

The Greenwood Plan: Reparations for the Greenwood Holocaust



By:

Damario Solomon Simmons

Note:

I use a capital 'B' when referring to Black people. The word black is a descriptive word describing a color. It is also viewed as a political and cultural term describing my people's heritage and ethnicity.

In spelling Afrikan I use a 'k' rather than a 'c' because the 'k' represents an acknowledgment that 'Africa' is not the original or true name of the motherland. Thus, when I speak of Afrika, I'm bringing an Afrikan-centered view to my meaning.

Introduction

It is commonly known the history of African Americans is one of tremendous pain and unbelievable resilience; Afrikan-Americans toiled 310 years under chattel slavery, 1555-1865, the deadliest and inhumane period in the Common Era.¹ In addition, the subsequent 138 years since escaping the chains of slavery, the almost equally oppressive shackles of Black Codes, Sharecropping, Peonage Farming, Jim Crowism, Lynching, Poll taxes, Grandfather Clauses, Police Brutality, Red Lining and other oppressive schemes greatly impeded the development of the Afrikan-American community.² Thus, today the Black community still suffers from numerous ills, evidenced by the tragedy of more Black men in prison than in college³, the continued proliferation of police brutality and racial profiling⁴, fierce attacks on moderately successful affirmative actions programs, character assassinations of outspoken African-American leaders⁵, and the numerous governmental social-economic statistics chronicling the hardship of Black America.⁶

¹ See John Henrik Clark, *Christopher Columbus & the Afrikan Holocaust*, at 23-30 (2002).

² Stenson Kennedy, *After Appomattox: How The South Won The War*, (1995).

³ See Janet Poe, *Attracting BMOC --- black men on campus*, *The Atlanta Journal and Constitution*, Fri, Oct. 22, 2002

⁴ See Obie Patterson, *Before lifting moratorium, end disparity*, *The Baltimore Sun*, Dec. 12, 2002.

⁵ For example, the Center for Individual Rights ("CIR") in 1996 successfully argued for the Fifth Circuit Court of Appeals to eliminate the use of racial preferences by state funded institutions of higher education. See *Hopwood v. Texas*, 95 F.3d 53 (1996). Moreover, In accordance with their systematic attempt to dismantle the moderate gains won by Blacks, in the fall of 1997, the Center for Individual Rights filed two cases ("CIR") *Grutter v. Bollinger* and *Gratz v. Bollinger* — challenging race-based admissions at the University of Michigan's Law School and College of Literature, Science, and the Arts respectively. CIR website highlighted Time Magazine's article "dubbed 'Affirmative Action's Alamo', The two cases reflect the national debate over racial preferences in university admissions. The oft-repeated prediction that the future of race-based admissions will rise or fall on the outcome of these cases has become reality now that the

However, it is undeniable that Afrikan-Americans have overcome many hurdles, shattered numerous barriers, and set countless precedents on the way to freedom, justice, and equality here in the United States. Yet, under current conditions will Afrikan-Americans ever be able to create modern, prosperous, successful communities---models that Afrikan people throughout the world look to with pride and admiration---with first-rate Black medical doctors and surgeons practicing in state-of-the art Black owned hospitals; wealthy Black attorneys working tirelessly to fight for Afrikan descendants' civil and human rights; great Black educators and other role-models providing our children first-class instruction; daily Black newspapers uncompromisingly providing news from a Black perspective; Black banks with asset levels comparable to their White counterparts; 5 star hotels rivaling the most popular hotels in the country; average families living comfortably in modern houses with all available amenities; the dollar circulating 30-65 times before leaving the community; and popular venues at which entertainers must perform before claiming stardom.

Only time will tell if such a "dreamland" can emerge out of the current crisis in Black America. Meanwhile most are completely unaware that not long ago, such a model did exist in Tulsa, Oklahoma. What would Black Tulsa Oklahoma be today if it had been allowed to flourish? Just imagine ads in today's newspapers about the extravagant Black owned Stradford hotel:

Supreme Court will decide *Gratz* and *Grutter* in the spring of 2003. See http://www.cir-usa.org/recent_cases/michigan.html (last visited Mar. 31, 2003).

⁶ According to Dr. Claud Anderson Afrikan-Americans occupy the lowest position in America in every political, social, and economical statistical category. Anderson explains himself further when he states "the masses of Black people are either under employed, unemployed, or underpaid." See Claud Anderson, *Black Labor, White Wealth*, at 189 (1994).

The Stradford Hotel, the largest Black owned hotel chain in the world, invites all former and current residents of Tulsa, Oklahoma to come celebrate 80 years of high class lodging at one of our 550 locations worldwide and receive a free night in one of our luxurious suites. Since our humble beginnings as the “finest” hotel in Tulsa, Oklahoma, we have delivered the best in hotel lodging, dining, and hospitality. Now we want to share our success with the residents of the city that made it all possible by supporting the very first Stradford which is still located at 1212 North Greenwood in the historic Greenwood business of Tulsa.

Unfortunately, before the plush Stradford Hotel could reach its full potential, it and hundreds of other bustling businesses in the Black Greenwood District of north Tulsa, were burned to the ground during the worst acts of domestic terrorism in United States history—the little known Greenwood Holocaust. This inhuman act of terror, wrongly termed a “race riot” unjustly robbed thousands of Afrikan-Americans of their rightful inheritance and the potential for a prosperous future by destroying the wealthiest and most organized African American community in the 20th century. This monstrous crime also thwarted the re-creation of another economically viable community. “Greenwood” or “Black Wall Street” flourished from the early 1900s until June 1, 1921.⁷ On that infamous day, eighty two years ago, the Black citizens of north Tulsa experienced an event comparable to the September 11, 2001 tragedies. Yet, unlike the tremendous worldwide outrage and commitment to help the victims of September 11, 2001, the innocent victims of the so-called “Tulsa Race Riot” have only recently received any acknowledgement of this crime against humanity, and have never received one penny to compensate them for their losses.⁸

⁷ See Scott Ellsworth, *Death in a Promise Land: The Tulsa Race Riot of 1921* at 14-16 (1992).

⁸ Instead the state government has only awarded each survivor a gold-plated medal bearing the state seal. Yet, imagine the outrage if the current

Imagine walking out of your front door and seeing 1,500 homes and businesses burning; your neighbors' bodies littering the streets; airplanes flying above shooting at you; and to add insult to injury, angry white gangs cloaked in police and army uniforms committing these acts of violence against you. This is what the residents of Black Wall Street, (the name fittingly given to the most affluent all-Black community in the history of the United States), encountered on June 1, 1921.⁹ On that terrible day, mobs of angry, envious, Whites under the protection of city and state law pillaged and destroyed the all-Black community.¹⁰ Furthermore, after committing these awful acts, the city and state officials, who condoned this violence, instituted a shameful cover-up so successful that the horrors of the Greenwood Holocaust were effectively blotted out of history.¹¹ Yet, thanks to a few dedicated historians, politicians, and community activists, the long overdue story of how Black Wall Street was unjustly destroyed has recently received the attention it is due.¹² However, although the story was

administration only offered the victims and survivors of September 11 medals of valor. This type of patronage begs the question "what is Black life, property, and suffering worth in this country?" See Thomas J. Sugrue, *Terror in the Streets*, Wash. Post, Mar. 10, 2002, at T05.

⁹ See Ellsworth, *supra* note 7.

¹⁰ See Alfred L. Brophy, *Reconstructing the Dreamland: The Tulsa Riot of 1921* at 55-60 (2002).

¹¹ See John Hope Franklin & Scott Ellsworth, *Final Report of the Oklahoma Commission to Study the Tulsa Race Riot of 1921, History Knows No Fences: An Overview*, at <http://www.tulsareparations.org/Historynofences.htm> (last visited Feb. 14, 2003).

¹² Special tribute to but certainly not limited to: 1) North Tulsa/Greenwood State Rep. Don Ross for continuously pushing to have the Greenwood Holocaust examined by the state, 2) Educator/Author/Community Activist, and Greenwood native Dorothy Moses Dewitty for her book Tulsa: Tale of Two Cities, 3) Law Professor/Author Al Brophy for writing Reconstructing the Dreamland: The Tulsa Riot of 1921, 4) Historian/Author Scott Ellsworth for his book Death in a Promise Land: The Tulsa Race Riot of 1921, 5) 'America's Historian' and Greenwood native Dr. John Hope Franklin, 6) Historian and Greenwood native Eddie Faye

unearthed there are still vast amounts of important information about the Greenwood community and the events that destroyed it that must be told.

This paper will accomplish the following: 1) prove that describing the Greenwood massacre, as a “race riot” is erroneous; because the White citizens of Tulsa plotted to destroy the Black community of Greenwood, and through unprecedented urban warfare, White Tulsans, accomplished their mission. As a result, it is more accurate to refer to this incident, not as the “Tulsa Race Riot” but as the “Greenwood Holocaust”, because thousands of guilty Whites intentionally executed an unprecedented war on the Black citizens of Greenwood that led to the total destruction of the community; 2) to present a comprehensive reparations plan to compensate the victims and their descendents for the destruction to Greenwood and its Black citizens; and 3) to present a strategy for adopting this reparations plan for the victims of this horrible crime.

To support these three main points this article will: 1) briefly re-create the history of Black Oklahoma and describe why the unique circumstances of Black Oklahoma produced a Black paradise; 2) briefly describe the demographics of Greenwood at its heyday and the community’s potential had its future not been thwarted; 3) present a compelling case for real and substantive reparations for the horrendous and lasting harm done to the innocent victims of north Tulsa/Greenwood; 4) demonstrate the call for reparations does not and cannot

Gates and her book Tulsa Riot, 7) Attorney/Author Hannibal B. Johnson and his book Black Wallstreet, 8) Author/Filmmaker and Greenwood native Ron Wallace and his book and Educator R. Halliburton, Jr. and his book The Tulsa Race War of 1921. Of course there are many, many others who valiantly kept the memory of the Greenwood Holocaust alive. Without question, those unsung heroes also deserve great appreciation and thanks.

equate an impartial dollar amount for the loss of life and property, but that it should encourage social responsibility for the injustice that occurred; and 5) show that there are strong precedents for reparations for criminal acts similar to those committed against the citizens of Greenwood.

I. Historical Background

A. *The African's Fight for True Freedom in America*

It is undeniable that for the greater part of this country's history the view that "the Black Man has no rights that a white man has to respect" was not only an opinion held by most whites, it was the basis for a United States Supreme Court decision.¹³ Thus, since their illegal kidnapping and forced "immigration" to this country, Afrikan-Americans have had to struggle mightily just for basic human rights and the necessities of life.¹⁴ Thus, it is imperative that a brief description is provided of the historical conditions that created the atmosphere and circumstances under which the affluent Greenwood district was created and, sadly, eventually destroyed.

After President Lincoln, portrayed as a great humanitarian and emancipator, signed the Emancipation Proclamation¹⁵, the chains of physical

¹³ Supreme Court Chief Justice Roger Taney declared that under the Declaration of Independence and the United States Constitution a **black man "has no rights which the white man was bound to respect."** See *Dred Scott v. Sandford*, 60 U.S. 393, 407, (1857).

¹⁴ See Kenneth M. Stamp, *The Peculiar Institution: Slavery in the Ante-Bellum South*, (1956).

¹⁵ Many believe that Lincoln receives far too much recognition as a humanitarian because he readily conveyed indifference about Africans. For example, Lincoln is quoted as saying "I am not, nor ever have been in favor of bringing about the social and political equality of white and black races...that I am not nor ever have been in favor of making voters or jurors of Negroes." So, although it is irrefutable that through Lincoln's Emancipation Proclamation Afrikan people received "freedom", it is inaccurate to portray a man not in "favor of bringing about social and political equality of white and black races" as a humanitarian. See James Loewen, *Lies My Teacher Told Me: Everything Your American History Textbook Got Wrong* at 155 and 181 (1996).

slavery were outlawed in the United States. With the full force of the Emancipation Proclamation and later enactments of the 13, 14, & 15 amendments (the three so-called “Black Amendments”) Afrikan-Americans struggled to obtain some form of physical freedom.¹⁶ However, after the 1876 presidential compromise, the moderately successful Freedman’s Bureau and the “Reconstruction” era prematurely ended.¹⁷ A new system of oppression was institutionalized shortly thereafter, through Black codes¹⁸, lynchings¹⁹, sharecropping²⁰, and other oppressive laws that continually impeded the progress of Afrikan people in America. Afrikans quickly understood that “paper freedom” would not deliver true freedom—political autonomy, real economic development, unfettered cultural expression, and germane spiritual expression—that they longed for while toiling under the brutal yoke of the Anglo-American

¹⁶ Although the physical chains were removed, there was still bondage with the advent of sharecropping, peonage farming, and other restrictive and oppressive tactics employed by those in opposition to Afrikan freedom. The restrictions and frustrations that accompanied chattel slavery basically just changed forms, and remained a sad reality for the masses of Afrikan-Americans. See John Hope Franklin & Alfred A. Moss, *From Slavery to Freedom: A History of African Americans*, (1994 7th edition).

¹⁷ See Dr. W.E.B. Dubois, *Black Reconstruction An Essay Toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880*, at 602-612 (1935).

¹⁸ Black Codes were laws that categorically denied the rights of Afrikan-Americans during the early years after the formal ending of chattel slavery. See Kwame Anthony Appiah & Henry Louis, Jr. Gates, *Africana: The Encyclopedia of the African and African American Experience*, at 249 (1999).

¹⁹ Lynchings were illegal and often gruesome mob executions, usually by hanging. Often the Black victim was tortured and mutilated before death See *Id* at 1211.

²⁰ Sharecropping was when Black “workers” lived and worked on the land of a White landowner, often their former master, using the tools and other necessities provided on credit by the landowner. In return the worker was required to pay the landowner a portion of the crop produced “at year’s end, however, records would be produced purporting to show that the cropper had little or nothing coming to him.” See Kennedy, *supra* note 2, at 41.

White man.²¹ For example, in 1865 when quizzed by the famous General William Sherman about the prospects of Afrikan progress in the midst of blistering White Supremacy²² and oppression, without hesitation, a prominent group of Black leaders unanimously expressed their unwavering belief that only in separate enclaves could Afrikans achieve their proper educational, political, social, economical, mental, spiritual, and emotional potential as free Afrikans with a very distinct and unique culture.²³ Moreover, General Carl Schurz, special investigator for President Andrew Johnson, provided the reasoning for the Black leader's feelings when Schurz reported in 1868:

Some planters held back their former slaves on their plantations by brute force. Armed bands of white men patrolled the country roads to drive back Negroes wandering the highways and by-ways. Gruesome reports came from the hospitals—reports of colored men and women whose arms had been cut off, whose skulls had been broken by blows, whose bodies had been slashed by knives or lacerated with scourges. A number of such cases I had occasioned to examine myself. A reign of terror prevailed in many parts of the South.²⁴

The thirst for “true freedom” drove Afrikans to frantically search for a safe environment; an environment conducive to producing whole, sane, healthy, and prosperous people with unabridged opportunities to grow and develop into productive human beings. To be truly liberated, Afrikans in America realized they needed their own land. They became painfully aware that “the German and English and French Serf, the Italian and Russian Serf, were, at emancipation, given definite rights to the land. Yet the American Negro Slave was emancipated

²¹ See *Plessey v Ferguson*, 163 U.S. 537 (1896). In this case the majority upheld state-imposed racial segregation.

²² A doctrine based on a belief in the inherent superiority of the White race over the Black race and the correlative necessity for the subordination of blacks to whites in all relationships. See <http://www.webster.com/cgi-bin/dictionary> (last visited Feb 15, 2003).

²³ See Hannibal Johnson, *Acres of Aspirations*, at 14 (2002).

²⁴ See *Id.* at 16.

without the same rights and in the end this spelled for him the continuation of slavery.”²⁵ This noble quest, for a land to live free in name and in fact, spanned the entire nation...indeed the entire world.²⁶

B. The Dream of a Black State. Was Oklahoma the “Promise Land”?

The new “Americans” suffered the brunt of so much hostility that it is not surprising that, “Black folk were always on the move, throwing off oppression like stifling clothes and inhabiting new lands with old hopes of freedom.”²⁷ Therefore, Afrikans in America vehemently searched and even lobbied the United States government for a place to live their lives away from the hell of oppression.²⁸ These efforts went on for many years.²⁹ The search took Afrikans to Kansas, Canada, Mexico, and even back home to Afrika.³⁰ However, many freedom thirsty Afrikans viewed Oklahoma, then known as Indian Territory, as the perfect and most sensible place for Afrikan people to start their new lives.³¹ To this end, many Afrikans touting Oklahoma as the “promise land,” and individual and organizational movements sprang up all over the country.³² For instance, the

²⁵ See Dubois, *supra* note 17, at 602, 611.

²⁶ See Martin Delaney, *Emigration of the Colored People of the United States*, <http://www.libraries.wvu.edu/delany/emigrate.htm> (last visited Feb. 15, 2003).

²⁷ See Michael Eric Dyson, *Introduction to Acres of Aspirations*, Hannibal Johnson, at vi (2002).

²⁸ See Johnson, *supra* note 23, at 28.

²⁹ Indeed this effort is still ongoing. Many Blacks feel this country will never treat its former slaves equally and without restraint. There is a substantial movement for repatriation to Afrika or the creation of a homeland. Those advocates point to Israel as precedent. See Republic of New Afrika Philosophy, <http://www.asetbooks.com/Us/Nationhood/RNA/Philosophy.html> (last visited Feb. 15, 2003).

³⁰ See Franklin & Moss, *supra* note 16, at 235, 278-79, 384-385, 340-41, 105-111.

³¹ See Johnson, *supra* note 23, at 38.

³² See *Id.* at 29.

Freedman's Oklahoma Immigration Association was formed on March 15, 1881 with for the sole purpose of re-settling Afrikans in Oklahoma.³³ One proponent, the Honorable Edward P. McCabe, widely considered the father of America's all-Black town movement, even traveled to Washington D.C. to meet with President Benjamin Harrison to lobby for Oklahoma to be admitted as a "Black State."³⁴ In addition, those ambitious Afrikans calling for a "Black state" even inspired New Hampshire Senator Henry W. Blair to introduce a bill favoring Oklahoma's admission to the Union as a Black State.³⁵

Clearly the Black State aspirants were soundly defeated.³⁶ Yet, Oklahoma became and still is home to the most all-Black towns in this nation's history.³⁷ This comes as no surprise when one understands the thinking of the Afrikans

³³ See *Id.* at 38.

³⁴ Perhaps the strongest supporter of Oklahoma as a Black State, McCabe also founded the all-Black town of Langston, Oklahoma and all-Black Langston University. Langston University is the only all-Black college in Oklahoma and only Black College west of the Mississippi. See *Id.* at 29.

³⁵ See *Id.* at 29.

³⁶ The United States promised Native Americans "the lands [Oklahoma] set aside for them would in no future time without their consent, be included within the territorial limits or jurisdiction of any State or Territory." See Treaty with the Cherokee, Dec. 29, 1835, U.S.-Cherokee, art. 5, 7 Stat. 478, 481.

³⁷ Between 1865 and 1915, approximately 60 Black Towns were settled in the United States, with more than one-third settling in Oklahoma which by far led all other states. See <http://www.tulsalibrary.com/collections/aarc/towns.htm> (last visited Feb. 22, 2003). "In these towns African Americans lived free from the prejudices and brutality found in other racially mixed communities of the Midwest and the South. African Americans in Oklahoma and Indian Territories would create their own communities for many reasons. Escape from discrimination and abuse would be an important driving factor. All-Black settlements offered the advantage of being able to depend on neighbors for financial assistance and access markets for crops. Arthur Tolson, a pioneering historian of Blacks in Oklahoma, asserts that many African Americans turned to 'ideologies of economic advancement, self-help, and racial solidarity'." See also, <http://www.ok-history.mus.ok.us/enc/allblack.htm> (Last visited February 23, 2003).

who came to Oklahoma. William H. Twine, writing in 1905 as the editor of the *Muskogee Cimeter*, best sums up the attitudes of those courageous Afrikans:

Some of us have made our last move and we propose to stand our ground where we have our homes and our investments until hell freezes over and then fight the devils on ice...the Indian Territory is the last stand the Negro of America can make as pioneer and we propose to let it go down in history that the stand was made here.³⁸

Thus, the success of the record number of all-Black towns that sprang up all over Oklahoma and their continuing existence is a testament to the freedom chasing spirit of those mighty Afrikans like Twine.³⁹ This freedom loving spirit and willingness to fight to achieve it produced a number of Black pioneers from Oklahoma such as: 1) Ada Lois Sipuel Fisher who in 1948 successfully sued the University of Oklahoma to admit her into their law school;⁴⁰ 2) Ralph Ellison who so profoundly detailed the agony of being a Black man in America in his novel, "Invisible Man;" that purportedly "no...American writer has received as much critical acclaim and as many honors for such a small body of work"⁴¹; 3) Cow Tom a former Creek slave who became the first full-blooded Afrikan to become chief of a Native American nation (Creek),⁴² and while serving as chief negotiated

³⁸ See Jonathan Greenberg, *Staking a Claim: Jake Simmons, Jr and the Making of An African-American Oil Empire*, at 61 (1990).

³⁹ An example of the resilience of these special people is the all-Black town of Boley. Although far from its heyday of 1914 when the all-Black citizens of Boley possessed a \$150,000 high school, cement sidewalks, beautiful residences, an electric power plant and waterworks, a bank, telephone system, three cotton gins, and eighty other business ventures. Boley is still a source of pride to Afrikans in Oklahoma. For instance, the world famous Boley Rodeo started in 1904, draws thousands to descend on the town and rehash memories from generations past. See Appiah & Gates, *supra* note 10, at 550.

⁴⁰ See *Sipuel v. Board of Regents*, 332 U.S. 631 (1947).

⁴¹ Donald B. Gibson, Ralph Waldo Ellison, *Encyclopedia of American Biography*, 331, 332 (John A. Garraty ed., 1974).

⁴² John K. Mahon, *History of the Second Seminole War*, at 91 (1967).

the Creek Treaty of 1866 which ended slavery for Afrikans held as Creek laves;⁴³ 4) Jake Simmons, Jr. (Cow Tom's great-grandson) the most important Black man in the history of the Oil Industry;⁴⁴ 5) Honorable Roscoe Dunjee who in 1958 contrary to popular belief "conducted the nation's first sit-in [boycott]" in Oklahoma City, Oklahoma.⁴⁵; and 6) Langston University, geographically the western-most historically Black College or University (HBCU), which has educated thousands of Black students.⁴⁶ Indeed the small of state of Oklahoma has produced some heavyweight contributors to the Afrikan American community.

C. Oklahoma...A Dream Deferred

Sadly and cruelly the State's first legislative convention sought to quickly and decisively dispel any thought of Oklahoma offering special opportunities or

⁴³ The legislation ending Creek slavery read as follows "As there are among the Creeks many persons of African descent, who have no interest in the soil, it is stipulated that hereafter these persons...and their descendants...shall have and enjoy all the rights and privileges of native citizens, including an equal interest in soil and national funds." See http://digital.library.okstate.edu/kappler/Vol2/treaties/cre0931.htm#slavery_nor (last visited Feb. 15, 2003).

⁴⁴ Simmons "believed in capitalism and the opportunities of the American system, and was determined to make those opportunities exist for himself and those of his race." Credited with single-handedly helping newly freed Afrikan nations exploit their own resources for the good of their people, Simmons "was a frenetic intermediary, setting up huge deals between huge multinationals like Phillips Petroleum, Texaco, and Signal, and top government official from Nigeria, Ghana, Liberia, and the Ivory Coast. He worked for big oil and he worked for big government, but he let everyone know that in the end he worked for Jake Simmons." See Greenberg, *supra* note 38, at 9-10.

⁴⁵ Through his newspaper, The Black Dispatch, Dunjee was also integral in the passing the Dyer Anti-Lynching Bill that passed the U.S. House of Representatives, and set up the first NAACP chapter west of Mississippi in Oklahoma City. See Currie Ballard, *Moral Giants Among Midgets*, The Daily Oklahoman, Aug. 31, 2001.

⁴⁶ See Zelia J. Black Patterson, *Langston University: A History*, (1979).

freedoms for Afrikans. For example, the chairman of Oklahoma's Constitution Convention, William H. Murrah argued, "we must provide the means for the advancement of the Negro race, and accept him as God gave him to us...he must be taught in line of his own sphere, as porters, boot-blacks, and barbers...it is an entirely false notion that the Negro can rise to the equal of a white man in professions or become an equal citizen to grapple with public questions."⁴⁷ Therefore, the convention overwhelmingly voted to copy and implement many racist and oppressive "Jim Crow" Laws. Moreover, upon achieving statehood in 1907, the very first order of business for Oklahoma's newly elected senate was to make segregation the law of the state.⁴⁸

Unfortunately, Oklahoma not only failed to come into the union as a Black State, but it also succumbed to the disease of racism and White supremacy that ravaged the rest of the country. Nonetheless, the foundation for Afrikan success, empowerment, and self-determination already well-laid and entrenched due to the thousands of freedom-seeking Afrikans who settled in Oklahoma for the sole purpose of escaping the prohibitions of white racism in order to build a better life. Accordingly, it should not have come to anyone's surprise that the "Mecca" of Black success, wealth, and excellence would be born in Oklahoma—Greenwood, Oklahoma

⁴⁷ See Johnson, *supra* note 23, at 63.

⁴⁸ See *Id.* at 18.

II. Black Wall Street

A. The Magnificence of Greenwood

Contemporary social commentary provided by Dr. W.E.B. Dubois described the community known as Black Wall Street thusly “I have never seen a colored community so highly organized as that of Tulsa. The colored people of Tulsa have accumulated property, have established stores and business organizations and have made money in oil.”⁴⁹ Although Greenwood was not officially a sovereign state or even its own municipality, for all practical purposes it functioned just like an independent community. The racist laws in the state of Oklahoma prevented Greenwood residents from participating in the Tulsa city government. So, the residents of Greenwood basically ran their part of town as a separate entity, and when asked, many identified their hometown as Greenwood, not Tulsa. Because all of life’s necessities for Greenwood residents were within the geographic boundaries of their community, it is reported that most “Greenwood residents did not have any reason to leave the community for anything but shoes.”⁵⁰

So what was Greenwood like? Long time Greenwood historian Scott Ellsworth describing what Greenwood’s business district and neighborhoods was like before the massacre wrote:

The Black population had grown to almost 11,000 and the community counted two Black schools, Dunbar and Booker T. Washington⁵¹, one Black Hospital⁵²,

⁴⁹ See The Daily Oklahoman, June 2, 1921,

⁵⁰ See Interview with Keith Jemison, Librarian, Freddie Martin Rudisil Regional Library, in North Tulsa, OK. (Dec. 22, 2002).

⁵¹ My beloved alma mater had a curriculum in 1921 that would stand out even by today’s standards for best high schools in the nation. Freshman Class—Latin, English, Algebra, Drawing, Domestic Science and Art, Manual Training, Ancient History, Vocal Music. Sophomore Class—Latin, English, Geometry Solid,

and two Black newspapers, *The Tulsa Star* and the *Oklahoma Sun*. Black Tulsa[Greenwood] at the time had some thirteen churches and three fraternal lodges—Masonic, Knights of Pythias, and I.O.O.F.—plus two Black [movie] theaters⁵³ and a Black public library...two and three-story brick buildings lined the avenue, housing a variety of commercial establishments, including a dry goods store, groceries, confectionaries, restaurants, and billiard halls...offices of Tulsa's unusually large number of Black lawyers, doctors, and other professionals...along Detroit Avenue and certain other streets were the neat, sturdy homes of some of those Black Tulsans who owned businesses lining Greenwood avenue, augmented by the houses of the city's Black professional class. Within this elite group, some were rumored to have assets in excess of \$100,000.⁵⁴

Greenwood was so economically self-sufficient; purportedly the dollar circulated around fifty times sometimes taking a year for currency to leave the community.⁵⁵ So, it is not hard to see why “the Greenwood district, drew an array of nationally prominent African-Americans to Tulsa...entertainers, dignitaries, and notables throughout the country visited frequently...such as Mary McCloud Bethune-Cookman⁵⁶, Dr. George Washington Carver⁵⁷, Marion

Drawing, Medieval and Modern History, Economics, Music, Domestic Science, and Manual Training. Junior Class—English, Algebra, Commercial Arithmetic, Drawing, Manual Training, Business Spelling, Chemistry, English History, Civics, Domestic Art, Domestic Science, Vocal Music. Senior Class—English, Physics, Geometry Solid, Typewriting, Vocal Music, Domestic Science, Manual Training, American History, Psychology, Trigonometry Plain, Book Keeping, Drawing, Domestic Art, and Shorthand. In addition, all classes had to participate in some form of athletics. See Johnson, *supra* note 21, at 63.

⁵² Currently there are no hospitals to serve the majority Black residents of North Tulsa/Greenwood; while there are 6 conveniently located hospitals to serve the majority White residents of South Tulsa. See <http://www.tulsa.com/localinfo/aroundtown/hospitals.asp> (last visited Feb. 15, 2003).

⁵³ Currently, there are no theaters in North Tulsa/Greenwood while there are 15 conveniently located theaters to serve the predominately White residents of South Tulsa. See <http://www.tulsa.com/localinfo/aroundtown/theaters.asp> (last visited Feb 15, 2003).

⁵⁴ See Ellsworth, *supra* note 8, at 14-16.

⁵⁵ See Ron Wallace, *Black Wallstreet*, <http://www.daveyd.com/blackwallpolitic.html>. (last visited Feb. 15, 2003).

⁵⁶ Mary Jane McLeod Bethune became the first Black woman in the United States to establish a school that became Bethune-Cookman, a four-year accredited college. See Appiah & Gates, *supra* note 10, at 229.

Anderson⁵⁸, and Dr. W.E.B. Dubois.”⁵⁹ Truly, for these and other famous and successful African Americans, a sojourn to this “promise land” was like a Muslim pilgrimage to Mecca...a must! ⁶⁰



Greenwood District prior to the riot

⁵⁷ Dr. George Washington Carver (1864–1943), was a world-renowned scientist who saved the southern economy by developing hundreds of products that were made from peanuts, sweet potatoes, and soybeans. See Appiah & Gates, *supra* note 10, at 389.

⁵⁸ Anderson is considered by many as the greatest African- American (if not just the greatest) opera singer of all-time. See Appiah & Gates, *supra* note 18 at 101.

⁵⁹ W.E.B. Dubois was a famous political and human rights activist who was the first African-American to receive a Ph.D. from Harvard in 1895, and considered by many as the leading intellectual of his time. See Appiah & Gates, *supra* note 18, at 635.

⁶⁰ See Hannibal Johnson, *Black Wall Street: From Riot to Renaissance in Tulsa's Historic Greenwood District*, at 18 (1998).

III. Riot...What Riot?

A. *The Power of Phraseology.*

The use of specialty words and phrases to define reality has become both an art form and big business in America. This art form, called Phraseology “is the choice of words and the way in which they are used.”; it has become both an art form and big business in world⁶¹ For example, if nation A is violently fighting for a “liberation” from Nation B, and they take their case to the United Nations for a decision to settle their dispute. Nation A will invariable phase the nature of their actions as that of “freedom fighters” who are engaged in a military or paramilitary liberation war which is just for the (re)-establishment of traditional moral, cultural and religious values.”⁶² Nation B will invariably label Groups A as “...terrorists who kill and main innocent men, woman, and children.”⁶³ The United Nations and world opinion will sway towards the nation best able to persuade the observer that their phraseology is the correct way to interpret the disputed actions. The nation that wins the phraseology war will receive the blessing of the world which just might be the weapon needed to crush the other side.

B. *What does this have to do with Greenwood?*

That is why it is of the utmost importance that we are mindful of how May 31/June 1, 1921 is recorded in history; the characterization of the historical events of those infamous hours ultimately determines the level of recognition and understanding the so-called Tulsa Race Riot receives. For without the proper

⁶¹ See *Roget's II: The New Thesaurus*, 1190 (3^d ed. 1995).

⁶² See Patrick Marshall, *The Extradition Treaties Built Danger*, Chicago Tribune, July 24th 1986.

⁶³ See *Id.*

phraseology, the full extent of what happened in Tulsa could be forever minimized. In addition, (and most important to this discussion) the proper characterization of the catastrophic events of June 1st, 1921 will have a direct impact on the outcome of the reparations movement as it relates to the Greenwood holocaust.

The general public and those controlling the “purse strings” must clearly understand the severity of what happened that dreadful day in 1921, now neatly termed “The Tulsa Race Riot.” A race riot is “caused by racial dissensions or hatreds.”⁶⁴ Without a doubt, throughout the history of the United States, anti-Black attitudes have caused numerous incidents that led to the total destruction of entire Black towns or sections of cities. In fact, in 1919, so-called “race riots” and the shedding of Black blood were so rampant that history dubbed that summer the “Red Summer of 1919.”⁶⁵ Unquestionably, the extreme hatred and envy of white Tulsans towards the successful inhabitants of Greenwood led to the costly destruction of Black Wallstreet. Thus, calling the events of June 1st, 1921, “The Tulsa Race Riot,” seems to be appropriate. However, what if the same events occurred in today’s post-September 11, 2001 world? Would the “riot” actually be seen as an act of terrorism? What about an act of genocide? At any rate, terming the events of June 1, 1921 a “riot” wrongfully conjures up images of two opposing groups spontaneously attacking each other for an intensive, but short time. However, this is not what happened in Tulsa. In Tulsa,

⁶⁴ See Merriam-Webster, <http://www.webster.com/cgi-bin/dictionary>, (last visited February 16th, 2003).

⁶⁵ See Robert J. Booker, *The Heat of a Red Summer: Race Mixing, Race Riot in 1919*, (2001).

one group of people (Whites) conspired to destroy another group (Blacks), and then used a flimsy excuse to carry out their evil plan.⁶⁶

Consequently, “race riot” does not adequately convey what really happened to Greenwood. For example, then Tulsa Mayor, T.D. Evans expressed my exact sentiments while discussing the “riot” two weeks later when he said, “all regret the wrongs that fell upon the innocent Negroes and they should receive help as we can give them if within our power. It, however, is true of any *warfare* (emphasis mine) that the fortunes of war fall upon the innocent...this is true of any conflict, *invasion*, or uprising. Think what would have happened had the Allies marched to Berlin.”⁶⁷ Therefore, dropping the riot designation and rightly describing the horrendous events of 1921 as a war or invasion against the citizens of Greenwood draws us closer to what really happened. Yet, even the war definition does not completely portray the whole story. The White citizens of Tulsa planned and executed a military style invasion of Greenwood. As a consequence of losing the unparalleled, unprovoked war, the victims of Greenwood suffered a holocaust.

⁶⁶ Many survivors such as Juanita Delores Burnett Arnold recollect: “trouble had been brewing in Tulsa before the riot broke out the night of May 31, 1921. We children noticed grownups, frowns on their faces, talking in whispers about bad race relations in the city and about rumors of a showdown coming. In fact, the day before the riot there was an incident right in front of our house. A group of angry white men were roaming up and down our street. They were so full of anger, jealousy, and rage. They were using the “N” word in every sentence they spoke. It as “Nigger this,” and “Nigger that!” See Eddie Faye Gates, *Oral History Accounts of the Tulsa Race Riot of 1921 by Black Survivors*, <http://www.tulsareparations.org/JArnold.htm> (last visited Feb. 15, 2003).

⁶⁷ See 6-14-21 *Riot Commission Report*.

A holocaust is defined as “great or total destruction by fire.”⁶⁸ Surely what happened to Greenwood and its citizens fits this definition as thirty-five city blocks were burnt to the ground by lawless thugs.⁶⁹ Moreover, just like Jewish victims of Nazi Germany, the citizens of Greenwood suffered their holocaust because of their ethnicity/race and their prosperity.⁷⁰ Just like the Jews the residents of Greenwood unjustly had their property pillaged, stolen, and destroyed.⁷¹ Just like the Jews, the Black residents of Greenwood had their families separated from one another.⁷² Just like the Jews, the Black residents of Greenwood were forced into concentration camps.⁷³ Just like the Jews, the Black residents of Greenwood were made to suffer the indignity of pass cards.⁷⁴

So, notwithstanding the tremendous disparity of actual human and property damage between the Jewish Holocaust and the Greenwood massacre, essentially there are no tangible differences between what happened to the citizens of Greenwood and the victims of the Nazis reign of terror. Surely there is not much difference to the individuals and communities affected. As a result, the Greenwood Holocaust victims should receive the same type of recognition, understanding, and reparations, as the victims of Nazi Germany.

⁶⁸ See *The American Heritage Dictionary* (3rd ed. 1994).

⁶⁹ See Scott Ellsworth, *The Tulsa Riot*, available at <http://www.tulsareparations.org/TulsaRiot.html>. (last visited at Feb. 15, 2003).

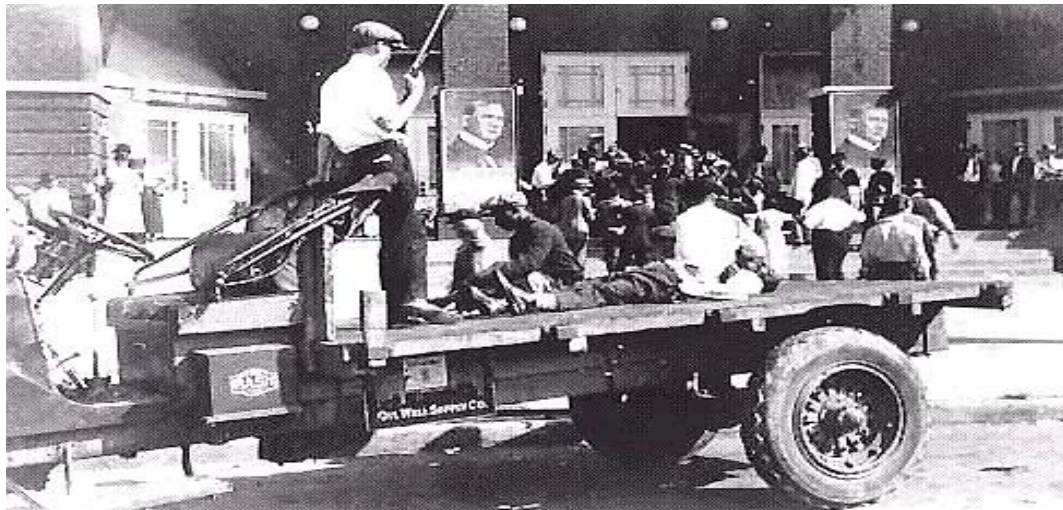
⁷⁰ See *Id.*

⁷¹ See *Id.*

⁷² See *Id.*

⁷³ See *Id.*

⁷⁴ See *Id.*



Greenwood Holocaust victim

VI. The Deadliest Act of Domestic Terrorism in United States History

A. What Sparked the Greenwood Holocaust?

In late May 1921 19-year-old Dick Rowland, a Black man while, entering an elevator slipped; and as he tried to break his fall, he accidentally touched a young White woman who operated the elevator.⁷⁵ The White woman claimed that Rowland assaulted her and he was promptly arrested and put in the Tulsa jail. By that evening, the racist Tulsa Tribune reported that a savage Black man had attacked a White woman and that the perpetrator was going to be lynched.⁷⁶ Thus, as was common during that bloody era of United States history, a large crowd of nearly 2,000 bloodthirsty Whites gathered outside of the courthouse calling for the brutal murder of a Black man.⁷⁷

⁷⁵ See Ralph Ginzburg, *100 Years of Lynching*, (1997).

⁷⁶ See Ellsworth, *supra* note 69.

⁷⁷ See *Id.*

However, unlike many other parts of the country at that time, the courageous Black men of Greenwood were not going to allow one of their brothers to be viciously lynched.⁷⁸ Approximately 60-armed Black men went to the courthouse to help protect Rowland.⁷⁹ Surely, startled by the sight of armed Blackmen with guns who believed that “when the government failed to protect, Greenwood had the right—sometimes they even spoke about it as a duty—to take action,”⁸⁰ the White residents of Tulsa were bewildered. The atmosphere quickly became electric, tempers ran high, and shots were fired after the Whites tried to disarm the valiant Black men.⁸¹ Greatly outnumbered, the Greenwood residents retreated to what they thought was the safety of their community.⁸² However, it was too late; the city of Tulsa seized this opportunity to teach the “uppity Negroes” a lesson.⁸³ Tulsa deputized hundreds of whites, supplied them with guns, and unleashed the deadliest domestic terrorist attack ever on United States citizens.⁸⁴

⁷⁸ See *Id.*

⁷⁹ See *Id.*

⁸⁰ See Brophy, *supra* note 10, at 93.

⁸¹ Many of the men were WWI veterans who strongly believed in the American right to life, liberty, & the pursuit of happiness and the right to bear arms to protect oneself, property, and community. See *Id.* See also, <http://www.tulsareparations.org/TulsaRiot1Of3.htm>

⁸² See Appiah & Gates, *supra* note 1893, at 155.

⁸³ See Gates, *supra* note 65.

⁸⁴ I know for many in the wake of 9-11 this is hard to believe. However, the Greenwood Holocaust is easily distinguishable from the September 11 terrorist attacks because the September 11 attackers were foreigners attacking Americans. Yet, In the Greenwood Holocaust you had Americans attacking Americans!

B. "Little Africa" on Fire...America's Holocaust



White rioters setting homes on fire

The ruthless mercenaries instituted a scorched earth policy, and virtually burnt every home and business in the Greenwood community.⁸⁵ Moreover, the savagery of the thugs equaled some of the most heinous acts of barbarism known to man. For example, many surrendering Greenwood residents were shot and thrown into burning structures.⁸⁶ As one contemporary account chronicled, "in times of war, when an allied soldier dropped his weapons and raised his hands as a sign of surrender, the 'barbarous' Germans spared his life. In Tulsa, Oklahoma, however, defenseless men, women and children were murdered without a chance for their lives."⁸⁷ Another account argues "civilization broke down in Tulsa...things happened that were on footing with what the Germans did in Belgium, what the Turks did in Armenia, [and] what the Bolsheviks did in Russia."⁸⁸ Maybe the most outstanding personal account comes from long-time NAACP official ironically named Walter White, who while on assignment investigated an earlier lynching in Oklahoma, passed for White and was sworn in as one of the emergency deputies. White writes:

⁸⁵ See Appiah & Gates, *supra* note 18, at 1893.

⁸⁶ See *Id.*

⁸⁷ See *Chicago Defender* 8, June 18, 1921.

It was even easier to do this than I had expected. That evening in the City Hall I had to answer only three questions—name, age, and address. I might have been a thug, a murderer, an escaped convict, a member of the mob itself which had laid waste a larger area of the city—none of these mattered; my skin was apparently white, and that was enough. After we—some fifty or sixty of us—had been sworn in...a villainous-looking man next to me turned and remarked causally, even with a note of happiness in his voice: “Now you can go out and shoot any nigger you see and the law’ll be behind you.”⁸⁹

After the initial mayhem had abated, the Oklahoma National Guard unconstitutionally rounded up roughly half of the Black population of Greenwood and placed them in Nazi styled concentration camps.⁹⁰ Lastly, the city of Tulsa issued demeaning passes that only allowed Blacks to leave the detention camps if a White person signed them out and agreed to be personally responsible for them.⁹¹

Only the efforts of many dedicated and determined activists and scholars have kept alive the story of the Greenwood Holocaust. These efforts secured the 1921 Tulsa Race Riot Commission, established in 1997 with House Joint Resolution 1035.⁹² After four years of meticulous research, in February 2001, the Tulsa Race Riot Commission issued its report and called for reparations to survivors.⁹³ On June 1, 2001, Oklahoma Gov. Frank Keating signed the 1921 Tulsa Race Riot Reconciliation Act. However, many saw the bill as “largely symbolic: It did recognize the terrible costs in lives and property and race relations that resulted from the holocaust, but avoided the issue of reparations altogether. The state government instead awarded each survivor a gold-plated

⁸⁸ See Brophy, *supra* note 10, at 69.

⁸⁹ See V.F. Calverton, *Anthology of American Negro Literature*, at 401 (1929).

⁹⁰ See Appiah & Gates, *supra* note 18, at 1893.

⁹¹ See *Id.*

⁹² See Danney Global, *Final Report of the Oklahoma Commission to Study The Tulsa Race Riot*, <http://www.tulsareparations.org/FinalReport.htm> (last visited Feb. 15, 2003).

medal bearing the state seal.”⁹⁴ Yet, the Commission’s final and official report has been invaluable in documenting the Greenwood Holocaust even though some accusations by eyewitnesses dispute certain aspects of the report. At any rate, it is of the utmost importance to include the following excerpts from the final report:

- a. on May 31st, the Tulsa Tribune ran a story covering the arrest of a young Black man jailed for assaulting a White elevator operator based on accusations that were later recanted
- b. the Tribune edition also contained an inflammatory editorial that not only suggested but incited that there would be a lynching. Following release of the paper, frenzy spread across the White Tulsa community in anticipation of a lynching and across the Black Tulsa community in defense of one
- c. in the presence of approximately 2,000 White Tulsans, 75 African Americans, some of them World War I veterans, met the Sheriff at the Courthouse, offering to assist in protecting the prisoner
- d. a struggle ensued between a White Tulsan seeking to disarm one of these veterans and rioting began as a result of the gun being fired.
- e. the City of Tulsa Police Department deputized 500 White Tulsans, many of which were largely responsible for the damage suffered by the African American Greenwood business and residential community
- f. the State of Oklahoma mobilized a unit of the Oklahoma National Guard that subsequently received a machine gun from the City police that was mounted on a flatbed truck and used against the men, women and children of Greenwood.
- g. through the night, fires were set and fighting continued as Greenwood’s war veterans and citizens defended their community from the White attackers, inclusive of men dressed in State National Guard uniforms, City of Tulsa Police uniforms and under the specially deputized authority of the Tulsa Police Department.
- h. at daybreak, Greenwood faced an overwhelming assault and massacre by 5,000-10,000 White Tulsans covered by a second machine gun, airborne gunfire and/or the dropping of incendiary devices, whom prominent and youth members of the Ku Klux Klan probably helped to mobilize.
- i. the organized Whites emptied homes, detained residents, murdered those resisting or found to be armed, looted homes and businesses and set them ablaze; and
- j. around three hundred deaths, according to the Red Cross official report, accounts of credible witnesses, eyewitness accounts of “bodies of blacks stacked like cordwood on Tulsa streets, black bodies piled on trucks, and on trains” and with circumstantial

⁹³ See *Id.*

⁹⁴ See Thomas J. Sugrue, *Terror in the Streets*, The Washington Post, Sun. Mar. 10, 2002.

evidence from renowned physical anthropologist, Dr. Clyde Snow, a member of the Commission to Study the Tulsa Race Riot that points to the existence of mass graves

- k. 40 square blocks of 1,265 homes looted and then burned to the ground, including hospitals, schools, and churches owned primarily by African Americans
- l. 150 businesses leveled also by fire and, in some instances, incendiary devices thrown from the air in the Greenwood district now popularly referred to as the "Black Wall Street" of America
- m. 6,000 Black Tulsans involuntarily arrested, detained and released only upon being vouched for by a White employer and/or citizen
- n. 9,000 homeless and living in tents well into the Winter of 1921
- o. An entire generation's inheritance robbed of a people who dared to "lift themselves up by their bootstraps" and live the American dream, only to have it rendered an eternal nightmare.

In addition, The 1921 Tulsa Race Riot Commission accomplished the following:

- a. identified, contacted, and registered 126 surviving Greenwood community residents from that time period; real and substantial action redressing the Holocaust is a matter of utmost humanitarian and moral urgency because the then 126 survivors of the 1921 Riot are elderly and dying;
- b. the Greenwood community survivors of the events of May 31/June 1st 1921, experienced tremendous personal and property loss as the result of the events of those days and those losses have never been properly compensated or recognized;
- c. the North Tulsa, Greenwood business and residential district never fully recovered from the riotous assault upon their persons and property on May 31 - June 1, 1921;
- d. reparations for violations of human rights is fully supported under the International Declaration of Human Rights of the United Nations and the Oklahoma State Commission to Study the Tulsa Race Riot of 1921 made their beliefs clear: "There is no way but by government to represent the collective, and there is no way but by reparations to make real the responsibility . . . Reparations are the right thing to do" and
- e. there is clear culpability for the environment and sustenance of the Tulsa race riot, war and massacre of 1921 from both the State of Oklahoma and, in particular, the City of Tulsa
- f. the African American citizens in the City of Tulsa and the State of Oklahoma were deprived of their right to due process under the law as well as life, liberty and the pursuit of happiness as outlined in the Constitution of the United States of America

C. The Damage

By sun-up June 1, 1921, the once prosperous 35-Block business district in north Tulsa lay utterly destroyed. Scores of successful businesses were lost.

Among these were 21 churches, 21 restaurants, 30 grocery stores and two movie theaters, a hospital, a bank, a post office, libraries, schools, law offices, a half dozen private airplanes and even a bus system. The total value of property damage is not known. However, most estimate the property value at the time at around \$3,000,000, which is \$16 million today. Yet, no Black resident ever received one dime for their losses.⁹⁵ Eyewitnesses and survivors put the death total around 3,000 after the night's carnage.⁹⁶ Yet, sadly, it may never be known the exact number of lives lost as many survivors discussed the unaccounted members of their community in the following fashion, "I don't know if they died. Maybe they left, but some in my class didn't finish school with us. Never saw them after the riot. Maybe they left. Maybe they dead. Just gone."⁹⁷

Unfortunately because of the *blitzkrieg* nature of the attack and the massive cover-up by the responsible state and local governments the exact number of dead and injured may forever be disputed. However, thanks to the American Red Cross, a more precise list of casualties does exist and the numbers are staggering. Overnight 2,480 families or 10,000 innocent victims were homeless and in need as over 1,000 homes and businesses were completely destroyed.⁹⁸ Describing the war the next day, the Tulsa World wrote:

Personal belongings and household goods had been removed from many homes and piled in the streets. On the steps of the few houses that remained sat feeble and gray Negro men and women and occasionally a small child. The look in their eyes was one of dejection and supplication. Judging from their attitude, it was not of material consequence to them whether they lived or died. Harmless themselves, they apparently could not conceive the brutality and fiendishness of

⁹⁵ See Larry O'Dell, Riot Property Loss, <http://www.tulsareparations.org/Property.htm> (last Visited Feb. 20, 2003).

⁹⁶ See Clyde Snow, *Confirmed Deaths A Preliminary Report*, <http://www.tulsareparations.org/Death.htm> (last visited Feb. 15, 2003).

⁹⁷ See Gates, *supra* note 65.

⁹⁸ See Ellsworth, *supra* note 1, at 69.

men who would deliberately set fire to the homes of their friends and neighbors and just as deliberately shoot them down in their tracks.⁹⁹

So, in little less than 12 hours, Greenwood, a peaceful, hardworking, model community, along with its incredible African-American economy was destroyed.

D. The Aftermath

If the city of Tulsa's shameful role in allowing and encouraging the destruction of Greenwood were not egregious enough, shortly after the massacre on June 7th, 1921, the city zoning board enacted an ordinance that "made rebuilding residences in the area prohibitively expensive" because the city had plans to "convert Greenwood into an industrial district."¹⁰⁰ In addition, the culpable Tulsa Tribune openly affirmed, "niggertown must never be allowed in Tulsa again."¹⁰¹ Indeed there were some White city leaders who recognized the error of their brethren and expressed a willingness and responsibility to rebuild the district. In fact the Tulsa government citing their moral obligation to rebuild Greenwood even discouraged outside assistance in the rebuilding effort.¹⁰² However, the city reneged and their delay forced over 1000 Greenwood residents to spend the winter in hastily made tents.¹⁰³

⁹⁹ See *Tulsa Daily World*, June 2, 1921.

¹⁰⁰ See Brophy, *supra*, note 10, at 93.

¹⁰¹ See Eddie Faye Gates, *They Came Searching: How Blacks Sought the Promised Land in Tulsa*, at 138 (1997).

¹⁰² See Appiah & Gates, *supra* note 18, at 1893.

¹⁰³ See *Id.*



Greenwood Holocaust victims being arrested

V. Answering Questions about Reparations

A. Overview of Reparations

What are reparations? Reparations are a well-established, long-standing principle of international law.¹⁰⁴ It is payment for a debt owed, or for a wrong committed. Reparations essentially constitute four elements: 1) the formal acknowledgement of wrongs; 2) the recognition of continuing injury; 3) the commitment to redress said injuries; and 4) actual compensation or restitution for the injuries.¹⁰⁵ Dinah Shelton argues “reparations must wipe out all the consequences of the illegal act...*the compensation must be adequate and*

¹⁰⁴ See Dinah L. Shelton & Thordis Ingadottir *The International Criminal Court Reparations to Victims of Crimes (Article 75 of the Rome Statute) and the Trust Fund (Article 79) Recommendations for the Court Rules of Procedure and Evidence*, <http://www.nyu.edu/pages/cic/pubs/ReparVictimsNewPrint.html> (last visited Feb. 15, 2003).

¹⁰⁵ See National Coalition of Black for Reparations in America (N'COBRA) available at www.ncobra.org (last visited Feb. 18, 2003).

balance as near as may be the injury suffered (emphasis mine).¹⁰⁶ Shelton goes on to further state “the primary goal of reparations should be rectification or restitution rather than compensation. [Because] when rights are violated the ability of the victim to pursue self-determination is impaired.”¹⁰⁷

Throughout history there have been many instances where stronger entities sacrificed to improve the plight of weaker citizens of a particular community. The stronger entity sacrifices with the hope of helping the weaker entity and ultimately strengthening the whole. The most famous and successful example of this is The Marshall Plan (which we will address later in this discussion) instituted to re-build war-torn Europe. Moreover, this same policy permeates the entire United States society in many different forms.¹⁰⁸

B. Who may claim Reparations

The argument constantly plaguing the much larger Black struggle for reparations, for the inhumane and horrendous atrocities of slavery and its vestiges, is that there is no living slave or a direct descendant of a slave.

¹⁰⁶ See Shelton & Ingadottir, *supra* note 104.

¹⁰⁷ See *Id.*

¹⁰⁸ One such form, that is evident each year nations” scheme to redress the weaknesses of the lesser teams from the previous year. The scheme involves giving the weaker teams, regardless of why they failed to perform, higher draft picks in the sports draft. Conversely, this automatically penalizes successful teams by dropping their draft status. This intentionally reduces the chances of the top teams obtaining the “best resources”...the most skilled players. However, the sports leagues understand that this “reparations” scheme is necessary to ensure that “top teams” do not continually dominate the lesser teams. Thus, guarantying the competitiveness of the league, and securing an interesting and marketable product for the league to promote. As a result, there is more money for every team involved. Indeed, in the National Football League (“NFL”) compensation for weaknesses is so important that not only do weaker teams receive the top draft picks; the weaker teams also receive easier schedules during the upcoming years. This same line of thinking is exactly what underlies the call for a

However, although remaining Greenwood Holocaust survivors are dying of old age there are, at least, dozens of survivors. Moreover, courts have upheld reparations for “victims as including not only the direct victim or victims of the alleged violation, but also any person who would indirectly suffer prejudice as a result of such violation or who would have a valid personal interest in securing the cessation of such violation.”¹⁰⁹ Thus, not only do the living survivors have a valid claim for reparations, the entire Greenwood community is eligible for restitution for the holocaust suffered. The Greenwood Holocaust severely retarded, and in many ways, destroyed the growth and development of the entire community, evidenced by the lack of recovery by “the north Tulsa, Greenwood business and residential district [which] never fully recovered from the riotous assault upon their persons and property on May 31 - June 1, 1921.”¹¹⁰ This negatively affected everyone within the community and denied thousands of their rightful birthright to success.

C. Are Governments Liable to Pay Reparations?

Reparations law holds violations by state actors are more egregious because “human rights violations committed by state officials are qualitatively different from private injury because of the motives and nature of the conduct as well as the identity of the wrongdoer. Individuals [like the residents of Greenwood] expect protection from the State; [because] one of its fundamental purposes is to secure the safety and well-being of those within its power.”¹¹¹

comprehensive reparations program—to equal out and improve the “playing field” for those handicapped by for past deficiencies.

¹⁰⁹ See Shelton & Ingadottir, *supra*, note 104.

¹¹⁰ See Global, *supra*, note 92.

¹¹¹ See Shelton & Ingadottir, *supra*, note 104.

However, the law abiding taxpayers of Greenwood witnessed their families, friends, and most prized possessions decimated by those whose very salaries they paid—officials of the city, county, and state governments!

D. Who is Culpable for the Greenwood Holocaust?

The facts clearly show “the African American citizens in the City of Tulsa and the State of Oklahoma were deprived of their right to due process under the law as well as life, liberty and the pursuit of happiness as outlined in the Constitution of the United States of America.”¹¹² Therefore, “there is clear culpability for the environment and sustenance of the Tulsa race riot, war and massacre of 1921 from both the State of Oklahoma and, in particular, the City of Tulsa.”¹¹³ In addition, the false and inflammatory story, printed by the owners of the Tulsa World newspaper (parent Company of the Tulsa Tribune) that started the Greenwood Holocaust, and called for the city to never allow “nigger town to rebuild”, also bears great responsibility for what happened.¹¹⁴

¹¹²See Tulsa Reparations Coalition, *Statement of Endorsement*, <http://www.tulsareparations.org/endorseTRC.htm> (last visited Feb. 15, 2003).

¹¹³See *Id.*

¹¹⁴See Gates, *supra* note 101, at 138.



Black Wall Street utterly destroyed!

VI. Notable U.S. Reparations Precedents in the Last 50 years

A. Rosewood, Florida

In 1994, for the first time in the history of the United States, an American government acknowledged its responsibility for an act of racial violence committed against African-Americans when the Florida state legislature acknowledged an "equitable obligation" to compensate for the total destruction of the town of Rosewood Florida in 1923.¹¹⁵ This small but highly successful all-Black town of Rosewood, Florida was attacked and destroyed when the area's white citizens believed that a black escaped prisoner had sexually assaulted a white woman (more on Rosewood later in this paper).¹¹⁶ Passed May 4, 1994, the Rosewood Compensation Act officially: 1) acknowledged the state's

¹¹⁵ See C. Jeanne Bassett, *Comments: House Bill 591: Florida Compensates Rosewood Victims and Their Families for a Seventy-One-Year-Old Injury* 22 Fla. St. U.L. Rev. 503-521.

responsibility for failing to prevent the village's destruction; 2) monetarily compensated victims and families for their property loss; 3) established scholarships for minority students, with preference given to Rosewood family members; and 4) instituted a criminal investigation and continuing academic research into the senseless act.¹¹⁷

B. Japanese Internees

In 1942, President Franklin Delano Roosevelt issued Executive Order 9,066, which sanctioned the Secretary of War to establish camps and remove all persons of Japanese descent from the western United States.¹¹⁸ Japanese-American citizens were held in camps for the next few years.¹¹⁹ This “unconstitutional”¹²⁰ act altered, and in many cases completely destroyed, the lives of United States “citizens” of Japanese descent.

The Japanese-Americans reparations movement gained widespread public support during the 1980s, through greater awareness of what had happened and increased recognition of Japanese-American soldiers' contributions during World War II.¹²¹ Public hearings held by the Commission on Wartime Relocation and Internment of Civilians, created in 1980, and a Smithsonian exhibit in 1987 was particularly crucial in educating the public.¹²²

¹¹⁶ See *Id.* at 506.

¹¹⁷ See *Id.* at 521.

¹¹⁸ See Eric K. Yamamoto, et al, *Race, Rights and Reparations: Law and the Japanese American Internment*, at 39 (2001).

¹¹⁹ *Id.*

¹²⁰ The Supreme Court ruled that the interment was in fact constitutional even though many Japanese interment victims were born in the United States and even served in WWI for the U.S. See *Korematau v. United States*, 323 U.S. 214 (1944).

¹²¹ See Yamamoto, et al, *supra* note 118, at 403.

¹²² See *Id.*

The Commission's support of reparations was a tremendous help to the movement.¹²³ Finally, in September of 1988 the House passed a reparations bill and the Senate passed its version in April 1988.¹²⁴ On August 10, 1988, President Ronald Reagan signed the Civil Liberties Act of 1988.¹²⁵ Within two years surviving internees received \$20,000 and their descendants secured \$10,000.¹²⁶

Some argue the Japanese-American claims succeeded because they fit neatly within the individual rights paradigm of the law: 1) the claims were brought by people who had been personally and directly harmed; 2) the link between the harm and the internment was clear; and 3) reparations settled the matter.¹²⁷ If it is true that this line of reasoning promoted the granting of reparations, then there is no reason why the living survivors of the Greenwood Holocaust should not be compensated for their tremendous suffering because: 1) they too were personally and directly harmed; 2) the link between the harm and holocaust is clear; and 3)

¹²³ Likewise, the Tulsa Race Riot Commission's support for reparations should be a tremendous asset to Greenwood reparations advocates

¹²⁴ See Yamamoto, et al, *supra* note 118, at 406

¹²⁵ See *Id.*

¹²⁶ See *Id.*

¹²⁷ See Mitchell T. Maki et al., *Achieving the Impossible Dream: How Japanese-Americans Obtained Redress* (1999).

adequate and comprehensive reparations would settle the matter.¹²⁸



Hell on Earth...Greenwood burns

VII. Adjudicating Reparations Legal Claims

A. Can You Get Into Court after 80 years...and Win?

Framing a winning legal argument for a court to favorably rule for Greenwood victims and mandating a reparations judgment will be an extremely difficult task. Indeed, to be forced to litigate the wrongs committed against you in the very legal system controlled the perpetrators is inherently flawed. Moreover, it is argued that "...only through the political struggle to win reparations-[including] in the courtroom, in the media; [and] at the grassroots level will the

¹²⁸ Monetary compensation for those living survivors and their descendants would be short-sighted as the entire Greenwood community must be restored to make up for all that was lost.

specific reforms and measures for implementation take shape.”¹²⁹ To totally exhaust every conceivable avenue available demands the filing of lawsuits; reparation advocates must be prepared to file the lawsuits despite tremendous obstacles, because the desired outcome must be vehemently pursued with the high hope that justice can prevail, despite the passage of more than 80 years after the commission of the crimes.¹³⁰ Reparations advocates must be prepared to challenge the courts to do the “right thing” and grant total and complete redress in order to rectify the heinous acts committed from May 31 to June 1, 1921, when the city of Tulsa, Tulsa County, and the State of Oklahoma completely violated the constitution.

As stated at the outset of this document, this article will: 1) prove that describing the Greenwood incident as a “Race Riot” is erroneous because it was

¹²⁹ See Manning Marble, *In Defense of Reparations*, <http://www.zmag.org/sustainers/content/2002-10/30marable.cfm> (last visited Feb. 15, 2003).

¹³⁰ Moreover, it must be noted that survivors and victims have tried many different avenues and theories that all proved unsuccessful. “Greenwood residents and property owners (both black and white), filed more than one-hundred suits against their insurance companies, the city of Tulsa, and even Sinclair Oil Company, that allegedly provided airplanes that were used in attacking Greenwood. Not one of those suits was successful. One, filed by William Redfearn, a white man who owned a hotel and a movie theater in Greenwood, went to trial and then on appeal to the Oklahoma Supreme Court. Redfearn's insurance company denied liability, citing a riot exclusion clause. The clause exempted the insurance company from liability for loss due to riot. The Oklahoma Supreme Court interpreted the damage as due to riot—an understandable conclusion, and thereby immunized insurance companies from liability. Following the failure of Mr. Redfearn's suit, no others went to trial. That is not surprising. It is difficult to see how anyone could have prevailed in the wake of the *Redfearn* opinion. They lay fallow for years and then were dismissed in 1937. See <http://www.tulsareparations.org/Culpability.htm> Thus, any of the preceding theories viewed as the legal impetus for securing reparations will likely encounter similar hardships to recover. Nevertheless, a wide variety of legal arguments need to be fully examined, explored, and presented for the potential

in fact an unprovoked war that led to a holocaust; 2) present a comprehensive reparations plan to compensate for the destruction committed against the city of Greenwood and its Black citizens; and 3) outline what it will take for a reparations plan to be adopted. Thus, the examination of legal theories pertinent to the adjudication of the Greenwood Holocaust victims' claims for reparations will be very brief.

B. International Law

It is reasonable to assume the U.S. legal system will serve as a major impediment to an equitable outcome for the victims and descendants of the Greenwood Holocaust. Many of the original lawsuits filed in response to the holocaust were dismissed for various reasons. With this in mind, Greenwood reparations advocates must develop strategies to move the reparations demand beyond the confines of local, state and national laws and into international law, if they are to realize their quest for reparations.¹³¹ A major source of international law is Customary International Law.¹³² In the case of Customary International Law, "it is well settled that the law of nations [customary international law] is part of Federal Common Law, and many argue that federal common law is superior to

victory in winning not just the legal battle, but also the public battle which as been going on for over 80 years. See also Brophy, *supra* note 10, at 66.

¹³¹ The great assassinated Black Nationalist Leader Malcolm X repeatedly taught that "our claims are bigger than some civil right, our claims are for Human Rights and we need to look to the world for help." See Malcolm X, *By Any Means Necessary*, 55 (1965).

¹³² Customary International Law is formed general and consistent practices of states accepted it as law in the world community. It consists of two elements: 1) state practice, which provides evidence of custom; and 2) the attitudinal requirement of *opinio juris*, which is the general acceptance of a norm as a legal obligation by the world community. See J. Patrick Kelly, *The Twilight of Customary International Law* 40 Va. J. Int'l L. 449, 483 (2000).

state law due to the supremacy clause.”¹³³ Assuming that federal common law is considered superior to any State law and Customary International Law is theoretically, automatically incorporated into the U.S. legal system; we must ask what customary international law says about the “redressability” for crimes committed by a collective group of individuals on behalf of the city of Tulsa, and state of Oklahoma.

For this analysis, reparations advocates should seriously consider the following two important developments in international law: 1) the 1948 Universal Declaration of Human Rights which many agree evolved into customary international law¹³⁴; and 2) the ground-breaking judgments of the Nuremberg and Tokyo trials following WWII.

First, the Universal Declaration of Human Rights, adopted in 1948, was initially completely non-binding on the states of the world; however, over the past 50 years some argue the Universal Declaration of Human Rights has become binding through the theory of customary international law. Second, during the Nuremberg & Tokyo Trials the world defined: 1) crimes against humanity¹³⁵, 2)

¹³³ See *In Re Estate of Ferdinand E. Marcos Human Rights Litigation*, 25 F3d 1467, 1475 (1994).

¹³⁴ See The Honorable Edward D. Re, *General Issue: The Universal Declaration of Human Rights and Domestic Courts*, 14 St. Thomas L. Rev. 665 (2002).

¹³⁵ War Crimes are “violations of the laws or customs of war which include, but are not limited to, murder, ill-treatment or deportation to slave-labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war, of persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.” See *Principles of the Nuremberg Tribunal, Report of the International Law Commission Covering its Second Session, 5 June-29 July 1950*, Document A/1316, at 11-14. available at <http://www.deoxy.org/wc/wc-nurem.htm> (last visited Feb. 16th, 2003).

crimes against peace¹³⁶; and 3) war crimes¹³⁷, and proclaimed those acts are redressable even *ex post facto*.¹³⁸ Without a doubt, one can demonstrate the crimes against the residents of Greenwood meet all three criteria. Next, the tribunals at Nuremberg & Tokyo held “that international law imposes duties and liabilities upon individuals as well as States.”¹³⁹ In the Greenwood Holocaust, the individual(s) or “person(s)” liable for the acts were acting on behalf of the city of Tulsa. Accordingly, the Oklahoma statute prohibiting state and/or city liability, theoretically should not apply because other heinous crimes similar to those perpetrated against the innocent citizens of Greenwood, have been redressed despite the amount of time elapsed, the place, or jurisdiction. Although this argument seems promising we must remember that the United States’ domestic policy and legal system is not totally accepting of international law.¹⁴⁰ As experienced grassroots reparations activist Wautella Graham writes “Some may

¹³⁶ Crimes against Humanity are “murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime.” See *Id.*

¹³⁷ Crimes against peace are “planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances; Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under.” See *Id.*

¹³⁸ See *Id.*

¹³⁹ See *Id.*

¹⁴⁰ This is evidenced by the United States current unilateral war against Iraq that many argue is “violating the UN charter with their determination to invade Iraq... the feelings of many at the UN that past resolutions on Iraq were specifically focused on disarming Iraq, not on removing its President, and that the goalposts had been moved, by Washington in particular. Not one of these decisions authorizes the right to use force against Iraq outside the UN charter...not one authorizes the violent overthrow of the leadership of a sovereign state.” See David Osborne, *The Iraq Conflict; UN Opposition; Warmongers Must Bear the Cost of an Illegal Conflict, Council Member Warn*, Thurs., Mar 20, 2003.

think...‘Let’s take our case to the United Nations or the World Court; a third party will give us justice,’ they say. [However] There is no ‘third party,’...what power (real power—not paper power) does the United Nations or the World Court have to force the U.S.[Oklahoma] to comply with a favorable ruling in our favor?”¹⁴¹

B. Moral Legal Claims

Although a moral claim is not considered sufficient legal justification to recover in a court of law, there are precedents in the U. S. legal system that allow a “wrong” to be “righted” even when no traditional legal theory supports it. For instance, in 1946, following the recommendation of the Merriam Report,¹⁴² Congress passed a broad system to resolve ancient Native American grievances called the Indian Claims Commission Act (“ICCA”)¹⁴³ Until 1946, Native Nations were prohibited from pursuing claims against the United States without special permission granted by Congress.¹⁴⁴ However, the ICCA granted Native Nations access to the Court of Claims, including property claims.¹⁴⁵ The Act also created a commission to investigate and settle any and all claims brought forward by tribes, for crimes committed before 1946 “based upon fair and honorable dealings that are not recognized by any existing rule of law or equity.”¹⁴⁶ Although many argue that the ICCA has “failed to meet the expectations of nearly everyone involved in its creation,” it did create an avenue for “moral wrongs to be

¹⁴¹ See Wautella Graham, *Black Reparations: American Slavery & It’s Vestiges A Crime Against Humanity* at 240 (December 1, 2002) (unpublished manuscript, on file with National Coalition of Blacks for Reparations in America).

¹⁴² See Indian Claims Commission Act of 1946, 25 U.S.C.A. 70k . The Court of Claims is now the Court of Federal Claims, and it continues to hold this jurisdiction. 28 U.S.C.A. 1505 (West 1996).

¹⁴³ See *Id.*

¹⁴⁴ See *Id.*

¹⁴⁵ See *Id.*

heard” regardless of whether some underlying legal principle does or does not exist or has been estopped for a variety of reasons.¹⁴⁷

In fact, during the passage of the act, the Commissioner of Indian Affairs argued that the claims court was needed because “a considerable number of claims and grievances do not grow out of legal facts but essentially out of moral parts of the record. [Without a doubt] there are a great many valid claims, valid humanely and morally, but such as have no basis in law.”¹⁴⁸ Certainly the Greenwood Holocaust created “a considerable number of claims and grievances”, and if they have no such basis in law, the governments of Tulsa and the State of Oklahoma should follow the lead of the U.S. government, and allow the claims to proceed, thus paving the way for finality and justice to prevail.

C. 51 O.S. 155 Governmental Torts Claims Act

Oklahoma could easily submit to the claims of the Greenwood Holocaust victims by invoking 51 O.S. 155, and following the lead of another state responsible for a holocaust against a Black community. As noted earlier, in 1923, (under strikingly similar circumstances to the 1921 Greenwood Holocaust), the all-Black and highly successful town of Rosewood, Florida, was completely burnt to the ground by an unruly mob of whites.¹⁴⁹ As in Greenwood, the total destruction of Rosewood was supposedly in defense of a white woman, and governmental officials participated in the melee.¹⁵⁰ Also, like the Greenwood

¹⁴⁶ See *Id.*

¹⁴⁷ See Nell Jessup Newton, *Compensation, Reparations, & Restitution: Indian Property Claims in the United States*, Ga. L. Rev. 453, 469 (1994).

¹⁴⁸ See *Otoe and Missoura Tribes of Indians v. United States*, 131 Ct. Cl. 593, 612 (1955).

¹⁴⁹ See Bassett, *supra* note, 115 at 505.

¹⁵⁰ See *Id.* at 506.

Holocaust, the entire incident was effectively erased from history, due to a massive cover-up orchestrated by the guilty parties.¹⁵¹ In 1994, the Florida Legislature under the authority of Fla. Stat. sec. 768.28 passed House Bill 591, which sought to compensate the families of Rosewood, Florida for property and other damages.¹⁵² Florida allowed the seventy year-old claim to overcome the challenges that have hindered the claims for the Greenwood Holocaust and enable compensation of the victims and their descendants.¹⁵³

So, the Rosewood Holocaust and the Greenwood Holocaust parallel each other in terms of the underlying causes, scope of destruction, subsequent cover-up, and the undue lapse of time before the tragedy was redressed. The Oklahoma Legislature, acting under the state of Oklahoma's version of claims bill 51 O. S. sec. 155¹⁵⁴ should, therefore, mirror its Florida counter-part and introduce a claims bill that would allow for an equitable remedy for the Greenwood Holocaust victims.

¹⁵¹ See *Id.*

¹⁵² See *Id.* at 511.

¹⁵³ See *Id.* at 412.

¹⁵⁴ See *51 O. S. sec. 155.*



Ruins of a Rosewood house shortly after the Rosewood Massacre



Ruins of a Greenwood neighborhood shortly after the Greenwood Holocaust

VIII. Others Theories Under Which to Recover

B. Tulsa's Promise to Pay for the Destruction

Oklahoma should definitely allow moral claims since many white citizens of Tulsa, shortly after the Greenwood Holocaust, believed morality required them

“to formulate a plan of reparations in order to rebuild homes and rehabilitate families.”¹⁵⁵ Without a doubt that sentiment also existed among many contemporary Blacks who felt:

The white citizens of Tulsa are in debt to the Negroes [Afrikan-Americans] whose property they burned and the lives they wantonly destroyed, and we believe that there are those who will make some effort to repair the losses that they have caused. They cannot forget it, they admit that it was wrong and feel deep down in their hearts that they should repay. *It will always be a debt until paid*¹⁵⁶

Hopefully the current leadership of Oklahoma believes “great Nations, like great men ought to keep their word”¹⁵⁷ and keep the promise made by Tulsa citizens to the victims of Greenwood.

C. Spiritual Claims

Irrespective of the Establishment Clause of the United States Constitution, the United States of America has always been closely aligned to Judeo-Christian traditions and values.¹⁵⁸ The laws of this nation closely parallel the laws of the King James Version of the Bible.¹⁵⁹ Accordingly, devout churchgoers should easily understand the justice in compensating Greenwood Holocaust victims for the harm committed because the “sins of the father will be revisited upon the

¹⁵⁵ See John Sibley Butler, *Entrepreneurship and Self-Help Among Black Americans—A Reconsideration of Race and Economics*, 217 (1995).

¹⁵⁶ See *The Black Dispatch*, Mar. 15, 1923.

¹⁵⁷ See *FPC v. Tuscarora Indian Nation*, 362 U.S. 99, 142 (1960). The often cited words of Justice Black as he consistently tried to convince the Supreme Court to mandate that the United States adhere to its treaties with Native Americans. Unfortunately oftentimes Justice Black’s efforts went UN-rewarded, as one after another treaties with Native American were abrogated at will. See also *United States v. Kagama*, 118 U.S. 375 (1886).

¹⁵⁸ “Although it is no longer uncommon to hear lawyers cite the Bible as legal authority in court, except perhaps when playing to the jury, the influence of biblical law continues in American jurisprudence well into the twentieth century.” See John W. Welch, *Biblical Law in America*.” See John W. Welch, *Biblical Law in America: Historical Perspective and Potentials for Reform*, B.Y.U.L. Rev. 611, 635 (2002).

son.”¹⁶⁰ Furthermore, regardless of one’s religious affiliations, many religions include the concept of atonement, which usually involves trying to right a wrong committed by making a genuine effort to do so.

¹⁵⁹ See *Id.*

¹⁶⁰ See *Exodus 51:15*.

IX. Detailing Greenwoods' Comprehensive Reparations Plan

A. Answering the Call for Reparations

After four years of official, meticulous, and painstaking research, the Tulsa Race Riot Commission recommended "that restitution to the historic Greenwood Community, in real and tangible form, would be good public policy and do much to repair the emotional and physical scars of this most terrible incident in our shared past."¹⁶¹ To heal the substantial and festering wounds the Commission recommended:

- 1) Direct payment of reparations to survivors of the Tulsa Race Riot.
- 2) Direct payment of reparations to descendants of the survivors of the Tulsa Race Riot.
- 3) A scholarship fund available to students affected by the Tulsa Race Riot.
- 4) Establishment of an economic development enterprise zone in the historic area of the Greenwood District.
- 5) A memorial for the reburial of any human remains found in the search for unmarked graves of riot victims.

The reparations struggle to compensate for the disastrous events of June 1, 1921 has been an eighty-year-old fight. Unquestionably the struggle was immensely aided by the strong endorsement by the state sponsored Riot Commission.¹⁶² However, many commentators of the growing reparations movement, such as USA Today's columnist DeWayne Wickham, contend that reparations activists refuse to address the "Achilles' heel" of the movement, "how

¹⁶¹ See Global, *supra* note, 91.

¹⁶² As Frederick Douglass said "power concedes nothing without a demand, it never did and it never will," and although the Riot Commission's recommendation can not be termed a demand, the recommendation should greatly aid the fight for redress much like the boost given to the Japanese-American struggle by the commission to study the internment. See Frederick Douglass, Speech Before the West Indian Emancipation Society (Aug. 4, 1857), *The Life and Writings of Frederick Douglass* (Philip S. Foner ed., 1950) 437.

the payout should be paid.”¹⁶³ In many respects, just raising the question is a tremendous victory for the reparations movement, considering the fact that many do not even wonder about “how the payout should be made”, because they do not plan to pay anything! Yet, observations like Wickham’s must be taken seriously and convincingly addressed. Therefore, any reparations advocate must be prepared to articulate exactly what they want and how it will adequately and effectively fulfill all the cited goals of reparations.¹⁶⁴

B. What should Reparations Accomplish for Greenwood?

Reparations must be provided to compensate the victims and the descendants for the destruction of Greenwood. The remedy must successfully eradicate the negative impact of racism, which prompted the deadly holocaust in the first place. Otherwise, the reparations plan will be an empty victory, because a one-time payment without the elimination of the far-reaching effects of the Greenwood Holocaust will not materially eradicate the current grave standard of living for today’s north Tulsa/Greenwood community. Furthermore, it must be clearly understood that the racism that fueled the Greenwood Holocaust and continues to keep Blacks oppressed, in Tulsa, is “structural in character, and is largely grounded in institutional processes rather than by individuals’ behavior. Racial prejudice [in Tulsa] is reproduced by institutions-economic, educational, social, and political-of our society.”¹⁶⁵ Thus, many reparations advocates argue

¹⁶³ See Dewayne Wickham, *Reparations Payment Undermines Support*, http://www.usatoday.com/news/opinion/columnist/wickham/2002-08-19-opcom_x.htm.

¹⁶⁴ See Shelton & Ingadottir, *supra* note 104.

¹⁶⁵ See Manning, *supra* note 129.

that “any kind of financial reparations has to go to some publicly chartered institution that set up to eradicate the two most persistent problems black folks face: education and economic development.”¹⁶⁶ However, an essential element of the Greenwood reparations plan must also be money for the survivors and their descendants in order to ease the excruciating pain of losing their sacred family heirlooms, family pictures, personal and real property, security of family and friends, aspirations, and inheritances.¹⁶⁷

B. *The Marshall Plan*

Any reparations plan for the Greenwood Holocaust must include: 1) cash payments to survivors; 2) land that the community could control to spur economic development; 3) monies for capital improvement and infrastructure repair; and 4) educational programs to heal the psychological damage done, much like the Marshall Plan. Instituted in 1948, the Marshall Plan’s primary focus was the total revival of war torn Europe, which had been depleted of almost everything including its most precious resource—people.¹⁶⁸ The Marshall Plan eventually spent over \$13 billion dollars (\$88 billion dollars in present day dollars) and

¹⁶⁶ See Wickham, *supra* note 163.

¹⁶⁷ This pain has been greatly exacerbated because survivors mostly have had to suffer in silence even with the knowledge of the “person” responsible—the city of Tulsa

¹⁶⁸ There were many practical reasons why the United States interest to re-build Europe converged with the interests of Europeans desire to be rebuilt, specifically the fact that the U.S. and capitalism were already in sharp competition with the U.S.S.R. and communism, and “the U.S. economy also benefited from the Marshall Plan as the U.S. preserved and improved its trading relationship with Europe. By stimulating European productivity and accepting a greater volume of imports, the U.S. saw its own exports increase several-fold in the decades that followed.” See, *Fact Sheet Prepared by the Office of Policy and*

effectively funded capital improvement projects for infrastructure repairs such as burnt-out buildings, roads, bridges, hospitals, and communication facilities.¹⁶⁹ In addition, the Marshall Plan provided food subsidies, military training and protection, educational programs, and a host of other much needed programs.¹⁷⁰ Moreover, using the Marshall Plan as the guide for future comprehensive rebuilding schemes is not just my idea, it is also an approach the U.S. State Department strongly endorses because:

The Marshall Plan has more than symbolic value. It also offers some practical guides to the current and future generations; after all, much of what the Marshall Plan accomplished came at little cost to the American taxpayer. The technical assistance program, which absorbed only a fraction of American aid, nonetheless put American technical, engineering, manufacturing, and marketing know-how behind the revitalization of the European economies. Similar programs could bring comparable benefits to the developing world today, and their prospects for success would only increase if they embodied the same spirit of cooperation that infused so much of the Marshall Plan. Virtually every part of the Marshall Plan stressed the principle of European self-help and involved Europeans and Americans as partners in the job of reconstruction. Nor was cooperation limited to political leaders and government officials. It was part of the genius of the Marshall Plan that cooperation at the government level went hand-in-hand with a private, trans-European and transatlantic pattern of collaboration that involved leaders from business, labor, agriculture, and the academy. This kind of cooperation not only undergirded the recovery program in Europe, but also accounted for its success in the United States, where the same combination of private groups helped to educate the American people to the need for European stabilization and won support for the Marshall Plan on Capitol Hill.¹⁷¹

Likewise, a reparations plan for the Greenwood Holocaust must honestly seek to provide all the necessary tools and support needed for Greenwood/North Tulsa to recover and once again become self-determining. Accordingly, the Greenwood Plan must be comprehensive and far-reaching like the Marshall Plan

Public Affairs, Bureau for European and Canadian Affairs, May 12, 1997
<http://www.state.gov/www/regions/eur/marshall.html> (last visited Feb. 16, 2003).

¹⁶⁹ See *Id.*

¹⁷⁰ See *Id.*

¹⁷¹ See Michael J. Hogan, *Blue Print for Recovery*,
<http://www.usembassy.de/usa/etexts/marshall/pam-blu.htm> (last visited Feb 16, 2003).

if it is to emulate the tremendous success of the Marshall Plan with respect to the rebuilding of Europe.

X. The Greenwood Plan

A. Payment of Cash amount to Survivors & their Descendants

In 1990, the U.S. government allocated \$1.25 Billion dollars to pay Japanese-Americans unjustly detained in concentration camps during WWII.¹⁷² Therefore, a cash payment to the survivors must be an uncompromising component of the entire Greenwood Plan. For, just as innocent Japanese Americans suffered because of their ethnicity, the same holds true for the survivors of the Greenwood Holocaust.¹⁷³ The U.S. government, very quickly provided monetary relief for those victims and families affected by the tragic terrorist actions of September 11, 2001.¹⁷⁴ Yet, the Black citizens of Greenwood have never received any monetary compensation or relief for their tremendous

¹⁷² See *Civil Liberties Act of 1988 Aleutian and Pribilof Islands Restitution Act*, <http://thomas.loc.gov/cgi-bin/bdquery> (last visited Feb. 16th, 2003).

¹⁷³ At the time the government provided many rationales for the unconstitutional detainment of U.S. citizens, however the Japanese-Americans were put in camps because "real" U.S. citizens could not or did not trust their loyalty.

¹⁷⁴ Shortly after the September 11, 2001 terrorist attacks, President George W. Bush signed the September 11th Victim Compensation Fund of 2001 into law as Title IV of Public Law 107-42 ("Air Transportation Safety and System Stabilization Act"), the Act authorizes compensation to any individual (or the personal representative of a deceased individual) that was physically injured or killed as a result of the terrorist-related aircraft crashes on that day. See *September 11th Victim Compensation Fund of 2001* <http://www.usdoj.gov/victimcompensation/> (last visited February 16th, 2003). In addition, legislation has been introduced to compensate the victims of the terrible Oklahoma City bombing that took the lives of 163 innocent victims based on the same reasoning used to support compensation to victims of the terrorist-related aircraft crashes on September 11, 2001. See *Oklahoma City Victims Compensation Act H. R. 3633* <http://thomas.loc.gov/cgi-bin/bdquery> (last visited Feb. 16th, 2003).

losses. There is a tremendous disparity between this society's ability to acknowledge and address the problems of other peoples compared to its historic treatment of Black Americans. Are the causes for this disparity blatant racism and disrespect for Black life and property?

Any survivor or descendant of the holocaust, who can prove that they or their ancestors suffered at the hands of unruly mobs employed by the city of Tulsa, should receive cash payments.¹⁷⁵ Once the eligible recipients are identified, the next concern should be the method for calculating the payments? The Greenwood Plan should follow the same or a similar formula used in calculating the monies paid to the victims of the September 11 tragedies.¹⁷⁶ Each living survivor or his/her descendant should be exempt from state income taxes for the next 25 years. This may seem like a long-time to allow the abatement of taxes; however, in light of the amount of time that has elapsed while the victims and their descendants await justice, this abatement from taxes is clearly constitutional, as § 5 of Article 10 of the Oklahoma State Constitution allows the state legislature to pass laws permitting abatement of taxes if:

1. Collection of the tax with interest and penalties would cause the taxpayer to declare bankruptcy;
2. The tax is not collectible because, for reasons beyond his control, the taxpayer is insolvent;
3. Other similar factors beyond the taxpayer's control caused the tax not to be collectible;
4. The tax resulted from actions of a person other than the taxpayer. Moreover, it must be unfair to hold the taxpayer responsible; or
5. The tax is a trust fund tax that the taxpayer did not collect from

¹⁷⁵ This should not be too difficult to prove. The ancestor or the descendant must prove 1) that they once lived in Tulsa, owned property in Tulsa, or were in Tulsa on May 31/June 1st, 1921; and 2) that the person or persons were Black. If these criteria are met we know that the person is eligible because every Black in Tulsa was under attack during the Greenwood Holocaust.

¹⁷⁶ See *September 11th Victim Compensation Fund of 2001*, *supra* note 174.

this customer. Additionally, the taxpayer must have believed in good faith that he did not have to collect the tax.¹⁷⁷

Clearly, the Greenwood Holocaust and aftermath were “factors beyond the taxpayer’s [Greenwood victims] control.” Therefore, it is appropriate to suspend the payment of taxes for the Greenwood victims. Why should the victims be obligated to pay taxes to the same entity that viciously and unremorsefully burnt everything they owned to the ground, and killed and terrorized their friends and family should have been suspended. Moreover, if U.S. legislation can be enacted for the victims and/or the descendants of the Jewish holocaust, which did not even take place on these shores, then surely the same can be done for actual citizens of this country.¹⁷⁸ “Not exempting this income from taxation is tantamount to the Federal government ‘profiting’ from restitution payments intended to compensate Holocaust survivors and their families for their pain and suffering.”¹⁷⁹ In addition, the victims of September 11, 2001 and the Oklahoma City bombing received protected favor from the federal government when “President Bush signed the Victims of Terrorism Tax Relief Act—bipartisan legislation that provides significant income and estate tax relief to the families of victims of terrorism. This legislation will help the victims of September 11, the Oklahoma City bombing, and the recent anthrax attacks.”¹⁸⁰

¹⁷⁷ See *Okla. Const. Art. X, § 5* Oklahoma Constitution.

¹⁷⁸ See *Hayworth Wants Permanent Adoption Tax Credit, No Income Tax on Holocaust Victims’ Restitution*, <http://www.gop.gov/item-news.asp?N=20020606111017> (last visited Feb. 16, 2003).

¹⁷⁹ See *Id.*

¹⁸⁰ See *Fact Sheet: Victims of Terrorism Tax Relief Act*, <http://usinfo.state.gov/topical/pol/terror/02012310.htm> (Last visited Feb. 16th, 2003).

A. De-Annexation of the North side of Tulsa and naming it Greenwood

While no one can say with certainty what “Black Wallstreet” would look like today, it is reasonable to assume the town would have continued to prosper in light of the wealth that had been amassed prior to June 1, 1921. We do know for sure that Tulsa, Oklahoma is almost as segregated today as it was 82 years ago.¹⁸¹ The only difference today is that the Black population of the north side of Tulsa (Greenwood) now relies exclusively on the mostly white businesses on the south side of Tulsa.¹⁸² Black Tulsans obtain the vast majority of their goods, services, and even their most basic needs from White businesses, as the former Greenwood community is now void of vibrant businesses, riddled with old abandoned buildings, hampered by under funded schools, overflowing with drugs, and grossly neglected by the city and county government of Tulsa in every way.¹⁸³

Therefore, the north side of Tulsa should be allowed to de-annex. The “de-annexed” section of Tulsa should be renamed Greenwood, and declared a historical site. At first glance, allowing such a depressed and deprived area as north Tulsa to become its own municipality hardly seems prudent. However, de-annexing from Tulsa would allow Greenwood to accomplish the following: 1)

¹⁸¹ The Afrikan-American population of Tulsa composes only about 14.1 percent of the city’s population. Yet, about 58 percent of all Afrikan-Americans live in North Tulsa/Greenwood. See Hammer, Siler, George Associates, *North Tulsa Urban Economic Development Plan*, at 18 (Jan. 15, 1998) (unpublished manuscript, on file with the Tulsa Metropolitan Chamber of Commerce).

¹⁸² “North Tulsa is experiencing a form of suppressed demand, a demand which goes unmet because of the disappearance of ‘supply’ within the neighborhood. A market for higher quality goods and services remains, but local residents is forced to go south Tulsa in order to obtain quality goods and services.” See *Id.*

¹⁸³ See *Id.*

provide the community's citizens with a land base to control and call their own, which is extremely important, not just because the land was lost during the Greenwood Holocaust, but because control of land is a basic ingredient for social and economic development;¹⁸⁴ 2) pave the way for substantial renovation and re-creation of a portion of the famous areas of the old Greenwood Business District. This initiative could create a very viable tourist attraction. This re-creation of "Black Wallstreet" will bring much needed revenue and jobs to the new community;¹⁸⁵ 3) create a central governing committee to oversee implementation of the Greenwood Plan. This central committee would be the

¹⁸⁴ Native Americans are an excellence example of how control of a land base allows a depressed area and people to pull themselves out of the doldrums. Native American nations have made their most significant economic advances over the past half-century because of a land base that enjoys "certain unique advantages...for example, they are not entities subject to federal income taxes." Moreover, unlike the numerous "significant barriers confronting Indian county development which include: remoteness of many reservations from major urban and regional market centers and transportation networks; a lack of public and private infrastructure and capital investment; and an oftentimes under trained and underutilized work force." See Robert J. Miller, *Economic Development in Indian Country: Will Capitalism or Socialism Succeed?* 80 Or. L. Rev. 757,757-760. If implemented correctly, the Greenwood Plan would overcome those obstacles because: 1) Greenwood is not in a remote location, but in the heart of Tulsa. The citizens of Greenwood would have easy access to an airport, highways, and waterways; 2) money for capital investment and infrastructure would be provided by the culpable governments, corporations moving into the economic empowerment zone, and other citizens moving back into the community; 3) the scholarship and leadership program would produce a highly skilled workforce, and the businesses taking advantage of the tax credits would also help train a skillful workforce. As a result, if the city of Greenwood were allowed to de-annex and receive similar tax treatment that Native American counties receive from the federal and state government, Greenwood would once again become home to healthy, prosperous, and productive African-American citizens.

¹⁸⁵ This means a portion of the new municipality would be completely refurbished into its original condition much like the tourist towns in the Northeastern United States set-up in colonial style for the preservations and commemoration of the early history of the United States. See <http://www.history.org/noflash.cfm> (last visited Apr. 25, 2003).

municipality of Greenwood itself; 4) allow the community through its own governing body to create and attract business to an economic empowerment zone for the benefit of the community. Greenwood would be free to decide where, when and how different businesses would be allowed to come into the community, thus providing an opportunity for its citizens to play a major role in the revitalization effort; and 5) allow the community to reach the ultimate goal of the Greenwood Plan, which is to become a self-sufficient, thriving community.

B. Education Program

For many years, the Afrikan-American mantra has been “education is the key to advancement and success”.¹⁸⁶ Without a doubt, this is true, providing the educational model is geared toward improvement of the community. The educational component of the Greenwood Plan is practical, simple and is designed solely for the benefit and improvement of the Greenwood community, and not just the individual in the plan.

1. Scholarship Program

Any survivor or descendant of a survivor of the Greenwood Holocaust should be able to go to any one of Oklahoma’s publicly supported universities free of charge.¹⁸⁷ For the next 20 years any student from north Tulsa/Greenwood should also be eligible for a full tuition scholarship at state supported schools.

¹⁸⁶ The curriculum must be designed to truly enlighten and inspire the recipients receiving it to work to create and implement solutions in the Black community. See Dr. Carter G. Woodson, *Mis-Education of the Negro*, (1933).

¹⁸⁷ The scholarship program could be funded by a combination of the Oklahoma state lottery funds, private business grants, and institutional scholarships.

The scholarship would be renewed annually for as long as the student remains in good standing at the university. The scholarship would pay tuition all the way through graduate, law, or medical school. In addition, the program would have an extensive internship program, where young adult students would be required to return to Greenwood each summer to work in their field with an existing community organization, business, or governmental entity. During these summer months, students would receive additional leadership training.¹⁸⁸ These provisions guarantee that each year, students with fresh ideas would energize Greenwood's businesses, organizations, and governmental agencies. Greenwood would be kept abreast of the latest ideas, technology, and other innovations, thereby increasing Greenwood's productivity and enhancing the quality of the lives of its citizens. Once a student finishes the program, he/she should be automatically eligible for low-interest loans and/or business grants to be used as seed money to establish businesses in the economic empowerment zone of Greenwood.¹⁸⁹ Lastly, because this scholarship is to compensate for the terrorist acts committed against Greenwood and to help in the re-building of the community, a safeguard must be inserted to insure that matriculating individuals benefiting from these scholarships must commit to remaining in Greenwood for a minimum of three years after receiving their degree(s).¹⁹⁰ This program will produce tremendous tangible benefits within five years, as an army of young,

¹⁸⁸ See part two of Greenwood Education Program

¹⁸⁹ The businesses of survivors and descendents will also be totally exempt from state and county taxes.

¹⁹⁰ This is very similar to a highly indebted law student taking a job at a governmental entity for X amount of years in exchange of having governmental loans forgiven. In addition, if a student does not want to complete their obligation

skilled, and educated individuals would be leading Greenwood back to prosperity. This aspect of the Greenwood Plan has to be implemented with precision to maximize the benefits to students and the community.

2. Leadership Program

Each summer, scholarship participants should go through additional leadership training at a newly-created institute of leadership that I suggest be called the J.B. Stradford Institute of Afrikan-American Leadership¹⁹¹. The leadership program should be housed at Langston University's Tulsa branch.¹⁹²

The goals of J.B. Stradford Institute of African-American Leadership would be:

- 1) To create, through interactive teaching, activities, and readings, a pool of skilled young Afrikan-American men and women capable of assuming leadership roles within their families, the Greenwood community, the State of Oklahoma, the nation, and the world.
- 2) To create young people who are Afrikan centered and well grounded in a worldview that embraces Afrikan culture as a way-of-life.
- 3) To create young people who are dedicated to achieving the total political, social, economic, and spiritual empowerment of *Greenwood* and its residents.
- 4) To create young people who are sensitive to the complexities of Black culture, racism, oppression, and possess the skills to identify and implement creative solutions to the myriad of problems ravaging Black communities the world-over.

The leadership program, in session during the summer months of June and July, would include a heavy reading requirement,¹⁹³ supplemented with

to the community, the student can opt out at anytime, if he/she pays all the money back, including the tuition for the college and the leadership program.

¹⁹¹ Stradford, the son of freed Kentucky slaves, came to Greenwood to make a better life. The World War I veteran did achieve his goal by becoming one of Greenwood's most successful businessman and advocates of racial pride and equal justice. Truly it was men like Stradford that spurred Greenwood to achieve a level never duplicated en mass by Afrikans in America.

¹⁹² Langston University is the only all-Black University in the state of Oklahoma, and this branch sits at 700 North Greenwood Tulsa, Ok, 74106, which is right in the heart of old Greenwood. Thus, it is only fitting that it plays an integral rule in the revitalization of new Greenwood. See *Langston University*, <http://www.lunet.edu/> (last visited Feb. 16th, 2003).

¹⁹³ The reading list would include but not be limited to these works of the following in their entirety or parts: Dr. Carter G. Woodson-Mis-Education of the

workshops to address crucial life skills needed to become a well-rounded leader. Topics addressed in the leadership program would include but not be limited to: Parental Skills; Marriage Skills; Self Knowledge (African History, Black History), Entrepreneur Skills; Sexual Responsibility and protection; Standard First Aid; Financial Planning & Investment; Personal/Family Health; Politics; and How to discern and overcome Racism/Sexism. Professionals from the various disciplines should teach the workshops.¹⁹⁴ Lastly, the leadership program should include a travel component that encourages the future leaders to observe different state, national, and international cultures and systems, and nurture well-rounded and experienced young people capable of completing the huge task of rebuilding Greenwood.

C. Economic Empowerment

The cornerstone of pre-holocaust Greenwood was its outstanding economy. Thus, if Greenwood and its residents are to grow, develop, and

Negro; Dr. W.E.B. Dubois-Souls of Black Folk; Dr. Molefi Asante-Afrocentricity; Dr. Martin Luther King, Jr, Malcolm X-The Autobiography of Malcolm X; Dr. Chancellor Williams Destruction of Black Civilization; Dr. Claud Anderson-Black Labor, White Wealth; Dr. Haki Madhubuti-Black Men Single, Obsolete, Dangerous? The Afrikan-American Family in Transition; Dr. Na'im Akbar-Visions for Black Men and Chains and Images of Psychological Slavery; Dr. Derek Hopson & Dr. Darlene Hopson-Friends, Lovers, & Soul Mates; Dr. James Reed, Dr. Niel Shuluman, & Charles Shucker-The Black Man's Guide to Good Health; Kevin Boston- Smart Money Moves for African American; Dr. Oba T' Shakes-Return to the African Mother Principle of Male & Female Equality, The Art of Leadership 1&2; Dr. George G.M. James-Stolen Legacy; Dr. Jawanza Kunjufu- Black College Student Survival Guide; Dr. Booby E. Wright-The Psychopathic Racial Personality and Other Essays; Dr. Maluna Karenga-Selection From the Husia: Sacred Wisdom of Ancient Egypt; Rev. Albert Cleage-Black Christian Nationalism; Rev. James Cone-Black Theology and Black Power; Dr. ben-Jochannan Yosef A.A.- African, Mother of Western Civilization; Walter Rodney-How Europe Undeveloped Africa; Elijah Muhammad-How to Eat to Live

prosper in the future, the community must have a strong economic base. This can be accomplished through the following:

1) *Business Grants*

Drawing heavily from the programs employed in the wake of the September 11 attacks, citizens of Greenwood who desire to own a business should be eligible for business grants or low interest loans.¹⁹⁵ Truly the words and reasoning of Massachusetts Senator John Kerry on why the senate passed the American Small Business Emergency Relief and Recovery Act following the September 11 terrorist attacks should provide the impetus for similar legislation for Greenwood to be passed:

We are one step closer to delivering real economic relief to businesses devastated by the economic fall-out of the September 11th terrorist attacks. Small businesses are starving for the loans and credit to keep them on their feet during these tough times, and we need to deliver for them so the engine of the American economy does not become the latest collateral damage of the attacks on our nation¹⁹⁶

Money should be available to all survivors and their descendants under the following conditions: 1) they must be or be willing to become a citizen of

¹⁹⁴ This would greatly reinforce the lessons taught in the readings because the young people would have the opportunity to see exactly how the information relates and applies to real world situations.

¹⁹⁵ The purpose of this Act is to strengthen the loan and investment programs of the Small Business Administration, to allow loan recipients: 1) to meet their existing obligations, 2) finance their businesses, and 3) maintain and create jobs, and thereby provide stability to the National economy. Without a doubt, because of the Greenwood Holocaust and subsequent denial of help the prosperous businesses on Black Wallstreet were not able to accomplish any of the four enumerated goals of the H.R. 3073. As a result, the Greenwood economy is next to non-existent and definitely unstable. See *H.R. 3073 The American Small Business Emergency Relief and Recovery Act*, available at <http://thomas.loc.gov/cgi-bin/bdquery> (last visited Feb. 16th, 2003).

¹⁹⁶ See, *Kerry Emergency Relief for Small Businesses Passes Senate; Victory for Small Businesses Devastated by Sept. 11 Attacks, Recession*

Greenwood; and 2) they must be a participant in the scholarship program; or 3) they must complete a business/entrepreneurial program specially created and tailored to those who meet the other criteria for eligibility.¹⁹⁷ In addition, the Black business owner should be eligible for the property tax exemption and state income tax credit. This will help businesses get off the ground, while eventually increasing the amount of revenue to the state once the exemption period is up.

2) Economic Empowerment Zone(s)



New York burning after the September 11, 2001 terrorist attacks

Policy and lawmakers wanting to re-vitalize the area destroyed in the September, 11, 2001 attacks clearly understood that special provisions would have to be put in place to again attract businesses to that once bustling area. Therefore, congress passed The Job Creation and Worker Assistance Act of 2002.¹⁹⁸ “The act contains various tax incentives designed to stimulate the economy and aid recovery from the impact of the September 11, 2001 terrorist

<http://www.usnewswire.com/topnews/first/0322-124.html> (last visited Feb. 16th, 2003).

¹⁹⁷ This ensures that those assuming the risks of business have as much knowledge and experience needed to open, foster, and grow a viable business.

¹⁹⁸ See HR 3090 available at <http://www.whitehouse.gov/omb/legislative/sap/107-1/HR3090-h.html> (last visited Feb. 20 2003).

attacks, including these provisions for the area of lower Manhattan designated as the New York Liberty Zone.” The New York Liberty Tax Zone incentives include:

1) Expansion of the Work Opportunity Tax Credit (WOTC)

A new targeted group has been added to the original eight targeted groups eligible for the WOTC. This new targeted group includes individuals who perform substantially all their services in the New York Liberty Zone (NYLZ), as well as individuals who perform substantially all their services in New York City for a business that relocated from the NYLZ to elsewhere within New York City due to the physical destruction or damage of their workplaces within the NYLZ by the September 11, 2001, terrorist attack. Unlike other targeted categories, members of the NYLZ group do not need to be certified. Small businesses may claim this credit for wages paid or incurred for both new hires and existing employees for work performed after December 31, 2001, and before January 1, 2004.

2) Special Depreciation Allowance for Certain Property

The law allows an additional first-year depreciation deduction equal to 30 percent of the adjusted basis of qualified NYLZ property. This additional deduction is allowed for both regular tax and alternative minimum tax purposes. In general, this provision applies to real property not eligible for additional first-year depreciation under the "general" additional first year depreciation rules.

3) Increase in Expensing Treatment for Business Property Used in the NYLZ

The law increased the amount a taxpayer may deduct under Section 179 (Election to Expense Certain Depreciable Business Assets) for qualifying property used in the NYLZ. Qualifying property in the NYLZ is property that is used to conduct a trade or business, and its original use began after September 11, 2001. The maximum dollar amount that may be deducted under Section 179 is increased by the lesser of (1) \$35,000 or (2) the cost of qualifying property placed in service after September 10, 2001, and before January 1, 2007.

4) Treatment of Qualified Leasehold Improvement Property

For purposes of the depreciation rules under Section 168, 5-year property includes qualified NYLZ leasehold improvement property placed in service after September 10, 2001, and before January 1, 2007. To qualify, property must not have been subject to a binding contract as of September 10, 2001.

5) Extension of Replacement Period

This Act extends the Section 1033 two-year period for a tax-free replacement of involuntarily converted property to five years for NYLZ property converted as a result of the September 11 terrorist attack.

6) Tax-Exempt Private Activity Bonds for Rebuilding in the NYLZ

During calendar years 2002, 2003 and 2004, up to \$8 billion of tax-exempt private activity bonds may be issued to finance the construction and rehabilitation of nonresidential and residential real property in the NYLZ. These bonds are limited to projects approved by the Mayor of New York City or the Governor of New York State, each of whom may designate up to \$4 billion of the bonds authorized under the Act.

7) Additional Advance Refunding for Certain Previously Refunded Bonds

Certain bonds for facilities in New York City may be advance refunded one additional time. This applies only to bonds for which all present-law advances refunding authority was exhausted prior to September 12, 2001, and with respect to which the advance refunding bonds were outstanding on September 11, 2001. Eligible advance bonds must be designated as such by the Mayor of New York City or the Governor of New York State, each of whom may designate up to \$4.5 billion of bonds. To be eligible for the additional advance refunding, at least 90% of the refunded bonds must have been used to finance facilities located in New York City.¹⁹⁹

¹⁹⁹ See *The New York Liberty Tax Incentives*, <http://www.irs.gov/newsroom/article/0,,id=101475,00.html> (last visited Mar. 30, 2003).



Figure 1 Greenwood burning after the May 31/June 1st terrorist attacks

Greenwood must receive the same type of “New York Liberty Zone” incentives to attract and encourage large and small businesses, to train and hire Greenwood residents. Because of the “gangrene” like effect from eighty-two years of wanton neglect by those responsible for redressing the Greenwood Holocaust, there must be additional incentives to accomplish the goal of putting the community back to where it was before being destroyed; such as:

a). The Oklahoma Legislature could pass a law allowing businesses to move into the *Greenwood Economic Empowerment Zone* without a Tulsa county property tax requirement for up to a negotiated number of years.²⁰⁰ This same legislation should grant the city of *Greenwood* the authority to negotiate its own terms for business property assessments and receive the negotiated tax instead of the county. Businesses should be paying less than what they normally would under the county property tax scheme. Next, the U.S. government should allow special credits for businesses in the Greenwood Economic Empowerment Zone that: (1) develop decent affordable housing; 2) hire and train Greenwood residents; and 3) provide other critical infrastructure improvements for the city of

Greenwood.²⁰¹ Lastly, the Oklahoma State Legislature should pass a law to suspend the state income tax requirement for the economic zone for a limited number of years. Much like the property tax scheme, the Oklahoma Legislature should grant Greenwood authority to assess its own income tax rate within the empowerment zone.

Thus, a modified “New York Liberty Zone” incentive package should be implemented to settle in Greenwood. The Greenwood version of the New York Liberty Zone should include the abatement of county property taxes, access to other federal tax credits, and temporary suspension of Oklahoma State income tax, should entice companies to settle in Greenwood. With its new authority to negotiate favorable agreements with companies, the entire city of Greenwood and its residents would benefit from a healthy economy.

²⁰⁰ The Oklahoma State Constitution allows some businesses to have an exemption from property taxes for up to five years. See *Okla. Const. Art. X, § 5*.

²⁰¹ The U.S. government currently allows a number of non-refundable tax credits to encourage businesses to provide critical good and services to the nation. See *Internal Revenue Code Section 38: Volume 1* (2002).

C. Erect a Real Memorial at least Comparable to the Oklahoma Bombing Memorial



Figure 2 \$28 million dollar Oklahoma City Bombing Memorial

In 1998, five years after the horrendous terrorist bombing of the Alfred P. Murrah building in Downtown OKC, which took the lives of 168 innocent victims, the state of Oklahoma rightfully erected the Oklahoma City National Memorial and Memorial Center Museum, a twenty-eight million dollar memorial, to commemorate the victims of that terrible event.²⁰² No one should ever minimize the loss of lives or the pain and suffering of friends and families of the victims. However, the fact remains that the dreadful Oklahoma City bombing pales in comparison to the horrors of the Greenwood Holocaust in terms of the sheer numbers of lives and property destroyed. Yet, while the Oklahoma City Memorial almost takes up a city block, the current Greenwood Memorial is an appallingly small block of granite. The disparity between the two memorials gives one the impression that the African American lives ruined in the Greenwood Holocaust

are of significantly less importance than the mostly White Americans ruined in the Oklahoma City bombing. To rectify this disparity, a new memorial needs to be built, and it must be at least comparable in scope and grandeur to the Oklahoma City Bombing memorial. Moreover, the Greenwood Holocaust Memorial should be located within the newly restored “old Greenwood” section of town, and be a centerpiece for attracting and educating visitors and tourists.

E. State holiday with appropriate ceremonies each year

The state should declare June 1st a state holiday, and set aside the day for remembrance each year. This holiday’s primary goals would be: 1) to ensure that the state always recognizes and remembers what happened on that dreadful day in 1921; 2) to honor those who endured the horrors of the Greenwood Holocaust; 3) to encourage proper reflection by all of Oklahoma; 4) to properly honor and respect those whose lives were so drastically altered; and 5) to encourage ongoing assessment of the state of race relations in Oklahoma.

F. Oklahoma Black History Part of School Curriculum

Everyone would agree that the September 11, 2001 attacks would never be withheld from this nation’s history books. Yet, the Tulsa Public school system does not include formal instructions about the Greenwood Holocaust in its curriculum. The educational system’s omission of the Greenwood Holocaust from textbooks and school’s curriculum is a travesty of epic proportion. Therefore, the Greenwood Plan should mandate Oklahoma school districts devote a minimum of two entire class periods per year to the Holocaust. In fact, ideally, the time spent studying the Greenwood Holocaust should be comparable to the time

²⁰² See *Oklahoma City National Memorial and Memorial Center Museum*,

spent studying the Jewish Holocaust, especially since the later incident took place in Oklahoma and not thousands of miles away. The focus and goals of studying the Greenwood Holocaust would be to provide the program the recognition it deserves, and ensure that Oklahoma citizens (the students and their parents) understand why Greenwood/north Tulsa residents are entitled to the various “special” provisions granted by the state of Oklahoma.

XI. What will make the White Power Structure Grant Reparations?

A. Must Combine the Interests of all Parties Involved

Most white Americans readily acknowledge that the quality of life for Blacks severely lags behind Whites.²⁰³ Yet, most of these same Whites are unwilling to support any effective remedies, especially reparations, aimed at improving the lives of African-Americans.²⁰⁴ The chance that the White dominated Oklahoma power structure will voluntarily “do the right thing” is highly unlikely, especially in light of the severe opposition continually leveled against the most articulate and persuasive legal arguments offered on behalf of the Greenwood victims. As a result, It is quite possible that an undeniable moral claim will still not be enough to convince the state of Oklahoma to own up to its responsibility and redress the terrible acts committed.

So what would force the White power structure to “do the right thing” and grant reparations? The answer has been offered by Professor Derrick Bell, who

<http://www.oklahomacitynationalmemorial.org/> (last Feb. 16th, 2003).

²⁰³ See Paul Sniderman & Michael Gray Hagen, *Race and Inequality: A study in American Values*, 555 (1985).

contends, “whites [en mass] will support and tolerate gains for blacks only when these [gains] also benefit them.” Unfortunately, and historically, this appears to be the most accurate response to this poignant question.²⁰⁵ Bell adds “even if there is a fool-proof legal theory for Black reparations litigation, few judges or legislators would be moved in the absence of some dramatic event, major crisis, or tragic circumstance that conveyed the necessity or at least the clear advantage of adopting a reparations scheme to grant reparations.”²⁰⁶ As stated earlier, many have argued that one of the key factors contributing to Japanese Americans’ successfully securing reparations for the unconstitutional acts that the U.S. government perpetrated against them was because an unwillingness to do so may have created insurmountable barriers to maintaining economic relations between Japan and the United States.²⁰⁷ For many in government, prior to the Japanese securing reparations, thought that trade with Japan was suffering because there was “lingering animosity over the ill-treatment of Japanese-Americans during World War II.”²⁰⁸ Consequently, extending a formal apology, and reparations, was an attempt to improve relations with the economically powerful nation of Japan and to prevent an economic backlash tantamount to a major crisis, or tragic circumstance. That possibility of economic

²⁰⁴ See, *Bush Vows to Fight Quotas Michigan Admissions Policy Is Flawed, Says President*, Chicago Tribune, Jan. 17, 2003.

²⁰⁵ See Derrick Bell, *Comment, Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 518-19 (1980).

²⁰⁶ See Derrick A. Bell, Jr., *Dissection of a Dream*, 9 Harv. C.R.-C.I.L. Rev. 156, 158 (1974).

²⁰⁷ See Rhonda V. Magee *The Master’s Tools, From the Bottom Up: Responses to African-American Reparations Theory in Mainstream and Outsider Remedies Discourse* 79 Va. L. Rev 863,909.

²⁰⁸ See Magee, *supra* note 207, at 909.

backlash conveyed the necessity, or at least the clear advantage, of adopting a reparations scheme.²⁰⁹

A. Historical Examples of White and Black Interest Converging to Produce Gains for Blacks

It is erroneously believed that President Abraham Lincoln engaged in the Civil War to free Africans held in bondage by the South. Many believe Lincoln was morally more enlightened than any other U.S. president and took a personal interest in setting them free. However, slave holding President Thomas Jefferson wrote “I wish most sincerely there was not a slave in the province; it always appeared a most iniquitous scheme to me to fight ourselves for what we are daily robbing and plundering from those who have as good a right to freedom as we have.”²¹⁰ Thus, it is clear from this country’s inception that its leaders understood the evil and morally bankrupt nature of slavery. So, Lincoln was no more enlightened than the many presidents who came before him. However, because freeing enslaved Africans “helped to save the union,” Lincoln’s desire (White interest) to save the union converged with African’s desire (Black interest) to escape bondage as articulated by Lincoln himself on August 22, 1862: “If I could save the union without freeing any slave, I would do it...what I do about slavery and the colored race I do because I believe it helps to save the union.”²¹¹ The result was the Emancipation Proclamation, which greatly helped the Union win the war.

²⁰⁹ See *Id.*

²¹⁰ For although Jefferson insisted he was strongly anti-slavery, his “hatred” toward the institution never motivated him freeing his slaves or use his enormous prestige to oppose slavery unequivocally. See A. Leon Higginbotham, *In the*

One should study the Civil Rights movement of the 1950's and 1960's for a more modern example of the interests of Black people "converging" with the practical needs of the White power structure. Unquestionably, the tremendous sacrifice of money, time, blood, sweat, and tears made by valiant civil rights soldiers once again secured legislation to "guarantee" the "inalienable rights" of Blacks.²¹² Surely the bloody, inhuman, brutal scenes of violence being leveled against peaceful protesters, coming live into the living rooms of millions of people across the world, made it harder for the U.S. to present itself as the great humanitarian world police. This imagery put tremendous pressure on the power structure to grant some of the demands of the Civil Rights Movement. However, there is no denying that the Civil Rights Movement's efforts were greatly aided by the unrest of young whites over the war in Vietnam, the red hot "Cold War" that threatened to erupt into nuclear war with Cuba, and the assassination of President Kennedy. As a consequence, the power structure, much to the chagrin of many, had to make real concessions and "give" Black citizens civil rights. These concessions were necessary to prevent the United States from losing creditability around the world, but more importantly it kept the Federal Government from losing control within its own borders.

Matter of Color: Race and the American Legal Process: The Colonial Period, at 380 (1978).

²¹¹ See Loewen, *supra* note 15, at 181.

²¹² This highly charged era in United States history produced countless legal protests, boycotts, marches, sit-ins, and freedom rides. In addition, it is ironic that the rights that Afrikan people achieved during the 60's civil rights movement were about the same as those achieved after the passage of the Civil Rights Acts of the 1860's. See Juan Williams, *Eyes on the Prize: The American Civil Rights Movements, 1955-1960* (1988).

So, what will provide that “major crisis” to spur the granting of reparations for the Greenwood Holocaust victims? Certainly the very viable legal or moral theories discussed and others not mentioned in this piece could possibly be used to frame a winning argument and induce the power structure to “do the right thing.” However, seldom has the legal system worked in the favor of Africans in America, unless persuaded by tremendous political pressure. Maybe the moral responsibility espoused by a few Tulsa civic leaders shortly after the holocaust could be the impetus needed to “right the wrong.” However, the Greenwood community has been waiting patiently for over 80 years, for Tulsa to keep its promise to rebuild it. Maybe the power structure’s religious commitment will lead to the just act of granting reparations to the Greenwood victims. However, it is doubtful that religious convictions alone will convince the city of Tulsa, or the state of Oklahoma to redress the destructive acts of the Greenwood holocaust.

Anyone seeking reparations for the Greenwood Holocaust victims must convince the white dominated power structure that it is in their best interest to grant a comprehensive reparations plan. This process may be accomplished by: 1) highlighting the positives that reparations for the Greenwood Holocaust will produce and how the White power structure will benefit; 2) creating an atmosphere that absolutely makes it impossible for the power structure to ignore the demands of reparations advocates; or 3) some combination of the first two strategies.

C. How Granting Reparations Will Benefit the White Power Structure

Unfortunately since many areas in Tulsa and the entire State of Oklahoma are still suffering from the effects of what I call the “deadly trinity” of hatred, envy,

and White Supremacy, the Oklahoma power structure must be convinced that implementing the Greenwood Plan would: 1) allow the state to shed its image as a haven for racists and become a shining example to the world of how to atone for past mistakes. This would enhance the state's and the city's attractiveness for conventions, conferences, and other national and regional meetings, thus, generating much needed revenues for the state of Oklahoma and the city of Tulsa; 2) create a national historical tourist attraction by refurbishing the Greenwood District. This will ultimately stimulate the entire economy for the city of Tulsa and the State of Oklahoma by putting more money in the pockets of Oklahoma restaurants, hotels, malls, and toll-booths; 3) provide a point of reference for all Americans as well as foreign travelers about the tremendous history of Afrikan-Americans and Oklahoma and 4) repair the African-American community and provide a moral backdrop that the city of Tulsa or State of Oklahoma can use to foster true reconciliation between the races; 5) create a healthy, educated, safe, and self-sufficient community that can adequately address the needs of its citizens, and eventually reduce North Tulsa dependence on city and state funds and programs; 6) re-create an economically successful community that will allow more Oklahomans to find gainful employment, increase earnings and disposable income, increase city and state tax revenues, and charitable giving; 7) increase educational and economical opportunities that will, in turn, reduce poverty and crime in Greenwood and reduce monies spent for law enforcement and maintenance of prisons; 8) increase educational and economical opportunities that will address "the age-old issue of brain drain"²¹³

²¹³ See Jay Copper, *Lottery: Not A Savior*, Tulsa World, Nov. 24, 2002.

and encourage younger, educated, and skilled people to remain in the state, as acknowledged by Governor Brad Henry who said “that's what we need to do in Oklahoma.”²¹⁴ Indeed a better educated workforce will make Oklahoma more attractive to corporations seeking to relocate their operations to the area, and create more jobs and revenues for the entire state.

D. If Showing All the Positives of the Greenwood Plan Does Not Work, What Must Reparations Advocates do to Convince the Power Structure That Its in Their Best Interest To Grant Reparations?

Sadly, it is a strong possibility that demonstrating the benefits of the Greenwood Plan may not be enough to convince the white power structure that the gains for Tulsa’s Black community will also benefit Whites enough to justify granting the appropriate remedies. So, Greenwood reparations supporters must not only be ready for a long, grueling, and expensive legal fight, but must also be prepared to return to “in your face” civil rights style activism to create the “crisis” that will facilitate changing the political will of those in charge. This means reparation advocates must be prepared to implement such strategies and tactics as:

- 1) Launching an intensive media campaign aimed at embarrassing Tulsa and the State of Oklahoma before the entire world. The advocates must show the hypocrisy of America to call for reforms around the world while not implementing proper reforms at home.
- 2) Initiating strategic boycotts against specific industries, to force the Oklahoma business community to compel the political players to come to the table and work out a reparations plan.
- 3) Disrupting major events such as football and basketball games, concerts, plays, conventions and other events in Oklahoma by peacefully, lawfully protesting and demonstrating during these events. This would be done to raise

²¹⁴ See *Id.*

the awareness that an injustice has been woefully ignored for over eighty years and that it is time that it is righted.

4) Advocating for organizations that support reparations for the Greenwood Holocaust to refrain from convening any regional or national meetings, conferences, convention, or any other events in Tulsa and/or Oklahoma period.

5) Staging massive radio campaigns, distributing flyers on a weekly basis; organizing monthly street rallies, etc. until the issue is adequately addressed.



Conclusion

If adhered to the Greenwood Plan would: 1) compensate the victims for the terrible acts of May 31/June 1st, 1921; and 2) rebuild Greenwood, restoring it back to a proud, prosperous, and successful community. Just as the controversial Marshall Plan overcame tremendous obstacles once those in key positions obtained the political will to rebuild the lives and communities shattered by WWII and the Nazis Holocaust, if the White power structure of Tulsa can obtain the political will to implement the Greenwood Plan the lives and community shattered by the Tulsa Race War and the Greenwood Holocaust will be rebuilt.

Lastly, regardless of the eventual academic treatment of this document, if the average person with no prior reparations or Greenwood knowledge, understands: 1) why describing the Greenwood massacre, as a “race riot” is erroneous and misleading; 2) why a comprehensive reparations plan to compensate the victims and their descendants for the annihilation of Greenwood and its Black citizens is needed and long over due; 3) why support of some strategy ensuring the adoption of the Greenwood Plan is necessary; 4) why the Greenwood Plan would be the best reparations model to compensate and rebuild the Greenwood community back to a self-determined, prosperous, and successful community; and 5) why reparations advocates commit themselves to acting decisively to see that all of the above is accomplished, then the victims of the Greenwood Holocaust might finally receive justice and retribution for their suffering, and this endeavor is a success!