behavior that transpires within the structure."⁵⁵⁸ Given the persistent, negative outcome in the black underclass, it would be fair to say that most black parents were contributing to those outcomes by their childrearing practices. Hill also argued that "[b]ecause of many stabilizing factors in families that are headed by women, there is no need to assume a 'pathological' functioning of these families."⁵⁵⁹

Unfortunately, by seeking to effectively bracket pathology from any analysis of the black underclass, black scholars were really protecting their internalized need to remain emotionally blind. In this way, the black scholars who rejected Moynihan's tangle of pathology thesis and who rushed to defend black family life were not just engaged in an intellectual debate, in which both sides marshaled their data and evidence, and then lucidly and analytically presented them.⁵⁶⁰ While they did adhere to the academic form, except perhaps for Ladner's wholesale rejection of what she called "white sociology,"⁵⁶¹ black

⁵⁵⁵ LEANOR BOULIN JOHNSON & ROBERT STAPLES, *BLACK FAMILIES AT THE CROSSROADS: CHALLENGES AND PROSPECTS* 52 (rev. ed. 2005).

⁵⁵⁶ LADNER, *TOMORROW'S TOMORROW*, *supra* note 109, at 7.

⁵⁵⁷ ROBERT BERNARD HILL, *THE STRENGTHS OF BLACK FAMILIES* 29 (2003).

⁵⁵⁸ JOHNSON & STAPLES, *supra* note 555, at 52.

⁵⁵⁹ HILL, *supra* note 557, at 14.

⁵⁶⁰ *See, e.g., id.* ("In sum, the available data suggest that the 'typical' family pattern among black families is equalitarian and not 'matriarchal.' Moreover, the husbands in most black families are actively involved in decision-making and the performance of household tasks that are expected of them. And most wives, while strong, are not dominant matriarchs, but share with their husbands the making of family decisions—even in low-income black families.").

⁵⁶¹ *See* JOYCE LADNER, *THE DEATH OF WHITE SOCIOLOGY: ESSAYS ON RACE AND CULTURE* 102–03 (1973). Ladner writes,

Moynihan insists that his intentions were the best, and perhaps they were. But the fact remains that at a time when Negroes were not only demanding *freedom now* as never before but were beginning to get it, Moynihan issued a quasi-scientific pamphlet that declares on the flimsiest evidence *that they are not yet ready for freedom!* At a time when Negroes are demanding freedom as a *constitutional right*, the Moynihan Report is saying, in effect, that those

scholars were unconsciously protecting themselves and their parents from fault.⁵⁶²

By the 1980s, black scholars were still emotionally blind; that is, they were still unwilling to fault black mothers for refusing to recognize their children as more than mere objects, and when black scholars overlooked black children so that they could implicitly defend black parents, they reinforced the existing power dynamics between parents and children.⁵⁶³ Consider William Julius Wilson, who wrote that while blacks have made progress, especially in the area of professional jobs, higher education, and home ownership at a rate faster than whites, these improvements since the 1970s have not been experienced by millions of poor blacks.⁵⁶⁴ Wilson specifically observed,

But for millions of other blacks, most of them concentrated in the ghettos of American cities, the past three decades have been a time of regression, not progress. As indicated in chapters 1 and 2, these low-income families and individuals are, in several important respects, more socially and economically isolated than before the great civil rights victories, particularly in terms of high joblessness and the related problems of poverty, family instability, and welfare dependency.⁵⁶⁵

Like the sociological scholars before him like Du Bois, Frazier, Billingsley, etc., Wilson remains emotionally blind to the interpersonal dynamics between black caregivers and their children, especially when it is more than likely that racism and racial discrimination alone cannot explain why millions of blacks remain locked in poverty, hence the underclass. This point is especially critical because Wilson acknowledges that some blacks have made “notable gains . . . in professional employment, income of married-coupled families, higher education, and home ownership.”⁵⁶⁶ If white racism and white structural oppression have not acted as a complete, existential barrier to black

who have been exploiting Negroes for years should now, upon being show his statistics, become *benevolent* enough to set up a nation-wide welfare program for them. *Not once does he cite any Negro assets that white people might find more attractive than black subservience.* Good intentions notwithstanding, Moynihan’s arbitrary interpretation make a far stronger case for the Negro equivalent of Indian reservations than for Desegregation Now.

Id. (emphasis added).

⁵⁶² See MILLER, BANISHED KNOWLEDGE, *supra* note 83, at 21–22.

⁵⁶³ See *id.* at 23 (“For the fear of blaming our parents reinforces the status quo: The ignorance and the transference of child-inimical attitudes persist. This dangerous vicious circle must be broken. It is precisely the ignorant parents who become guilty—knowledgeable parents do not.”).

⁵⁶⁴ WILSON, THE TRULY DISADVANTAGED, *supra* note 24, at 109.

⁵⁶⁵ *Id.* at 110.

⁵⁶⁶ *Id.* at 109.

material, professional, economic, and political gains, especially in light of the two-time election of President Barack Obama, then Wilson at the very least can ask what other variables, even if soft ones, might explain the “growing economic schism between lower-income and higher-income black families.”⁵⁶⁷ Increasingly, as we move socially and historically downstream from formal American apartheid, i.e., Jim Crow, we must conclude, even on pangs of existential disquiet suffered by race-conscious sociologists and legal scholars, that forays into interpersonal dynamics of the black family and its traditionally cruel childrearing practices, which Alice Miller would call “poisonous pedagogy,” must be explored.⁵⁶⁸ And in so doing, we ought to discover what neuroscientists have learned: shame becomes a powerful variable in explaining why cruelty as love shapes how and why black caregivers have such a strong compulsion to repeat their traumatic childhood experiences with infant and toddler children. Such caregivers, who suffer through painful acts and hurtful words, carry humiliation forward. Once humiliated, these adult children still “feel threatened, helpless, and out of control.”⁵⁶⁹ And once they internalize this humiliation, thus refusing to fault their cruel black caregivers, they feel that they cannot trust their own feelings or count on themselves.⁵⁷⁰ To cope, black adult children dissociate. They deny their shame⁵⁷¹ and are perhaps hypervigilant against needs and impulses that will trigger such repressed feelings, especially those which may be authored by infants and toddlers.⁵⁷² Yet, as van der Kolk and McFarlane state, “[d]enial of one’s own feelings of shame, as well as those of other people, opens the door for further abuse.”⁵⁷³ Given that this abuse can directly cause infants and toddlers to suffer from poor self-concept, low cognitive abilities, and heightened aggressive behavior, then interpersonal dynamics between black caregivers and their children must be a proper starting point if sociologists truly wish to explain the extant social dislocation problem of the black underclass.⁵⁷⁴

⁵⁶⁷ *Id.* at 110.

⁵⁶⁸ See MILLER, FOR YOUR OWN GOOD, *supra* note 23, at 200–03.

⁵⁶⁹ See van der Kolk & McFarlane, *supra* note 22, at 15.

⁵⁷⁰ *Id.*

⁵⁷¹ *Id.*

⁵⁷² See MILLER, FOR YOUR OWN GOOD, *supra* note 23, at 58. Miller argues that abused children spend their lives repressing with varying degrees of intensity any sign that they might still be the helpless or needy child who would wish to reclaim their earliest vitality, creativity, and feelings, which they view as “weak, helpless, and dependent,” so that they can become “an independent, competent adult deserving of respect. When we reencounter this creature in our children, we persecute it with the same measures once used on ourselves. And this is what we are accustomed to call ‘child-rearing.’” *Id.*

⁵⁷³ van der Kolk & McFarlane, *supra* note 22, at 15.

⁵⁷⁴ See, e.g., Kirby Deater-Deckard & Kenneth Dodge, *Externalizing Behavior Problems and Discipline Revisited*, 8 PSYCHOLOGICAL INQUIRY 161 (1997).

Unfortunately, sociologists like Wilson cannot venture into this forbidden territory because it would at the very least suggest that they are not honoring thy mother and father. So, rather than explain why the truly disadvantaged blacks remain trapped in the underclass, Wilson focuses the reader on what will not work as if he were one of the conservative Republicans who were reacting to President Johnson's Great Society vision and legislative programs after the Watts Riots had taken a heavy toll on blacks who vented their deepest anger, rage, and frustration on other equally wounded blacks and a few white police officers.⁵⁷⁵ Wilson wrote:

[T]he factors associated with the growing woes of low-income blacks are exceedingly complex and go beyond the narrow issues of contemporary discrimination. Indeed, it would not be unreasonable to contend that the race-specific policies emanating from the civil rights revolution, although beneficial to more advantaged blacks (i.e., those with higher income, greater education and training, and more prestigious occupations), do little for those who are truly disadvantaged.⁵⁷⁶

Is Wilson arguing that perhaps Moynihan was right when he wrote, "the present tangle of pathology is capable of perpetuating itself without assistance from the white world"?⁵⁷⁷ Later, Harvard black economist Glenn Loury buttressed Wilson's observation, when he wrote:

It is clear from extensive empirical research on the effect of affirmative action standards for Federal contractors that the positive impact on blacks which this program has had accrues mainly to those in the higher occupations. If one examines the figures on relative earnings of young black and white men by educational class, by far the greater progress has been made among those blacks with the most education. If one looks at relative earnings of black and white workers by occupation going back to 1950, one finds that the most dramatic earnings gains for blacks have taken place in the professional, technical, and managerial occupations, while the least significant gains have come in the lowest occupations, like laborer and service worker. Thus a broad array of evidence suggests, at least to this observer, that better placed blacks have simply been able to

⁵⁷⁵ See generally WILSON, THE TRULY DISADVANTAGED, *supra* note 24.

⁵⁷⁶ *Id.* at 110.

⁵⁷⁷ MOYNIHAN REPORT, *supra* note 25, at 47.

take more advantage of the opportunities created in the last twenty years than have those mired in the underclass.⁵⁷⁸

Yet, neither Wilson nor Loury make their case plainly. They do not say bluntly that where federal or state opportunities exist, and where the black underclass continues to experience persistent poverty, then perhaps blacks have learned to live with interpersonal dynamics. By these dynamics, I am referring to childrearing practices in the earliest years of their children's lives that rob them of their vitality, spontaneity, and authenticity, so that the civil rights and specific legislation like the 1964 Act might reach black parents, but they never improve the day-to-day lives of black children.⁵⁷⁹ By pillorying Moynihan as a racist, Patterson's observation suggests that black scholars killed any serious intellectual inquiry into poor black family culture, which directly implicates childrearing practices. By so doing, they silenced liberal whites, and through intellectual neglect, effectively condemned black children to suffer a life within the family that differed little from the earliest days of Jim Crow. Rather than access their own memories of their family life, one that more than likely included humiliations, manipulations, and assaults against their bodies, black scholars preferred to remain emotionally blind. Like Billingsley, these scholars would thus rather accentuate the successes of an already thriving black middle class, on whom Moynihan did not focus his concerns about poor black children who did not finish school, get jobs, or experience a stable home environment.⁵⁸⁰

V. THE SCANDALOUS TRUTH:
REPRESSING THE BLACK CAREGIVERS' ROLE IN CONTRIBUTING TO SELF-
PERPETUATING PATHOLOGIES

Is it scandalous to tell the truth, especially against our caregivers? What about black caregivers? In the foregoing sections, I have attempted to build an argument that indicts black caregivers for the harm they cause to their children, and I think one way in which such harm presents itself is in the context of Wilson's social dislocation issues or Moynihan's "tangle of pathology." Wilson and Loury effectively say that black scholars cannot just point their fingers at

⁵⁷⁸ WILSON, *THE TRULY DISADVANTAGED*, *supra* note 24, at 110–11 (citing Glenn C. Loury, *The Need for Moral Leadership in the Black Community*, 16 *NEW PERSP.* 14, 14, 19 (1984), available at <http://babel.hathitrust.org/cgi/pt?id=uiug.30112105157397;view=1up;seq=16>).

⁵⁷⁹ Cf. JANOV, *supra* note 141, at 11 ("Current reality hasn't a chance against old, unfulfilled needs. Even when we are loved and adored in adulthood, we are still starving for love we did not get in our childhood. Even when we receive a heap of praises in the present, we tend to focus on that one slight criticism because it resonates with a past that was all too critical. In the brain, 'back then' is 'now.' There will never be enough love in the present to change the past, never enough praise to reverse a lifetime of being berated or disapproved.").

⁵⁸⁰ See Hymowitz, *supra* note 463.

white racism, structural oppression, and institutional policies. Racism, oppression, and policies do matter. But the black child's historical brain matters too, and as Cozolino, Janov, Miller, Perry, and van der Kolk would argue, that brain, which cannot be so easily changed, will consciously or otherwise influence how blacks might act, believe, imagine, talk, and think throughout their lives. After accounting for external, objective forces like white structural oppression, how do we explain persistent poverty among millions of black families? One way to answer this question is to ask: What impact authoritative and authoritarian parenting practices have on black children? The first is tough love, and the other one is just tough, cruel, and humiliating! Regardless, they negatively impact children. Even I have heard black caregivers tell me that black children are not as sensitive as white children, so social workers should not use white European standards to determine if black caregivers have criminally maltreated their children. I was floored! But after reading Miller⁵⁸¹ and van der Kolk and McFarlane,⁵⁸² I understood that these black scholars who shared these excuse-making justifications with me were doing no more or less than Joyce Ladner and Billingsley. They were protecting black caregivers, especially mothers, and indirectly their parents, from the scandalous truth.

So what is the scandalous truth, and what does it have to do with civil rights legislation like the 1964 Act? Like other parents, black caregivers can rely upon the parental privilege when they discipline their children reasonably.⁵⁸³ That's the given. Unfortunately, as Miller would argue, "[p]arents are *permitted* to destroy the lives of their children with impunity. Although this destruction is in most cases repeated in the next generation, it is far from being forbidden: All that is forbidden is to call it a scandal."⁵⁸⁴ Although I might be causing a scandal, it is clear to me that during and since slavery, black caregivers, particularly women, have been destroying the lives of black children. Once so damaged, they cannot grasp opportunities that come

⁵⁸¹ See, e.g., MILLER, BANISHED KNOWLEDGE, *supra* note 83.

⁵⁸² See van der Kolk & McFarlane, *supra* note 22, at 15.

⁵⁸³ See generally Johnson Speech, *supra* note 334.

⁵⁸⁴ MILLER, BANISHED KNOWLEDGE, *supra* note 83, at 22; see, e.g., *In re D.C.*, 596 P.2d 22 (Alaska 1979); *People v. Whitehurst*, 12 Cal. Rptr. 2d 33 (Cal. Ct. App. 1992); *In re L.*, 553 P.2d 103 (Colo. App. 1976); *Raford v. State*, 792 So. 2d 476 (Fla. Dist. Ct. App. 2001); *State v. Peters*, 780 P.2d 602 (Idaho Ct. App. 1989); *People v. Turner*, 619 N.E.2d 781 (Ill. App. Ct. 1993); *In re L.M.*, 545 N.E.2d 319 (Ill. App. Ct. 1989); *In re W.G.*, 349 N.W.2d 487 (Iowa 1984); *State ex rel. Dep't of Health & Human Res. v. E.B.*, 504 So. 2d 162 (La. Ct. App. 1987); *State v. Severns*, 148 P.2d 488 (Kan. 1944); *Commonwealth v. O'Connor*, 555 N.E.2d 865 (Mass. 1990); *Anderson v. State*, 487 A.2d 294 (Md. Ct. Spec. App. 1985), *cert. denied*, 493 A.2d 349 (Md. 1985); *In re G.*, 428 N.Y.S.2d 713 (N.Y. App. Div. 1980); *State v. Bost*, 34 S.E. 650 (N.C. 1899); *In re W.*, 290 N.W.2d 675 (N.D. 1980); *State v. Jones*, 747 N.E.2d 891 (Ohio Ct. App. 2000); *State v. Martin*, 751 A.2d 769 (Vt. 2000); *In re F.P.*, 665 A.2d 597 (Vt. 1995); *Campbell v. Commonwealth*, 405 S.E.2d 1 (Va. Ct. App. 1991); *Carpenter v. Commonwealth*, 44 S.E.2d 419 (Va. 1947).

along, *viz.*, civil rights legislation or the 1964 Act. Thereafter, the Supreme Court can hand down earthshattering rulings or Congress can enact progressive laws, and black children who have been existentially destroyed by cruel black caregivers are still ill-equipped emotionally to break out of the cycle of poverty. In effect, cruelty in the earliest years of the black child's life becomes a co-factor for possibly living an emotionally and materially impoverished life.

During slavery, black caregivers played key roles in transmitting values and beliefs, the desire to learn, and the desire for freedom, while they gave their children or charges a "sense of identification and solidarity with the other members of the quarter community."⁵⁸⁵ Mothers also connected their children and charges to their African roots.⁵⁸⁶ And while they arguably raised them to survive, ideally with their wits about them and their heads held high, these mothers damaged them. One mother, for example, attempted to empower her children while objectifying herself. She told her children to resist or she would kill them.⁵⁸⁷ She said, "I should never let anyone abuse me. 'I'll kill you, gal, if you don't stand up for yourself,' she would say. 'Fight and if you can't fight, kick; if you can't kick, then bite.'"⁵⁸⁸ Based on this teaching, the slave girl could be defiant and powerful and resist all those who could hurt her except her mother. She would have to accept death at her mother's hand without a fuss. In this way, this slave girl would demand her personhood from her master, mistress, and overseer, but she has been conditioned since birth to remain an object to her mother.

Accordingly, "slave mothers were strict disciplinarians."⁵⁸⁹ Under such authoritarian parenting, children were objects. They could be seen but not heard. "We children had better get out or at least make like we were not listening to what was being said and done."⁵⁹⁰ Slave children were always at risk for brutal assault before they perhaps understood that they were slaves, or before they could be spiritually murdered by the white master or overseer. As the prior illustration reveals, black parents required absolute obedience, and any back talk or evident defiance warranted getting the breath slapped out of you.⁵⁹¹ To ensure the strictest compliance, mothers threatened, or "actually chastised [their children] with the switch."⁵⁹² While this cruelty had practical

⁵⁸⁵ WEBBER, *supra* note 188, at 162.

⁵⁸⁶ *Id.* at 163.

⁵⁸⁷ *Id.* at 164.

⁵⁸⁸ *Id.*

⁵⁸⁹ *Id.* at 165.

⁵⁹⁰ *Id.*

⁵⁹¹ *Id.*; see also JOHN BRADSHAW, FAMILY SECRETS: THE PATH TO SELF-ACCEPTANCE AND REUNION 16 (1995) ("Our face is inseparable from our identity. The face is the seat of modesty. It is also the seat of emotional expression. To be slapped in the face is a great dishonor.").

⁵⁹² WEBBER, *supra* note 188, at 165.

benefits for adult survival, sometimes adult slaves brutally assaulted little children, so that they would not do what they had not actually done.

When one little girl in Virginia accidentally came upon some adults preparing to eat lamb, a food normally unavailable to slaves, an old man took her “out back of the quarter house” and whipped her severely, explaining: “Now what you see, you don’t see, and what you hear, you don’t hear.”⁵⁹³

To ensure silence, “[m]others . . . were necessarily compelled to be severe on their children to keep them from talking too much.”⁵⁹⁴ Ironically, mothers severely assaulted their children ostensibly because a loose-lipped child could subject an adult to violent retribution,⁵⁹⁵ but in reality the potential for such retribution masked the parents’ compulsion to assault their children because it had happened to them, too.

Such intergenerational violence also carried instances of humiliation and manipulation. Despite narratives in which black mothers would sing and feed their children, a black mother’s love was serviceable, practical.⁵⁹⁶ And so they perhaps rarely offered them real tenderness. Laura Towne “remembered only one instance of ‘anything like indulgence toward children.’”⁵⁹⁷ She further noted, “‘I think they . . . will bear pain to any extent[.]’ . . . ‘If a boy cries too early because he is suffering they will deride him. He must be stoical under the trouble and his parents will not suffer complainings.’”⁵⁹⁸ Parents also frightened children who disobeyed by telling them “tales of haunts, spirits, and the slave bogey man, Raw-Head-and-Bloody-Bones.”⁵⁹⁹ It does not appear that slave mothers understood that children experienced humiliations and manipulations as painful as maltreatment. Humiliation destroys a child’s self-confidence, perhaps making them more compliant and dependent on their

⁵⁹³ SCHWARTZ, *supra* note 132, at 101.

⁵⁹⁴ WEBBER, *supra* note 188, at 165.

⁵⁹⁵ *Id.*

⁵⁹⁶ See HOOKS, *supra* note 134, at 26–27. bell hooks writes:

Though our father was a stern, demanding, and punishing patriarch, when we were growing up Mama always praised him for providing for us. I can remember having a conversation with her in the early seventies about the nature of love like the fictional dialogue between Hannah and Eva Peace. A grown-up woman trying to understand ‘this thing called love,’ I was taking a critical look at my relationship with my father. I told Mama I did not feel Daddy loved me. And she told me, “Of course he loves you. He’s taken care of all your needs all these years.” Tears overwhelmed my words as I tried to explain to her that love was more than meeting someone’s material needs—that it was about respect, care, knowledge, and responsibility.

Id.

⁵⁹⁷ GUTMAN, *supra* note 111, at 219.

⁵⁹⁸ *Id.*

⁵⁹⁹ WEBBER, *supra* note 188, at 165.

caregivers. But because black children were not viewed as persons who could countermand their parents, I cannot imagine that black mothers consider their children's feelings, so they could be shamelessly cruel to their children with impunity.

Jim Crow gave children no greater respect for their parents than did slavery. Any child who wished to be recognized as a person had to be an adult, and he could not remain in his father's house. To garner such recognition, or to be no longer treated as an object, that child had to leave.⁶⁰⁰ Often when a black child was severely beaten, he could expect very little if any tenderness from the other parent.⁶⁰¹ Ellison wrote,

Southern Negro family's methods . . . is the severe beating – a homeopathic dose of the violence generated by black and white relationships. . . . [H]ere the severe beating is administered by the mother, leaving the child no parental sanctuary. He must ever embrace violence along with material tenderness, or else reject, in his helpless way, the mother.⁶⁰²

Yet, black caregivers, especially mothers, were more than severe. They destroyed the black child's innocence, his natural impulses. During Jim Crow, Ellison tells us that the black child's impulses and his individualism were deadly. He might, in his curiosity, offend a white person and bring horrid hell onto the entire community.⁶⁰³ At all costs, a child's individualism, or as Alice Miller would call it—the child's vitality, spontaneity, or authenticity—had to be removed.⁶⁰⁴ As Bland put it, the black child eventually realized that “he never exists in his own right but only to the extent that others hope to make the race suffer vicariously through him.”⁶⁰⁵ To ensure that black children understood their proper place, appreciated that they had no personhood or meaning to black adults, or even to parents, which could bring untold

⁶⁰⁰ See ROSENGARTEN, *supra* note 108, at 57.

⁶⁰¹ ELLISON, *supra* note 65, at 85.

⁶⁰² *Id.* at 85–86.

⁶⁰³ *Id.* at 84.

⁶⁰⁴ See MILLER, FOR YOUR OWN GOOD, *supra* note 23, at 58 (“The scorn and abuse directed at the helpless child as well as the suppression of vitality, creativity, and feeling in the child and in oneself permeate so many areas of our life that we hardly notice it anymore.”); see also JANOV, *supra* note 141, at 22 (“[Splitting off] is a time in the young child's life when she realizes, ‘There is no hope of being loved for what I am.’ This realization is not a conscious one. Rather, the child begins acting in the manner expected by his parents.”); *id.* at 23 (“Split off from the authentic, unconscious need to be recognized as a worthwhile human being, he derives the ‘meaning’ of his existence from being recognized.”); *id.* at 21 (“Parental need becomes the child's implicit command.”).

⁶⁰⁵ ELLISON, *supra* note 65, at 84.

retribution as in slavery, black parents resorted to brutal violence,⁶⁰⁶ and the black community had “worked out efficient techniques of behavior control.”⁶⁰⁷ Although community relations were warm, they were fraught with ambivalence: “outer violence and inner fear.”⁶⁰⁸ Ellison digs deeper into his point by reaching for Wright’s *BLACK BOY*, his brilliant, seminal autobiographical tale.⁶⁰⁹ “Personal warmth is accompanied by an equally personal coldness, kindness by cruelty, regard by malice. And these opposites are as quickly set off against the member who gestures toward individuality as a lynch mob forms at the cry of rape.”⁶¹⁰ Black children, or any member of the community, who attempted to reclaim and express their individuality, suffered from that which they cannot escape – the formulaic morality that individuality is for “white folk,” and then the beating, which they had accepted as “cruelty as love” because the Fifth Commandment has spiritually sanctioned their suffering.⁶¹¹ Put more rudely, these black children learned “masochistic submissiveness and a denial of [their individualistic] impulse.”⁶¹² Reduced to a stranger, “he interprets gestures of protection as blows of oppression.”⁶¹³ For a black child like Richard Wright, who dares to be authentic, he risks cruelty from his black mother. Ellison bares Wright’s confession with pathos.

Even parental love is given a qualitative balance akin to “sadism.” And the extent of beatings and psychological maimings meted out by Southern Negro parents rivals those described by the nineteenth-century Russian writers as characteristic of peasant life under the Czars. The horrible thing is that the cruelty is also an expression of concern, of love.⁶¹⁴

In short, democracy did not exist under black parental authority. Black children had to accept and embrace thoroughly their subordination, not at the hands of white racists, if at all, that would come later, but at the hands of their black caregivers. As bell hooks tells us:

Taught to accept subordination, black children naturally felt in a state of psychological conflict. On one hand we had to

⁶⁰⁶ See, e.g., HOOKS, *supra* note 134, at 22–23.

⁶⁰⁷ ELLISON, *supra* note 65, at 90.

⁶⁰⁸ *Id.*

⁶⁰⁹ *See id.*

⁶¹⁰ *Id.*

⁶¹¹ *Id.* at 91.

⁶¹² *Id.* at 91–92.

⁶¹³ *Id.*

⁶¹⁴ *Id.*; see also MILLER, *THE BODY NEVER LIES*, *supra* note 158.

possess enough self-esteem to seek education and self-advancement, yet on the other hand we had to know our place and stay in it. All too often parents used harsh discipline and punishment to teach black children their “proper place.”⁶¹⁵

Whether in slavery or under Jim Crow, such beatings did achieve their purpose, and so it took just a look from black parents and the children knew.⁶¹⁶ In poor black families, black caregivers mis-educate their children. To kill a child’s ambition, to thwart his curiosity, to displace his adventure that exceeds the imagination of the black community, black caregivers train the child away from these natural developmental impulses. “And when the child resists, the parent discourages him; first with the formula; ‘That there’s for white folks. Colored can’t have it,’ and finally with a beating.”⁶¹⁷

Eventually, effectively, the black child yields. In *BLACK BOY*, Wright made no peace with this “essential cruelty.”⁶¹⁸ He refused to be emotionally blind, “even when, like a babe freshly emerged from the womb, he could not discern where his own personality ended and it began.”⁶¹⁹ Who then kills black children? Who then strips them of their impulses to crawl out of the holes dug for them by their poor, ignorant parents?⁶²⁰ Enter the civil rights era. Where does the poor black child find his place when he has had to choose between a parent’s love and his authenticity? Unlike Wright, most children will do anything to receive a parent’s love, even if it means that they must participate in mutilating their real selves if those selves’ needs will go unanswered by his parents.⁶²¹ Eventually, he will forget. He will develop defense mechanisms.⁶²² He will say things like, “If you’re so smart, how come you’re not rich?” He is already learned to devalue hard, real learning. And so who cares if President Johnson signed the Civil Rights Act of 1964 into law? Long before that signing, he found a way to protect himself from his own impulses. “*Rather than throw himself against the charged wires of his prison he annihilates the impulses within him.*”⁶²³

⁶¹⁵ HOOKS, *supra* note 134, at 23.

⁶¹⁶ WEBBER, *supra* note 188, at 166 (“In them days parents could just look at children and out their eyes at them and they would know what they meant. And if you said anything they would give you a back-hand lick without even looking at you.”).

⁶¹⁷ ELLISON, *supra* note 65, at 91.

⁶¹⁸ *Id.*

⁶¹⁹ *Id.*

⁶²⁰ See, e.g., LITWACK, *supra* note 192, at 4 (“Son . . . a catfish is a lot like a nigger. As long as he is in his mudhole he is all right, but when he gits out he is in for a passel of trouble. You ‘member dat, and you won’t have no trouble wid folks when you grows up.”).

⁶²¹ See MILLER, *BANISHED KNOWLEDGE*, *supra* note 83, at 2.

⁶²² ELLISON, *supra* note 65, at 90.

⁶²³ *Id.* (emphasis added).

And so to answer my question, black caregivers can contribute to the self-perpetuating pathologies. Of course, they have defense mechanisms too, and with such mechanisms, black caregivers have historically justified their harsh disciplinary practices toward their children. Accordingly, they “killed” their children to keep white folks from killing them. They prevent little black boys from becoming Michael Browns.⁶²⁴ They lower the likelihood of expulsions and suspensions from public schools.⁶²⁵ Unfortunately, in the black child’s personal, subjective childhood history, the innocent, helpless, and dependent black children had never looked that potential white killer in the face when she was suffering a brutal beating by her black caregiver. It does not mean that black parents cannot put the images of marauding members of the KKK in her mind. “My mother always told me what she was going to whip me for before commencing, and would talk to me while she was whipping me.”⁶²⁶ By so doing, the black mother justified her violence against the child’s body, and to help herself accept her beating and internalize the reason, the black child will accommodate the mother’s morality.⁶²⁷ By morality, Miller meant the false reason why the parent brutalizes or humiliates a child.⁶²⁸ By the by, even as racism wanes, a black child who has learned to see the white man as the enemy of his people acquires a distorted perception of reality.⁶²⁹ He learns not to trust the white world. In 1982, a black teenager who participated in summer programs at Blue Gargoyle, where I worked while I attended the University of Chicago, told me that Chicago’s Magnificent Mile was for white people. He preferred to stay in South Chicago—the black neighborhood. Will he tell his children or younger siblings the same thing? As Cozolino, Felitti and Anda, Miller, Perry, and van der Kolk would argue, it is clear to me that black parents are key factors in the degree to which their children perpetuate pathologies that lead to juvenile delinquency, violent crimes, hyper-masculinity, or promiscuity that promotes early sexual encounters and the risk of teenage pregnancy. It is the black parents’ subjugation of the black child, especially during the first five or six years of his life, that can determine whether he can grab and hold the

⁶²⁴ See generally Chico Harlan et al., *Ferguson Police Officer Won’t Be Charged in Fatal Shooting*, WASH. POST, Nov. 25, 2014, http://www.washingtonpost.com/politics/grand-jury-reaches-decision-in-case-of-ferguson-officer/2014/11/24/de48e7e4-71d7-11e4-893f-86bd390a3340_story.html (providing an overview of the Michael Brown story).

⁶²⁵ See generally Ruth Zweifler & Julia De Beers, *The Children Left Behind: How Zero Tolerance Impacts Our Most Vulnerable Youth*, 8 MICH. J. RACE & L. 191 (2002); Amy C. Nelson, *The Impact of Zero Tolerance School Discipline Policies: Issues of Exclusionary Discipline*, 37 NASP COMMUNIQUÉ 4 (2008), available at http://www.nasponline.org/publications/cq/mocq374impact_zero_tolerance.aspx.

⁶²⁶ See WEBBER, *supra* note 188, at 165–66.

⁶²⁷ See MILLER, *THE BODY NEVER LIES*, *supra* note 158, at 14–15.

⁶²⁸ *Id.*

⁶²⁹ See JANOV, *supra* note 141, at 72 (“[O]nce there is pain, we forever react to that pain, changing the way we see the world.” (emphasis in original)).

brass ring of his impulses and curiosity, and it is civil rights legislation like the 1964 Act that becomes a wedge that keeps the doors of opportunities open to him.

VI. CONCLUSION

In this short, critical essay, I argued based on the work of psychologists, neuroscientists, and interpersonal neurobiologists, that black caregivers oppress, subjugate, humiliate, and brutalize their black children, the net effect of which is that they become broken, aggressive, and low-functioning cognitively. It is so easy to fault slavery, Jim Crow, and modern discrimination. To do so, we must limit ourselves to searching through the rubble of those social mechanisms for why blacks suffer from intractable social dislocation issues or self-perpetuating pathologies. Even if it were true, that search would be a mere, facial beginning. Yet, if we were really committed to understanding why blacks engage in self-destructive behavior, we would have to appreciate that blacks might view spanking, beating, and other forms of harsh discipline as short-term benefits. Consider what Vincent J. Felitti observed, “Expressions like ‘self-destructive behavior’ are misleading and should be dropped because, while describing the acceptance of long-term risk, they overlook the importance of the obvious short-term benefits that drive the use of these substances.”⁶³⁰ Although Felitti was referring to addictive behavior as a mechanism for coping with early childhood abuse, his observation lends itself to understanding that cruelty in the earliest years of a black child’s life could be a maladaptive mechanism for black caregivers. That is, they brutally discipline their infants and toddlers to cope with the ongoing effect of their own past trauma.⁶³¹ While we must account for the impact of these devastating experiences with white structural oppression and marginalizing institutional policies, we cannot today claim that young black men have engaged in violent and non-violent crimes because they still suffer the present effects of past racial oppression. We cannot say that black men, especially those born after 1989, do not perform well in school because Jim Crow denied them access to books, libraries, and cultural opportunities, which still remain privileged experiences for whites and their children. That is not true today, even if some black caregivers justify their harsh, excessive cruelty and humiliating beatings by forcing black children to mentally turn the historical clock back to slavery and Jim Crow.

In truth, black caregivers’ cruelty kills their black children’s authenticity, spontaneity, and vitality by teaching them that a parent’s authority is object *omnipotens* (all powerful). This black lie begins in infancy, and it shapes the inner map of a child’s brain, causing the child’s neural systems to

⁶³⁰ Felitti, *Origins of Addiction*, *supra* note 81, at 555 (English translation).

⁶³¹ *Id.*

become so overactive or sensitized that it takes very little stimuli to produce aggressive, disruptive, “disrespectful,” and violent behavior.⁶³² That black lie attempts to hide the negative impact of a black infant’s personal, subjective history, one that he will carry with him well into adulthood if he is not fortunate enough to have an enlightened witness support and encourage his existential journey to discover that white racism did not crush, subjugate, or oppress his soul. Rather, it was his black caregiver to whom he looked appropriately for the love, tenderness, and compassion that never came. And when they did not come, that black child suffers soul-searing hopelessness that, in part, explains the extant problem of black suicide. Far worse, as Miller pointed out, beneath that black lie stirs a powerful, murderous rage that formed when black caregivers dared their black children—on pain of far greater pain and humiliation—to speak their authentic feelings into this world.⁶³³ Those feelings would have laid fault not on white racism but on black caregivers, who too were broken cruelly during their own upbringing.

And once repressed, black children, and eventually adult children, will harm themselves and others, as Felitti noted,⁶³⁴ with suicide by fast food, obesity, drugs, alcohol, etc., that flows from child abuse. It is a pandemic, and truly a public health issue. And if scholars, policymakers, and activists really wish to help black children, they must work to change institutional policies and engage in critical inquiries into the way black caregivers raise black children. Without overly simplifying his report, Moynihan urged this same level of inquiry.⁶³⁵ They must declare that *cruelty as love* is not love. In underclass black families, where cruelty as love exists as positive childrearing practices, black children have an unconscious fear of their black caregivers. It is not a relaxed, trusting relationship.⁶³⁶ According to Miller, without love and with distrust, black children who profess love for their cruel caregivers have a “pathological attachment,” which mixes “fear and dutiful obedience that hardly deserves the name of love.”⁶³⁷

Yet, apart from the neuroscience and psychological literature, this deeper truth about the correlations or causation between childhood cruelty in

⁶³² See PERRY & SZALAVITZ, *supra* note 49.

⁶³³ See MILLER, BANISHED KNOWLEDGE, *supra* note 83; MILLER, THE BODY NEVER LIES, *supra* note 158.

⁶³⁴ Felitti, *Origins of Addiction*, *supra* note 81, at 555 (“Adverse childhood experiences are widespread and typically unrecognized. These experiences produce neurodevelopmental and emotional damage, and impair social and school performance. By adolescence, children have sufficient skill and independence to seek relief through a small number of mechanisms, many of which have been in use since biblical times: drinking alcohol, sexual promiscuity, smoking tobacco, using psychoactive materials, and overeating.” (English translation)).

⁶³⁵ See MOYNIHAN REPORT, *supra* note 25.

⁶³⁶ See MILLER, THE BODY NEVER LIES, *supra* note 158, at 14–15.

⁶³⁷ *Id.* at 15.

the earliest years of a black infant's life *and* social dislocation issues or self-perpetuating pathologies has not caught on. Why? Sociologists and other scholars fear opening this veritable Pandora's Box. By so doing, they at least unconsciously fear that they would subject their own cruel caregivers to rebuke. Mostly, they fear that they would have to access their own repressed shame, anger, and humiliation, which they are likely to project onto their intimate partner and children. It thus remains vogue to simply fault the poor without engaging in greater contextual analyses. It is acceptable to talk about competing priorities. And it is sexy to cite present effects of past racial oppression by explaining why the black underclass exists, how poorly underclass black children perform in school, where they might be headed with such low aspirations, and what they need if they are going to become less aggressive and more productive citizens.

But in the demographic world that is nigh upon us, America's majority-minority population will not end the suffering, struggles, and marginalization of underclass black children. It perforce follows that in that *future* America the black underclass will still exist. First, it will continue to exist because policymakers have not had the courage to outlaw the doctrine of parental privilege. Second, policymakers have not linked childhood cruelty to the studies on aggression, cognitive performance, and personal aspirations by psychiatrists and neuroscientists. Third, it is clear that black children, who suffer through cruelty, especially in the earliest years of their lives, are at risk for poverty, mental health issues, obesity, smoking, lung cancer, hypertension, alcoholism, and drug dependency. Fourth, they will drop out of school. Fifth, they will have children out of wedlock, and they will enter into dysfunctional, destructive relationships. Along the way, many of these adult children will commit crimes, and their bodies will become a commodity for the private prison complexes. All of these outcomes will happen in a majority-minority America, and at that point, when it will be far too late for so many black adults and their children, ideally our society and our sociologists will have finally awakened from the lie that black caregivers have used, even today, to justify why they cruelly maltreat their dependent, helpless, and defenseless black children.

Put succinctly, that lie, which destroys black children and distorts their perception of where they fit in our society, reduces to this: I would rather destroy your individuality, creativity, ingenuity, imagination, and zeal for life and learning when you are infants and toddlers, so that you will never have to learn that America hates black folks.⁶³⁸ Basically, out of cruelty as love, I will

⁶³⁸ See ELLISON, *supra* note 65, at 90. Writing with irony dripping from his stylus, Ellison revealed why black caregivers destroy their children. He eloquently states:

[I]t is the task of the Negro family to adjust the child to the Southern milieu . . . [giving Negroes as a] group [their] distinctive character. Which, because of Negroes' suppressed minority position, is very much in the nature of an elaborate but limited defense mechanism. Its function is dual: to protect the Negro from whirling away from the undifferentiated mass of his people

kill in you what my devoted and loving black caregivers had the wisdom to kill in me.⁶³⁹ In short, black caregivers deny their children to have what they never had: recognition. By refusing to recognize their children, black caregivers do far more harm to their infants, toddlers, and children than today's so-called ubiquity of white racism and white structural oppression could ever do. That is, black caregivers inflict cruelty on their infants and toddler children when their brains grow the fastest and are subject sensitive to specific and pattern forms of maltreatment, which thus do the most, perhaps lasting harm. As a result, these black children cannot effectively see and seize opportunities, which arose under the 1964 Act, the War on Poverty, and the Great Society programs, that lay before them, even in a majority-minority America.

Unfortunately, perhaps in a majority-minority America, black children will appear far less sympathetic. In 2060, although whites will be a numerical minority, they will still have the largest single population group in America, and given that no single minority group will have a majority share of the majority-minority America, it does not follow that minorities can form effective coalitions, so that they can effect progressive legislation.⁶⁴⁰ In addition, if bi-racial and multi-racial groups become the fastest growing population in America,⁶⁴¹ they may have decidedly different policy goals than single-race minorities like blacks. And these groups may have surpassed blacks in education long before the truth about childhood cruelty has rallied our nation to help underclass black children. Until then, as we verge toward a majority-minority America, black caregivers will still have a compulsion to repeat the cruelty they suffered in their infancy. In this way, even in a majority-minority America, black caregivers who suffer in underclass poverty will still contribute to the context out of which our society will get social dislocation issues or self-perpetuating pathologies.

into the unknown, symbolized in its most abstract form by insanity, and most concretely by lynching; and to protect him from those unknown forces *within himself* which might urge him to reach out for that social and human equality which the white South says he cannot have. Rather than throw himself against the charged wires of his prison he annihilates the impulses within him.

Id.

⁶³⁹ See MILLER, TRUTH WILL SET YOU FREE, *supra* note 404, at 17.

⁶⁴⁰ Hogan, *supra* note 4.

⁶⁴¹ *Id.*