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Who is Responsible for Race-Ethnic Discrimination? An Examination of the Roles of the US Federal Government on Two Sides of an Enduring Problem

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Abstract

This research is designed to contribute to ideas and logic regarding attempts to resolve the problem of race-ethnic discrimination in the United States. Ethnic discrimination was already present in the land that eventually became the USA as native Indian tribes discriminated against and warred against one another on account of their otherness. The arrival of Europeans and Africans added to the existing cultural diversity in the land with additional "otherness" and consequential inter-otherness discrimination throughout the period of British rule. Upon gaining independence, the new government of the newly formed country developed a series of social structures that consecrated otherness and discrimination among the people of the new nation. With the passage of time and social change, the government began to dismantle its discriminatory structures. This study examined the structures of the US government in the establishment and the eradication of racial-ethnic discrimination and put the onus of responsibility for eliminating it squarely on the federal government. This is based on the assumption that the macro structures of the federal government determine what is legitimately accepted and possible at the meso, micro, and idio structural levels. Hence, it is the permissiveness of the federal macro structures for race-ethnic discrimination that allowed the problem to metastasize into all other levels of social structures.

Keywords: race, ethnicity, discrimination, racial-ethnic discrimination, government structures, formal structures

1. Introduction

This paper presents an analysis of the roles of the United States (US) Federal Government in the creation and maintenance of racial-ethnic discrimination as well as in its effort to end such discrimination in the country. Most scholars, if not all, of race and ethnic relations would likely concede that the central theme in race-ethnic relations in the US revolves around the problems of racism, ethnicism, and racial-ethnic discrimination. These problems are so pervasive that they have been described as consisting of two types: the dominative and the aversive (Kovel, 1984; Gaertner & Dovidio, 1986; Pearson et al., 2009), and they have perennially shaped human relations and social realities in the country.

Kovel (1984) described the dominative type as consisting of overtness in which laws and actions support the direct domination of racial-ethnic minorities. It is a type of "in your face" discrimination in which both the law, the perpetrator, and the victim recognize the explicit nature of the discrimination being perpetrated and being experienced. The aversive type, however, is subtle, implicit, well-disguised under acts of benevolence, and mostly difficult to detect (Kovel, 1984). Due to the social evolution of society and the persistent transformations of laws and judicial decisions, Kovel contended that the dominative type of racial-ethnic discrimination has lost favor in society. It is no longer in vogue, and the society highly condemns it. However, this does not imply the end of racial-ethnic discrimination in the country. The dominative type is simply replaced by the aversive type (Kovel, 1984; Gaertner & Dovidio, 1986).

The beginning of the US as a nation was marred by a complex dynamic of human relations, which were mostly dominative (and at times cooperative) between the European founders of the country and the original natives of the land (see Marger, 2015). Similarly, the pattern of relations between the Europeans and their enslaved Africans, the Asians, and subsequent Mexican residents in the early part of the creation of the nation was mostly rooted in the dominative race-ethnic relations type (see Kovel, 1984; see Marger, 2015). This history of domination and oppression, one may argue, set the stage for the creation and maintenance of racial-ethnic discriminatory structures that have defined the country.

With an overarching history of race-ethnic oppression, rooted especially in slavery and Jim Crow-era segregation, the pattern of race-ethnic discrimination in the modern era reflects the legacy of historical formal structures, which have shaped modern formal and informal structures from the macro to the idio levels. Therefore, in both formal and informal interactions, racial-ethnic discrimination mostly operates aversively. It pervades all areas of cross-racial-ethnic relations in subtle but impactful ways, especially in how we perceive those of 'other' races-ethnicities and our actions towards them (Kovel, 1984; Gaertner & Dovidio, 1986; Pearson et al., 2009).

2. Objective

This study seeks to delve into the roots of racial-ethnic discrimination in the US. It will explore some historical and contemporary structural contexts of racial-ethnic discrimination

as well as some structural attempts at eliminating it. To this effect, this study will make a modest attempt to establish two prongs of arguments that put the US Government at the center of the realities of race-ethnic discrimination in the country. The first argument will attempt to indict the government as the culprit in the origin of race-ethnic discrimination by examining its roles in the creation and promotion of racial and ethnic discriminatory structures in the country. This argument is intended to demonstrate the culpability of the US government in originating race-ethnic discrimination. The second will square the onus of the responsibility for eliminating race-ethnic discrimination on the same government, and it will examine some of the government's efforts in meeting this responsibility.

3. Method

To meet the objective of this study, the historical structural roots and contemporary structures of race-ethnic discrimination in the country were analyzed and discussed. Evidence of the structural forms and mechanisms through which the US government had promoted racial-ethnic discrimination, as well as attempted to abate it, were explored.

To fulfill the study objective, analysis and discussion of a few regulatory structures are used to sufficiently explain the roles of the US government in the creation and efforts to eliminate racial-ethnic discrimination within the scope of the study objective. The point of this study is not an attempt to list and discuss every single structure of the government that has promoted or attempted to end racial and ethnic discrimination. Such an effort is daunting and unnecessary, as it will not amount to anything beyond a lengthy list of laws and regulations. There is little meaningful value in such a task. An interest in any particular law can be fulfilled by reading a legal encyclopedia or any of the various online government documents. Also, the examples of government structures discussed in this article were not randomly selected because no claim of empiricism is being made in this study. Random selection is unwarranted because this research is based on a logical review and conceptual analysis of the literature rather than an empirical analysis, which requires the random or systematic selection of observations. Therefore, the examples of governmental structures discussed in this study were based only on their consistency with the logical deductions and conceptual analysis being advanced by the author. In addition, each example carries a legacy of historical significance and lasting impact on racial-ethnic discrimination in the United States. For example, the discussion of the 1790 Census was based on its significance as the first official government action that institutionalized racial categories, which laid the foundation for future discriminatory policies. Hence, while the examples were not systematically selected, neither were they chosen to support any bias, and they provide sufficient examples of government actions for and against racial and ethnic discrimination.

It is important to assert that while the effort in this study centers mainly on federal government actions regarding the creation and elimination of racial and ethnic discrimination, it is fully acknowledged that there are many other forms of discrimination that are not discussed in this article. The focus here is on race and ethnicity rather than on all forms of discrimination. This design is in the interest of simplicity, focus, coherence, and

manageability of ideas. This presents a sufficient justification for the focus only on race and ethnicity. Other forms of discrimination, such as gender, religion, sexuality, and age, among others, also merit structural analysis. All of them can equally be argued to have originated with government actions. However, they are not the focus of this study for the reasons mentioned above.

4. Government As a Social Institution

The term, government, is used to mean the social institution or the macro social system that is responsible for organizing society. As a social system, government is comprised of many interacting social structures that produce various consequences, one of which is race-ethnic discrimination. This means that as a country, the US (like all nations in the world) is organized by its government, which consists of the various macro social structures that were put in place by certain officials or bureaucrats who work in government. These officials represent the face of the government since they create the structures of government, but the government itself is only a social institution or social system that is not physical. Other major and universal social institutions of any society are education, economy, religion, and family (Barnes, 1942).

Every social institution meets certain functions for society through its organizations and the organizational officers who create, enforce, and maintain the structures of the institution. For example, education as a social institution comprises social structures (policies, rules, programs, etc.) whose functions are to guide how knowledge is created, stored, and transmitted in society (see Oyinlade et al., 2020). These functions are accomplished through the organizations of education like school districts, grade schools, universities, libraries, museums, zoological gardens, research institutes, trade centers, and many more (see Oyinlade et al., 2020). These organizations are staffed by officials who create, modify, and maintain the structures of these organizations for the accomplishment of the functions of the social institution of education for society. The same is true of government as a social institution. The government (the US Government in the particular case of this study) is a social institution that is comprised of many organizations. They include the two separate houses of Congress, the White House, fifteen departments (e.g., the State Department), the courts, the military, and several agencies. These government organizations are comprised of several officials who create and maintain the government structures, and those structures shape the realities of society. They determine how well society is organized, including what is allowed and possible in society.

While the concept of social structure is commonly used, its meaning is often elusive to many people. To avoid any confusion about the concept, it shall be explained before commencing any analysis and discussion in which it will be center-staged. A social structure simply refers to a social design or social arrangement that shapes human realities (Merton, 1968). It may also be described as a social agreement. Whether as social design, arrangement, or agreement, social structures pattern human behaviors and produce predictable and persistent outcomes with long-lasting consequences (Merton, 1936). Social structures can be formal, such as laws,

executive orders, regulations, policies, and court decisions, which are created and enforced by official entities like those of the organizations of government and work organizations. They can also be informal, such as social norms, values, and cultural beliefs. Both formal and informal social structures pattern human behaviors and all human realities**.** For example, every government law determines the actions of people. The laws are expected to be obeyed, and obedience is not an option because the law is a command (Postema, 2001; Sevel, 2018). According to the 18th and 19th Centuries English political theorist Jeremy Bentham (1748-1832), anything that is not a command is not law (See Parekh, 1973). The laws are enforced by agencies whose responsibility is enforcement (e.g., Police, Sheriff, FBI) and to impose punishments for violations (e.g., the courts). Because social structures pattern human behaviors, focusing on the roles of governmental social structures in the creation and elimination of racial-ethnic discrimination will give a good understanding of the endurance of the behavior in the lives of the people in the US.

5. Government As the Culprit of Discriminatory Structures

5.1 Legislative and Executive Discriminatory Structures

To meet the first objective of this study, it is necessary to explore how government structures set the stage for racial-ethnic discrimination in the country. The government in this study shall refer only to the national government or the federal government of the US. The culpability of state governments is excluded in this analysis because it is not the focus of this study. The US Federal Government has numerous structures that set racial-ethnic discrimination in motion in the country. These structures produce and encourage discrimination and, in the process, help to shape informal social norms that foster discrimination in the lives of everyday people in the country. The structures include the national constitution, congressional Acts, presidential executive orders (EO), judicial actions, federal programs, and more.

Since the beginning of the attempt to build a nation, the founding architects of the US erected many formal structures through legislation and court decisions that were discriminatory by manifest design and in their consequences. When shifting through the pages of history, the seed for the creation of race-ethnic discrimination can be traced to the beginning of contact between the arriving European colonial immigrants with the Native American tribes and the early indentured Africans. The Native American tribes were already culturally organized in tribal societies, and they identified themselves along their tribal lines as different from one another (Lurie, 1991). Based on their beliefs in the differences of their otherness, they had great pride in their tribes but considered other tribes as deadly enemies. They engaged in inter-tribal warfare, during which they committed various atrocities against one another. On the basis of their tribal differences, they killed their tribal opponents and captured their women, horses, and properties (Ewers, 1975; Ferguson, 1992). The arrival of the European colonial immigrants and the early indentured Africans added to the plurality of otherness in the society. Each population distinguished itself from the others based on its perceived racial-ethnic differences. Since the antagonism of discrimination is based on real or perceived

differences, racial-ethnic discrimination became a reality in the society under British colonial rule, and it remained so later in the newly formed independent nation and its new government.

5.1.1 Slavery Discriminatory Structures

At its inception, the newly formed government of the independent country, the USA, could have dismantled otherness by creating structures that fostered a unified racial-ethnic identity among all residents in the colonies. If it had eradicated the perceptions of otherness, it could have created a fully racially and ethnically amalgamated society that would have become one American population stock in which racial-ethnic discrimination would have been impossible. Instead, it created and supported structures that promoted racial-ethnic otherness. While differentiation and otherness had been maintained since initial contact with the different populations and the distinctions made between free people and the enslaved, the first census of the population in 1790 consecrated otherness in the colonies. This census officially distinguished the residents of the colonies by classifying them as Free Whites, Other Free People, and Slaves (Bureau of the Census, 1908), which officially established and endorsed otherness among the population. Since 1790, the US Government has maintained a decennial racial-ethnic enumeration of the population in its census. In addition, racial-ethnic identification and enumeration of the population pervade most government entitlement programs, such as government contracts and minority set-aside loans (see Pincus, 2003; Reskin, 1998). Since discrimination is based on the perceptions of the differences of "others," governmental racial and ethnic distinctions among the population contribute to racial and ethnic discrimination, even if it is the latent dysfunction of manifestly functional governmental structures.

The enslavement of Black Africans is another form of structural discrimination of which the US Government is also guilty because it allowed it to exist for as long as it did. Evidence also shows that government actions backed enslavement. For example, during the 1787 US Constitutional Convention, a landmark constitutional decision was made at the inception of the country that accorded a lesser social status to enslaved Africans relative to Whites in the Three-Fifth Compromise. The Act followed a compromise between the Southern and Northern Framers of the US Constitution regarding the apportioning of congressional seats based on the population size of each state. The southern representatives wanted their slaves to be fully counted as part of their states' populations, which would elevate the populations of the slaveholding states and, hence, give those states more congressional seats than if the enslaved people had not been counted at all as northern representatives preferred (Hunt, 1902). As far as the representatives from the north were concerned, the enslaved people should not be counted at all since they were properties, so only their owners should be counted. For the North, counting enslaved people as equal to Whites would give the Southern states an unacceptable number of seats in Congress, which would mean the South could pass any legislation it wanted due to its size in Congress. These polemic positions led to the Three-Fifths Compromise suggested by James Madison, which allowed the non-free persons (i.e., enslaved people) to be counted, but not for equal seat apportioning as free people (i.e., Whites). The agreement between the North and South was that only 60 percent of the

enslaved people residing in a state would be added to the total state's population in determining the proportion of congressional house seats to be allotted to slaveholding states and the proportion of taxes to be paid by those states to the federal government. That is, only three out of every five non-free persons (enslaved people) would count towards a state's population for the allotment of seats in the National House of Representatives and tax burden to the federal government (Wills, 2005). This congressional decision, both as intended and as commonly wrongly interpreted that it meant a Black person was only three-fifths of a human being, favored White supremacy since the enslaved Black Africans were not counted equally to Whites for representation in Congress.

Also, during the Constitutional Convention, Pierce Butler and Charles Pinckney of South Carolina moved to require enslaved people and servants who escaped from their owners and ran into non-slave states to be returned to their owners as criminals (Ferrand, 1911). The motion was unanimously adopted and signed into law by George Washington in 1793 (National Archives, Online-d). This law, branded as the Fugitive Slave Clause, was passed and enforced as Article IV, Section II, Clause III of the US Constitution. It states that "No Person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due" (Constitution of the United States, Online). Although neither the term slave nor enslaved persons was mentioned in the Constitution, the only people who were held to service and who were recorded to have escaped their servitude, captured, and returned to their owners were the enslaved Africans. Therefore, the interpretation of Article IV, Section II, Clause III of the US Constitution as referring to the enslaved is appropriate, and it demonstrates the approval of the US Federal Government for slavery.

Other evidence of the early structuring of society for racial-ethnic discrimination can be found in the 1793 Patent Act, which prevented enslaved Africans from having patents to anything they could invent. The Act required inventors to take the Patent Oath, which required the swearing of a declaration of being US citizens to have intellectual rights to inventions for which patents were being sought. Because the enslaved Africans were denied the right of citizenship at the time, they had no rights to intellectual properties and, hence, had no rights to own patents (Riley, 2016).

5.1.2 Discriminatory Relations with Native and Asian Americans

Relations between the US Government and the Native Americans also produced many racial-ethnic discriminatory structures that were used to justify the maltreatment of the native populations. Among them were the 1819 Civilization Fund Act (or Indian Civilization Act), the 1830 Indian Removal Act, and the 1887 Indian Allotment Act. The Civilization Fund Act was based on a White Supremacy ideology that required the assimilation of the native peoples (multiple independent and different tribes) into the dominant White Anglo-Saxon Culture. However, because the native peoples resisted assimilation, congress believed the best way to force assimilation on them was by educating Indian children and assimilating them into the dominant White culture (Adams, 1995; Pember, 2019). The 1819 Act became

the official authority structure through which the government rounded up several Indian children and forced them into government boarding schools to be forcibly educated and assimilated into the White culture on the belief that the White culture was superior to the primitive Indian cultures (Adams, 1995).

The 1830 Indian Removal Act was another discriminatory structure of the US government for gaining land that was made available to new European immigrants during the 1800s when European immigration into the country was very high. The law permitted the federal government to forcibly remove the native populations on the East Coast and resettle them west of the Mississippi River in locations known as the Indian Reservations (Wright, 1992). Notably among the forced migrations was the removal of the Cherokee Nation and their march to their new government-designated locations in Oklahoma. The Cherokee experience became known as the trail of tears for the thousands (approximately 11,000) of Cherokee people who died in the operation (Wright, 1992).

The search for land for White European immigrants did not end with the removal of the native peoples on the East Coast. When European immigration began to expand westwards from the East Coast, the federal government resorted to going to the Indian reservations in search of more land for the Europeans. This was based on the 1887 Indian Allotment Act (or the Geary Act) (Marger, 2015). Congress believed that the collectivist culture of the Indians led them to own reservation lands collectively rather than individually as Whites did. The Act allowed the federal government to parcel out reservation lands and allot land pieces to individual Indian families. This created individual land ownership among the Indians, who were then pressured to sell their land holdings to White immigrants. By the early twentieth century, the Indians had become practically landless as a result of the Removal and Allotment Acts, and they practically became wards of the US federal government (Marger, 2015).

Fast forward, the US Federal Government erected discriminatory racial-ethnic immigration structures that negatively affected Asian Americans. Federal laws such as the Chinese Exclusion Act of 1882 and the Immigration (Johnson-Reed) Act of 1924 directly targeted specific populations based on countries of origin from immigrating to the United States (Schaefer, 2013; US Department of States, Online-a). The law restricted immigration into the US to only two percent of each of the existing populations of foreign-born US residents from their countries of origin. The law was passed based on the beliefs that Chinese laborers were unfairly taking away jobs from non-Chinese workers by taking lower wages and that the Chinese culture was inferior and might lower the cultural and moral standards of the American culture (U.S. Department of States, Online-b). While this law, on the surface, specified foreign-born populations, it was discriminatorily applied only to Asian countries. It was not applied to immigrant populations from Europe, and neither did it apply to the Philippines, China, and Japan (US Department of States, Online-b).

The Philippines was excluded from the act because it was a US territory at that time, and the people of the Philippines were classified as American citizens. As citizens, they had the free right to travel to the US. China was excluded from the Act because it was already excluded from immigration to the US by the Chinese Exclusion Act of 1882 (US Department of States,

Online-b), which was extended by The Geary Act of 1892 by ten years (Marger, 2015; U.S. Department of States, Online-b**).** The Geary Act included a clause that banned Chinese immigration to Hawaii and the Philippines (U.S. Department of States, Online-b) and required Chinese residents in the US to carry documentation of residence from the Internal Revenue Service. If caught without the certificate, they were sentenced to labor and deportation.

Japan was not covered under the 1924 Act because immigration from the country was already restricted under the gentleman's agreement with Japan. The 1924 Act, therefore, was designed as a structural immigration discrimination against people from other Asian countries (US Department of States, Online-b). It also reinforced the 1917 Immigration Act or the Barred Zone Act that barred the immigration of people from the Middle East to South East Asia into the US (Immigration Act, 1917). Another worth-mentioning formal structure that discriminated against Japanese Americans was Franklin D. Roosevelt's 1942 Executive Order 9066, which designated a large area of the West Coast military area or internment camps and ordered Japanese Americans to relocate and be detained in the camps during the second world war (Marger, 2015). Their internment was based on a suspicion that they were likely saboteurs of the US campaign in the war. This internment occurred despite the fact that no Japanese had committed any act of sabotage nor was suspected of doing so, and many Japanese Americans were in the US military and fighting for the US (Marger, 2015). The irrationality and discriminatory basis of the internment were evident in the statement by Lieutenant General John Dewitt, who oversaw the internment. In his report to President Roosevelt regarding the internment operation, the Lieutenant General said that the very fact that no Japanese had committed any sabotage against the US war efforts only proved a disturbing and confirming indication that they would sabotage the US war effort (Stafford, 1999).

5.1.4 President Roosevelt's New Deal and Redlining

Official (governmental) racial-ethnic discriminatory structures can also be found in the financial sector. In 1930, as part of the New Deal Acts, the Home Owners' Loan Corporation (HOLC), a now-defunct federal government agency, provided refinance loans to homeowners during the Great Depression. Given that this was a period of unprecedented poverty in the country, loans through the HOLC were intended to ease financial pressures on the population, especially the working and lower classes. During its period of operation, the HOLC gave away about 1,000,000 loans, of which 800,000 were paid back (Harriss, 1951). To reduce loss due to non-repayments, the agency identified locations of high loan defaults and circled them in red ink on city maps as areas having low creditworthiness and, therefore, unsafe for investments. This practice became known as redlining. The guidelines used by the HOLC for giving out loans inadvertently negatively impacted poor Whites, Black, Chinese, Japanese, Turkish, and other immigrant neighborhoods (Borunda, 2020; Bowdler & Harris, 2022). By denying loans disproportionately to minority populations through redlining, the HOLC contributed to the wealth gap between white and minority populations (Alexander, 2010a), and it also resulted in preventing minorities from securing loans to move into more affluent neighborhoods (Borunda, 2020). The resulting residential pattern was housing segregation as those in wealthy White neighborhoods wrote racially explicit covenants that prevented

racial-ethnic minority persons from buying or renting properties in their neighborhoods. This was intended to prevent affluent neighborhoods from being redlined, as evidenced in the comment that "if just one African-American family lived in a neighborhood, it would usually be redlined" (Borunda, 2020, no page number). Therefore, neither malice nor White supremacy needed to be established for housing discrimination to occur since wealthy homeowners, albeit Whites, wrote their neighborhood covenants in response to the redlining policy of the HOLC to protect their home investments.

5.1.5 The War on Drugs Discriminatory Structure

Recently, the War on Drugs, which was initiated in the 1980s, was another government policy that unfairly targeted and disproportionately affected racial-ethnic minorities, especially African Americans. The war on drugs legislation, such as the Anti-Drug Abuse Act of 1986 and its expansion in 1988, imposed harsher penalties for crack cocaine, a drug more prevalent in poor urban communities, particularly the African American neighborhoods, compared to powder cocaine, which was more commonly used by white individuals (Alexander, 2010a). Under the 1986 Act, the courts were compelled to impose a minimum sentencing disparity of a 100-to-1 ratio between crack and powder cocaine (Taifa, 2021). According to the law, "five grams of crack cocaine — the weight of a couple packs of sugar — was, for sentencing purposes, deemed the equivalent of 500 grams of powder cocaine; both resulted in the same five-year sentence" (Taifa, 2021, no page number). Interestingly enough, data from the National Institute for Drug Abuse indicated that there were numerically more Whites using Crack Cocaine, but the majority of arrests for using the drug were among African Americans, hence resulting in a disproportionate number of African Americans being incarcerated for using the drug (Taifa, 2021).

5.2 Judicial Decisions

Judicial rulings, especially those of the Supreme Court, also served as major sources of the creation and sustenance of discriminatory structures in the country. This is because the Supreme Court (hereafter referred to mostly as the Court) played a significant role in shaping legal precedents that have perpetrated discrimination in the country. For instance, in the 1857 *Dred Scott v. Sandford* case, the Court ruled that enslaved Africans were not US citizens and, therefore, were not covered by the US Constitution for any rights. In his Majority Opinion, Chief Justice Taney wrote that the Fifth Amendment only protected slave owners' rights and, because enslaved persons were the property of their owners, they had no rights under the constitution (History.com editors, 2023). As part of the ruling, the Court also nullified the Missouri Congressional Compromise, which was aimed at allowing and restricting slavery only to slave states (mainly Southern states, including Delaware). The ruling indicated that Congress had no power to restrict the spread of slavery to other states (History.com editors, 2023). In essence, the Court endorsed and reaffirmed the continuation and spread of slavery without any protection for the enslaved people in any court.

Another example of a major ruling in which the Court's ruling served as a structural conduit for the establishment and perpetuation of racial-ethnic discrimination was in the 1896 *Plessy v. Ferguson* case. The case originated in 1892 as a test of the 1890 Separate Car Act of the

State of Louisiana (Duignan, 2024). The law required racial segregation in the train cars within the state. The law banned people from entering a car or occupying any part of a car that was not designated for their particular race. Two years after the law went into effect, Homer Plessy, a Louisiana shoemaker (Urofsky, 2024), and an octoroon (one-eight Black, seven-eight White) bought a train ticket and sat in the Whites-Only car. When he refused to move to the colored section, he was arrested and later convicted of violating the Separate Car Act (Duignan, 2024). In his ruling, District Court Judge John H. Ferguson affirmed the constitutionality of the Car Act, and the verdict was upheld by both the Louisiana and the US Supreme Courts (Duignan, 2024). Writing for the majority decision in 1896, Associate Justice Henry Brown asserted that the Car Act was constitutional because it neither violated the 13th nor the 14th Amendments to the US Constitution. Justice Brown indicated that the Car Act did not attempt to re-enslave African Americans (13th Amendment), and neither did it violate the equal rights clause of the 14th Amendment. The rights of African Americans to equal legal rights were not violated since the Car Act provided them with equal accommodations as Whites on the trains, albeit separately. The Justice indicated that the 14th Amendment did not guarantee or protect social equality, such as in co-mingling, which the Car Act intended to prevent (Duignan, 2024). However, in his lone dissenting opinion, Associate Justice John Marshall Harlan controverted the majority opinion by indicating that the Car Act violated the 13th Amendment because it imposed a badge of servitude on African Americans, and it violated their liberty and freedom of movement, which were supposed to be protected under the 14th Amendment (Duignan, 2024).

The Court rulings in both the Dred Scott and the Plessy cases denied full rights of citizenship to African Americans and upheld racial segregation (Takaki, 2008). These decisions reinforced discriminatory structures by legitimizing unequal treatment based on race. Similarly, in *McCleskey v. Kemp*, 1987, the Court's decision to uphold racially disparate sentencing practices perpetuated inequalities within the criminal justice system, further entrenching systemic discrimination (Takaki, 2008). In the case, Warren McCleskey, an African American man, fatally shot a police officer during an armed robbery in Georgia. The jury found him guilty and imposed the death penalty on him. McCleskey appealed his sentence through several courts until it was eventually reviewed by the United States Eleventh Court of Appeal, which affirmed the lower court's decision. His appeal was based on The Baldus Study (by professors David C. Baldus and George Woolworth), which found that the death penalty was unevenly imposed based on the race of the defendant and victim (Smith & Mullis, 1988). The study revealed a bias that in Georgia, the death penalty was most imposed when the defendant was Black and the victim was White, which was the situation in the McCleskey case. McCleskey's appeal was based on the presumption that his sentence was based on racial bias, which would have violated his Eight and Fourteenth Amendment rights (Smith & Mullis, 1988). The Eleventh Court of Appeal, however, affirmed the lower court's decision on the ground that although racial discrimination was present in Georgia courts, there was no evidence that the death sentence imposed on McCleskey was based on racial bias and that the Baldus Study findings could not be established to have been true in this particular case. Later, when the US Supreme Court granted certiorari for the case, it reaffirmed the decision of the Eleventh Circuit Court (Smith & Mullis, 1988).

According to the Death Penalty Center (2022), the implication of the Supreme Court's decision in reaffirming the lower court's sentence in the McCleskey case is that it made it practically impossible to prove racial discrimination in court decisions. Despite that McCleskey prevented statistical evidence from The Baldus Study that the likelihood of getting the death sentence for killing a White person was four times greater than when the victim was Black, the decision of the Supreme Court made any empirical evidence of bias in the courts null and void since it will be difficult to establish bias, even when present in any particular case (Death Penalty Center, 2022). According to Michelle Alexander,

> "McCleskey versus Kemp has immunized the criminal justice system from judicial scrutiny for racial bias. It has made it virtually impossible to challenge any aspect of the criminal justice process for racial bias in the absence of proof of intentional discrimination or conscious, deliberate bias. Now, that's the very type of evidence that is nearly impossible to come by today.
>
> When people know not to say, 'The reason I stopped him was because he was black. The reason I sought the death penalty was because he was black.' People know better than to say that the reason they are, you know, recommending higher sentences or harsher punishment for someone was because of their race.
>
> So, evidence of conscious, intentional bias is almost impossible to come by in the absence of some kind of admission. But the U.S. Supreme Court has said that the courthouse doors are closed to claims of racial bias in the absence of that kind of evidence, which has really immunized the entire criminal justice system from judicial and, to a large extent, public scrutiny of the severe racial disparities and forms of racial discrimination that go on every day unchecked by our courts and our legal process." (Alexander, 2010b).

6. Governmental Structural Efforts at Ending Discrimination

The US Federal Government is prominent on both sides of racial and ethnic discrimination in the country. This makes sense because the government is responsible for the creation and maintenance of the structures of discrimination. Since governmental structures set racial-ethnic discrimination in motion in the country, the tools for dismantling discrimination also lie with the government. The government is like the arsonist, who also happens to be the Fire Marshall. He sets the fire and then leads the effort to put it out. Just as the government was a big culprit in the creation and maintenance of racial-ethnic discrimination through its executive, legislative, and judiciary arms, it is also the leading force in the attempts at ending discrimination. Because the government operates through the creation of formal structures to guide the behaviors of its citizens, it has continuously used many formal structures to dismantle formal structures of discrimination. This is indicative of how structures shape structures. Specifically, to racial and ethnic discrimination, the government can be credited with structural attempts to dismantle discrimination through its many anti-discrimination structures of legislation, programs, and judicial rulings that aimed to eliminate (or at least reduce) formal

discriminatory practices in government and any organizations that do business with the government. Below are some examples of governmental attempts at fighting race-ethnic discrimination.

6.1 Legislative and Executive Actions

6.1.1 Emancipation and Early Civil Rights Structures

Perhaps the earliest efforts of the US government at eliminating racial and ethnic discrimination in the country were the 1862 Emancipation Declaration Executive Order (unnumbered but called Proclamation 95) by President Abraham Lincoln, the 13th and the 14th Congressional Amendments to the US Constitution, and the 1866 Civil Rights Act. Each of these governmental actions was aimed at dismantling structures of slavery and non-citizenship of enslaved Africans and the oppressed Native American populations. The September 22, 1862, emancipation executive order (published on January 1, 1863) freed the enslaved in the ten-rebellion southern states (National Archives, online-b; Peters & Wooley, online) and set in motion the beginning of the dismantling of formal structures of the oppression in the country. Following emancipation, the 13th Amendment banned slavery and all forms of involuntary servitude (except as a punishment for a crime), and the 1866 Civil Rights Act officially defined US citizenship and gave equal rights and protection under the law to all citizens (White, 2012). This bill supported the 13th Amendment as well as served as a foundation for the 14th Amendment, which officially granted citizenships with all rights and privileges to the freed enslaved Africans by declaring that all persons born in the United States were citizens of the country without distinction of race, color, or previous condition of slavery or involuntary servitude (Bracey, 2018). Then, in 1870, Congress passed the 15th Amendment as an additional early effort by the federal government after the Civil War to curb racial-ethnic discrimination in the country. This amendment specifically aimed at protecting the voting rights of Black men from being abridged in Southern states (Parrott-Sheffer, 2024). The Act prevented the government from violating the voting rights of citizens (i.e., men) based on race, color, or previous conditions of servitude (Berkeley Law, online; U.S. Constitution). Women of all races were denied voting rights until 1920 (Parrott-Sheffer, 2024), and Native Americans were still denied citizenship at this time. They were granted citizenship status only in 1924 in recognition of their heroic participation in WWI through the Indian Citizenship Act or the Snyder Act (National Archives Museum, online).

Other efforts to reduce structural racial-ethnic oppression by the US government after the Civil War included the creation of the Freedmen's Bureau (Robin, 2002). The Bureau was tasked with providing assistance for the newly freed African Americans for social integration, especially in combating the Southern Black Codes (laws), which restricted the participation of African Americans in the South in economic and civil engagements (Bracey, 2018; Robin, 2002). During the Reconstruction era, the Freedman's Bureau and the 15th Amendment helped to encourage African American men to vote as well as run for office, leading to many of them getting elected to political offices in the former slave-owning states (Parrott-Sheffer, 2024).

6.1.2 Mid-Century Civil Rights Structures

Fast forward many years, another milestone in governmental efforts at officially curbing racial-ethnic discrimination goes back to President Franklin D. Roosevelt, who responded to complaints of discrimination by the Brotherhood of Sleeping Car Porters by issuing Executive Order 8802 to ban discrimination in the defense industry on the basis of race, color, and national origin (Editors of Encyclopedia Britannica, 2024; National Archives, Online-c). Following Roosevelt's executive order, Congress passed the Fairness in Employment Act, which led to the creation of the Office of Fair Practices in Employment to enforce the Employment Act (National Archives, Online-c). Also, the Civil Rights Act of 1964 outlawed discrimination based on race, color, religion, sex, or national origin, prohibiting discrimination in public accommodations, employment, and federally funded programs. Title VII of the Act specifically addressed employment discrimination and established the Equal Employment Opportunity Commission (EEOC) to enforce its provisions (National Archives, online-a).

Congress also made reforms to preserve the voting rights of all citizens. Among them is the 1960 Congressional Civil Rights Act, an anti-discrimination structure that bolstered the ability of racial-ethnic minorities, especially southern Blacks, to vote without restrictions. The act guaranteed the right of qualified voters to register to vote in any state and to sue a state official or acting state official who may prevent them from voting (Library of Congress, online). In 1965, the Voting Rights Act was passed in response to widespread racial discrimination in voting practices, particularly in the South. This Act aimed to protect the voting rights of racial minorities. It prohibited racial discrimination in voting through illegitimate Jim Crow structures, such as literacy tests and poll taxes, and authorized federal oversight of voting practices in areas with a history of discrimination (Voting Rights Act, 1965). Also, even though the 15th and the 19th Amendments to the Constitution protected the rights of both Black men and Black women to vote, it was not until the passage of the Voting Rights Act of 1965 that they were fully able to vote freely since the reconstruction era when they were able to vote and be voted for in elections for state and national offices (Gates, 2019).

To end the legacy of redlining that was introduced in the 1930s by HOLC, Congress passed the Fair Housing Act of 1968. The law prohibited discrimination in the sale, rental, and financing of housing based on race, ethnicity, color, and national origin (among other statuses of disadvantagedness). The law prohibited discrimination by landlords, insurance companies, real estate developers, homeowners, banks, and other lending organizations. The enforcement of the law was entrusted to the Department of Housing and Urban Development (Department of Justice, Online). According to the law, "individuals who believe that they have been victims of an illegal housing practice may file a complaint with the Department of Housing and Urban Development (HUD) or file their own lawsuit in federal or state court. The Department of Justice brings suits on behalf of individuals based on referrals from HUD" (Department of Justice, Online).

Congress also passed the 1964 Civil Rights Act to prohibit racial-ethnic and national origin discrimination, among other forms of discrimination (e.g., religion, sex discrimination). Provisions of the Act forbade racial-ethnic discrimination in private businesses and government agencies in hiring, promoting, and firing. The Act also prohibited discrimination

in facilities that provide public accommodations (hospitals, clinics, schools, courthouses, parks, etc.) and federally funded programs. It also strengthened the enforcement of voting rights and the desegregation of schools. Since it was passed, this Act has been used as the fundamental reference upon which other antidiscrimination and equal rights protection laws have been passed (Sandoval-Strausz, 2005).

The US government has made several other legislative efforts to curb racial-ethnic discrimination. The 1974 Equal Credit Opportunity Act (ECOA) and the 2020 Public Law 116-270 are other examples of governmental anti-racial-ethic discrimination efforts. The ECOA prohibits discrimination on the basis of race, color, and national origin, among other distinguishing factors, in the receipt of public assistance or good faith exercise of any rights under the Consumer Credit Protection Act so long as an individual can contract (Federal Trade Commission, online). Also, Public (federal) Law 11-270 was enacted in 2020 to enhance the success of historically Black colleges and universities (HBCUs). The law aims at achieving four crucial goals for the HBCUs: "(1) strengthen the capacity and competitiveness of HBCUs to fulfill their principal mission of equalizing educational opportunity, as described in section 301(b) of the Higher Education Act of 1965 (20 U.S.C. 1051(b); (2) to align HBCUs with the educational and economic competitiveness priorities of the United States; (3) to provide students enrolled at HBCUs with the highest quality educational and economic opportunities; (4) to bolster and facilitate productive interactions between HBCUs and Federal agencies; and (5) to encourage HBCU participation in, and benefit from, federal programs, grants, contracts, and cooperative agreements" (US Government Publishing Office, p. 134 STAT. 3326).

6.1.3 The Affirmative Action and Diversity Structural Era

Discrimination against racial-ethnic minorities in the workplace persists as a widespread problem despite laws and corporate policies that were designed to promote equal access to employment opportunities. This led to the introduction of the affirmative action policy that was introduced by President John Kennedy in Executive Order 10925 and President Lyndon Johnson's Executive Order 11246 (Reskin, 1998). Although highly contentious, affirmative action policy is at the heart of the legislative efforts mentioned by many scholars (such as Oyinlade, 2013; Burns, 2011; Pincus, 2003; Reskin, 1998; Schaefer, 2013) designed by the federal government to address disparities in socio-economic outcomes by race and ethnicity.

The main focus of affirmative action, at least in theory, is the push for organizations to be proactive in dismantling racial-ethnic discrimination (among other forms of discrimination) in the workplace (Pincus, 2003; Reskin, 1998). The contention in affirmative action mainly surrounds how it is mostly practiced as a tool of preferential treatment, which produces discriminatory outcomes contrary to its theoretical design (Pincus, 2003). Perhaps the implementation of affirmative action as preferential practice is unavoidable because of the nature of systemic structures of discrimination. The key point here is that regardless of the contentions and controversies surrounding the affirmative action program, it is intended as a good faith formal structural attempt by the government (and other organizations) to fight racial-ethnic discrimination (among different forms of discrimination) (Reskin, 1998).

Diversity, Equity, and Inclusion (DEI) regulation is currently the prevailing effort of the US government to ease race-ethnic discrimination (among other forms of discrimination). This regulation is designed to reduce racial-ethnic discrimination by promoting the idea of improved organizational performance through the hiring of diverse employees. This idea rests on two major propositions. First, diverse employee groups would outperform homogeneous ones. This claim has scientific support in studies that have reached this conclusion (Hambrick et al., 1996; Mannix & Neale, 2005; McLeod et al., 1996). Therefore, DEI practices are pushed by the government and other organizations as good for business. Second, when the government and other organizations hire for diversity, they will proactively hire racial-ethnic minorities and, in the process, avoid discriminating against them. Given that affirmative action practices have been challenged as discriminatory in themselves (Kravitz & Klineberg, 2000; Pincus, 2005), and nine states (AZ, CA, FL, ID, MI, NE, NH, OK, WA) have even officially abandoned the program (Saul, 2022), DEI has become the latest structural effort to eliminate discrimination against racial-ethnic minorities in the workplace (Martinez, 2023). The underpinning rationale for DEI practices is that to the extent that DEI is successful, racial and ethnic discrimination will be alleviated.

It is important to add that both affirmative action and DEI practices have come under high scrutiny and rejection by many people and organizations in the public. Meritorious arguments have been levied in favor and against these government policies, and both of them are facing serious challenges to their continuation. While a discussion of these challenges is worth examining, it is outside the scope of this study. The point of interest in this section of this study is limited to the adoption of these policies by the government as additional ammunition in its attempts to rid society of racial-ethnic discrimination.

6.2 Judiciary Decisions

Many US Supreme Court rulings have also contributed to the government's efforts to eliminate racial-ethnic discrimination in the country. There are too many of them to discuss; hence, it will suffice to discuss only a few cases as examples of how the court's decisions have contributed to efforts to end discrimination. One example of the US Supreme Court's decision that contributes to the government's anti-discrimination efforts is the set of rulings that protected non-White defendants' rights to be tried by juries of their peers (see Constitutional Rights Foundation, 2021). This constitutional provision under Article III, Section II of the US Constitution, the Sixth Amendment, as well as protected by the 14th Amendment, was normally enjoyed by White Anglo Saxon-origin defendants. Other defendants outside this category were denied this constitutional privilege until the US Supreme Court ruled to end the discriminatory practice. In 1880, the Court ruled against West Virginia in Strauder v. West Virginia, finding that the state's law allowing only all White juries violated the provisions of the US Constitution (Constitutional Rights Foundation, 2021).

The Court also ruled against lower courts' decisions that had allowed prosecutors to use their peremptory challenges to discriminate against potential jurors on the basis of race and ethnicity. Prosecutors had used their peremptory challenges to exclude Blacks and other

racial-ethnic minorities from jury pools to gain convictions in cases in which the defendant was Black or Hispanic. This was true in the 1951 conviction of Pete Hernandez, which was reversed by the US Supreme Court in *Hernandez V. Texas* in 1954. It was also true of *Batson v. Kentucky* in 1986 and *Foster v. Chapman* in 2016. In the Hernandez case, prosecutors used their peremptory challenges to exclude all Hispanic people from the jury pool, and Blacks were excluded in the pool for the James Batson and Timothy Tyrone Foster cases. Convictions were vacated in all three cases by the Court based on the illicit violation of the rights of the defendants to trial by juries of their peers (Constitutional Rights Foundation, 2021; JUSTIA; US Supreme Court, Online-a).

The Court has also actively ruled against race-ethnic discrimination in cases involving education. For example, in 1938, *Missouri ex rel. Gaines v. Canada,* the Court ruled that the University of Missouri Law School unfairly discriminated against Lloyd Gaines, who qualified for admission into the law but was rejected on the basis of his race (Black). It was a period of lawful segregation based on the 1896 Plessy v. Ferguson ruling that segregation was justified so long as the state provided equal facilities for racial-ethnic minorities. Since the state of Missouri did not have a law school for its Black citizens, the Court ruled that the denial of admissions by the law school violated Mr. Gains' 14th Amendment Equal Protection rights (JUSTIA: US Supreme Court, Online-b). Other similar racial discrimination cases in education made their way to the Court. In *Sweatt v. Painter* and *McLaurin v. Oklahoma State Regents for Higher Education,* the plaintiffs (Herman Marion Sweatt and George McLaurin, respectively) were denied admission into post-baccalaureate education on the basis of their race. Both men were Black. Sweatt was denied admission into the University of Texas Law School, and McLaurin was denied admission into the University of Oklahoma's doctoral program in education (Tarlton Law Library, Online). In both cases, the Court ruled the denial of admission to both plaintiffs as a violation of their equal protection rights under the 14th Amendment, and both of them were allowed admission into their respective state universities. "With *Sweatt v. Painter* and *McLaurin v. Oklahoma State Regents for Higher Education,* the Supreme Court began to overturn the separate but equal doctrine in public education by requiring graduate and professional schools to admit black students" (Tarlton Law Library, Online).

Perhaps the biggest landmark decision of the Court that opened the gate for the integration of students in all schools and public places is *Brown v. the Board of Education of Topeka, Kansas*. What became known as Brown v. the Board of Education was the combination of five separate cases (*Brown v. Board of Education of Topeka*, *Briggs v. Elliot*, *Davis v. Board of Education of Prince Edward County* (VA.), *Bolling v. Sharpe*, and *Gebhart v. Ethel*.) regarding segregation in public schools (United States Courts, online). Central to all five cases was the unconstitutionality of state-sponsored segregation in public schools. The Supreme Court consolidated the five cases to be argued as one case in *Brown v. the Board of Education*. Thurgood Marshall and the NAACP argued that separate school systems for blacks and whites were inherently unequal and violated the "equal protection clause" of the 14th Amendment in the US Constitution (United States Courts, online), and the court ruled in favor of the plaintiffs. On May 14, 1954, Justice Warren delivered the opinion of the Court,

stating that "we conclude that in the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. . ." (United States Courts, online). The Court's decision overturned *Plessy v. Ferguson* and mandated school desegregation throughout the country. The Courts made a second decision in Brown II in 1955 in which it ordered the eradication of separate schools "for Black and white students to proceed with 'all deliberate speed' (Virginia Museum of History and Culture, Online).

7. Policy Implications

7.1 Social Policy Implications and Sociological Principles

The analysis and discussion in this study suggest certain policy implications that are consistent with the principles of the sociological perspective and the sociological imagination. According to Berger (1963), the sociological perspective indicates the ever presence of social structures as the foundation for human behaviors and social conditions. That is, social structures produce all social phenomena; therefore, no understanding of human realities is sufficient without an analysis of social structural attributes. It also follows that if social structures determine social phenomena, structural change through collective efforts is paramount to solving social problems. This is the focus of the sociological imagination. As articulated by Mills (1963), the sociological imagination is a problem-solving approach that focuses on structural change for resolving public issues.

Given that all governmental attempts at resolving racial-ethnic discrimination have been through structural change, they are consistent with the principles of sociology regarding resolutions to social problems. It is also observed that all federal governmental structures to eliminate racial-ethnic discrimination have been at the macro level, as is necessary to achieve a nationwide effect in solving the problem. This approach may simply be an artifact of the macro nature of the consequences of the actions of the federal government or the result of a well-calculated understanding of the effectiveness and efficiency of macro structures by the government. If the latter is true, it will behoove the government to continue to make macro-structural policy reforms in its fight against racial-ethnic discrimination. This suggestion is supported by a confirmation by Elwell (2013) that macro structures are at the center of all social phenomena, indicating the significance of macro structural realignment for effective and efficient solutions to social problems.

Another policy implication from this study is that current and future governmental structures should focus on current and emerging structures that may produce or sustain racial-ethnic discrimination. It is acknowledged that current discrimination typically has a historical structural root, such as the link between redlining and lower home prices (Appel & Nickerson, 2016) and reduced homeownership rates and increased racial segregation (Aaronson, Hartley, & Mazumder, 2021) in later decades in redlined neighborhoods. However, new policies should target only current discriminatory structures that affect loan attainment. As indicated by Durkheim (1956), only prevailing social structures directly shape human realities; therefore, change efforts should be directed at them. While the desire to blame current social

conditions on past structural injustices may be appealing and even yield therapeutic effects, it is nonetheless a futile approach to solving problems since those structures no longer exist. Since change can be made only to currently existing discriminatory structures, governmental structural change should continue to target such structures.

Lastly, the institutionalization of anti-discrimination structures is arguably more important than the mere creation of these structures. Anti-discrimination structures should be accompanied by strong institutionalization plans for enforcement through new or existing government agencies. Evidence of a lack of effective enforcement can be discerned from the plethora of lawsuits pertaining to violations of civil rights laws. Some of these lawsuits have already been discussed in the previous section (see section 6). Also, had the civil rights laws been effectively enforced, newer policies would have been unnecessary and redundant. Policies of affirmative action and diversity, equity, and inclusion would have been utterly unnecessary. They exist only as evidence of the failures in the effective enforcement of earlier anti-discrimination structures.

8. Discussion and Conclusion

This study was designed to analyze and discuss the duality of governmental structures in creating and solving racial-ethnic discrimination in the US. The focus was only on racial and ethnic discrimination rather than attempting to discuss all forms of discrimination.

One may ask why the roles of government as both the problem and solution matter, as presented in this study. The answer lies in the significance of government in structuring society and thereby patterning all societal realities. That is, government matters because it is the source of how society is organized, and racial-ethnic discrimination is one of the outcomes of how the US is organized. The government provides the formal proscriptive and prescriptive structures that guide the behaviors of members of society. These formal structures, as outlined in the preceding sections, shape how members of society formally and informally interact and treat one another. The formal structures of government, through legislation, executive orders, court decisions, policies, programs, etc., determine what is allowed and not allowed in the country. Government, as the organizing force of society, is central to societal realities, so an understanding of any problem of society requires an analysis of the structures of government to know where structural dislocations had created any problem in question.

While grassroots actions, advocacy efforts, and community pressures may legitimately challenge racial-ethnic discrimination, this study argues that the main tools to ending discrimination are necessary restructuring by the US Federal Government. This is because it was the US federal governmental structures that created and maintained racial-ethnic discrimination, and the responsibility to end this form of discrimination also falls on the same government. The Federal Government is imbued with the tools to end this (and all other forms of) discrimination through its many apparatuses like Congressional Acts, executive actions, and judicial decisions. All racially and ethnically discriminatory laws, policies, and

programs can be repealed in favor of new ones that are not discriminatory. I argue that the dual roles of US governmental structures on both sides of racial-ethnic discrimination in the country deserve great attention, and all collective interests should bear on the federal government officials to dismantle all relics of discriminatory structures, which arguably began in earnest with the start of the nation and invigorated with Jim Crow structures following the end of chattel slavery.

It is important to recognize that state and municipal laws and policies matter in the creation and maintenance of racially and ethnically discriminatory structures. These structures undoubtedly impact people's lives in their particular jurisdictions. However, structures at these levels survive based on their consistency with the federal Constitution as the highest level of law in the country. When states and local governments pass laws and policies, they cannot violate the articles of the US Constitution. Any such violation can be challenged in the courts all the way to the US Supreme Court. If found in violation of the provisions of the US Constitution, such state and municipal laws are discarded. Hence, many racially and ethnically discriminatory structures that were grounded on White supremacy were passed during the Jim Crow Era because they were consistent with the prevailing interpretations of the provisions of the Constitution at that time. However, with amendments to the Constitution or new interpretations of its provisions, the racially-ethnically discriminatory structures of the era have been mostly repealed and continued to be abolished. This is an additional reason why this essay focused only on the macro rather than the meso or micro governmental structures.

Lastly, it is important to add that while this report analyzes the roles of governmental structures in the establishment and eradication of racial-ethnic discrimination in the country, the extent to which eradication has been effective is questionable. Without a doubt, as presented in this report, the US Federal Government has reversed several discriminatory laws that structurally produced and sustained discrimination in the country through new legislation, executive orders, and judicial decisions. These anti-discrimination laws particularly aimed to dismantle the Jim Crow Era's formal racial-ethnic discriminatory structures, especially in the South, as an aftermath of the Plessy decision, and the argument can be made that the level of racial-ethnic discrimination is much lower today than during the Jim Crow Era. So, to an extent, the implemented solution-based structures can be said to have been effective. However, racial-ethnic discrimination continues despite all attempts to stop it, thereby questioning the effectiveness of the ameliorating implemented structures. For example, according to the Department of Justice, more than 30 years after the Fair Housing Act was passed,

> "Race discrimination in housing continues to be a problem. The majority of the Justice Department's pattern or practice cases involve claims of race discrimination. Sometimes, housing providers try to disguise their discrimination by giving false information about the availability of housing, either saying that nothing was available or steering home seekers to certain areas based on race. Individuals who receive such false information or misdirection may have no knowledge that they have been victims of discrimination. The Department of Justice has brought many cases alleging this kind of discrimination based on race or color" …. "Most of the mortgage lending cases

> brought by the Department under the Fair Housing Act and Equal Credit Opportunity Act have alleged discrimination based on race or color. Some of the Department's cases have also alleged that municipalities and other local government entities violated the Fair Housing Act when they denied permits or zoning changes for housing developments or relegated them to predominantly minority neighborhoods because the prospective residents were expected to be predominantly African-Americans" (Department of Justice, online).

The persistence of racial-ethnic discrimination in housing is only one example of the ineffectiveness of implemented solution-oriented structures. The ineffectiveness of ameliorating structures may be found in other areas of social life and life chances, and they deserve rigorous analysis and corrections as may be necessary. With very thoughtful and rigorous analysis, more solution-based governmental structures should be created and fully institutionalized through full enforcement for greater effectiveness. Otherwise, racial-ethnic discrimination will likely continue indefinitely.

References

Aaronson, D., Hartley, D., & Mazumder, B. (2021). The effects of the 1930s HOLC "redlining" maps. *American Economic Journal: Economic Policy*, *13*(4), 355-392.

Adams, D. W. (1995). *Education for Extinction: American Indians and the Boarding School Experience, 1875-1928*. Lawrence, KS: University Press of Kansas.

Alexander, M. (2010a). *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York, NY: The New Press.

Alexander, M. (2010b). Transcript: Interview with Bill Moyers in the Bill Moyers Journal. Retrieved June 29, 2024 from https://www.pbs.org/moyers/journal/04022010/transcript1.html

Appel, I., & Nickerson, J. (2016). *Pockets of poverty: The long-term effects of redlining*. Available: SSRN 2852856.

Barnes, H. E. (1942). *Social Institutions in an Era of World Upheaval.* New York, NY: Prentice Hall, Inc.

Berger, Peter. 1963. *Invitation to Sociology; A Humanistic Perspective.* New York: Anchor Books.

Berkeley Law. (online). Black Americans and the Law. Retrieved July 2, 2024 from https://www.law.berkeley.edu/library/legal-research/black-americans-and-the-law/

Borunda, A. (2020). Racist housing policies have created some oppressively hot neighborhoods. *National Geographic*. Retrieved July 24, 2024 from https://www.nationalgeographic.com/science/article/racist-housing-policies-created-some-oppressively-hot-neighborhoods

Bowdler, J., & Harris, B. (2022). *Racial Inequality in the United States. US Department of*

the Treasury. Retrieved June 24, 2024 from https://home.treasury.gov/news/featured-stories/racial-inequality-in-the-united-states

Bracey, C. A. (2018). "Civil Rights Act of 1866". *Encyclopedia.com- Social Sciences and the Law*, June 27. Retrieved July 2, 2024 from https://www.encyclopedia.com/social-sciences-and-law/law/law/civil-rights-act-1866

Bureau of the Census. (1908). *Heads of Families: The First Census of the United States Taken in the Year 1790. Washington, DC.: Government Printing Office.* Retrieved July 23, 2024 from https://babel.hathitrust.org/cgi/pt?id=uc1.31210012158174&seq=9

Burns, M. (2011). Affirmative action bans: Who gets hurt? *Pacific Standard*. Jan. 10. Retrieved July 26, 2024 from http://www.psmag.com/education/affirmative-action-bans-who-gets-hurt-26955/

Constitution of the United States. Retrieved July 23, 2024 from https://www.govinfo.gov/content/pkg/GPO-CONAN-REV-2016/pdf/GPO-CONAN-REV-2016-6.pdf

Constitutional Rights Foundation. (2021). A Jury of Your Peers. *Bill of Rights in Action,* 34(4) Summer. Retrieved July 17, 2024 from https://teachdemocracy.org/images/pdf/a-jury-of-your-peers.pdf#:~:text=In%201880%2C%20the%20U.S.%20Supreme%20Court%20ruled%20in,people%20a%20protected%20class%20under%20the%2014th%20Amendment

Death Penalty Center. (2022). 35 Years After McCleskey v. Kemp: A Legacy of Racial Injustice in the Administration of the Death Penalty. Retrieved June 29, 2024 from https://deathpenaltyinfo.org/news/35-years-after-mccleskey-v-kemp-a-legacy-of-racial-injustice-in-the-administration-of-the-death-penalty

Department of Justice. (Online). Fair Housing Act of 1968. Retrieved July 27, 2024 from https://www.justice.gov/crt/fair-housing-act-1

Duignan, B. (2024). Pless v Ferguson: Law Case -1896. *Britannica* Retrieved June 28, 2024 from https://www.britannica.com/event/Plessy-v-Ferguson-1896

Durkheim, E. (1956). *The Division of Labor in Society*. New York, NY: The Free Press.

Editors of Encyclopedia Britannica. (2024). Executive Order 8802. Retrieved July 24, 2024 from https://www.britannica.com/event/Executive-Order-8802

Elwell, Frank W. (2013). *Sociocultural Systems: Principles of Structure and Change*. Edmonton: Athabasca University Press.

Ewers, J. C. (1975). Intertribal Warfare as the Precursor of Indian-White Warfare on the Northern Great Plains. *Western Historical Quarterly*, *6*(4), 397-410.

Federal Trade Commission. *Equal Credit Opportunity Act,* Subchapter IV. Retrieved July 3, 2024 from https://www.ftc.gov/legal-library/browse/statutes/equal-credit-opportunity-act

Ferguson, B. R. (1992). Tribal Warfare. *Scientific American*, *266*(1), 108-113. https://www.jstor.org/stable/10.2307/24938906

Ferrand, M. (1911). *Records of the Federal Convention of 1787*. (New Haven: Yale University Press, 1911). Three vols. Retrieved July 23, 2024 from https://books.google.com/books?id=n0oWAAAAYAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false

Gaertner, S. L., & Dovidio, J. F. (1986). The aversive form of racism. In J. F. Dovidio & S. L. Gaertner (Eds.), *Prejudice, discrimination, and racism* (pp. 61-89). Orlando, FL: Academic Press.

Gates Jr. H. L. (2019). *Stony the Road: Reconstruction, White Supremacy, and the Rise of Jim Crow.* New York: Penguin Press.

Hambrick, D. C., Cho, T. S., & Chen, M. J. (1996). The Influence of Top Management Team Heterogeneity on Firms' Competitive Moves. *Admin. Sci. Quart.*, *41*(4), 659-684.

Harriss, C. L. (1951). 'History and Policies of the Home Owners' Loan Corporation. National Bureau of Economic Research, January. Retrieved July 24, 2024 from https://www.nber.org/books-and-chapters/history-and-policies-home-owners-loan-corporation

Hunt, G. (1902). *The Writings of James Madison*, *Volume 1, 1769-1783*. New York, NY: G. P. Putnam's Sons. Retrieved June 26, 2024 from https://oll.libertyfund.org/titles/madison-the-writings-vol-1-1769-1783

Immigration Act. (1917). The Immigration Act of 1917: Barred Zone Act. Retrieved August 2, 2024 from https://immigrationhistory.org/item/1917-barred-zone-act/

JUSTIA: US Supreme Court. (Online-a). Foster v. Chatman, 578 U.S.- 2016. Retrieved July 17, 2024 from https://supreme.justia.com/cases/federal/us/578/14-8349/#top

JUSTIA: US Supreme Court. (Online-b). Missouri ex rel. Gaines v. Canada, 305 U.S. 337 (1938). Retrieved July 17, 2024 from https://supreme.justia.com/cases/federal/us/305/337/

Kovel, J. (1984). *White Racism: A Psychohistory*. New York, NY: Columbia University Press.

Kravitz, D. A., & Klineberg, S. L. (2000). Reactions to two versions of affirmative action among whites, blacks, and Hispanics. *Journal of Applied Psychology*, *85*, 597-611. https://doi.org/10.1037/0021-9010.85.4.597

Library of Congress. (online). The Civil Rights Act of 1964: A Long Struggle for Freedom Legal Timeline. Retrieved July 3, 2024 from https://loc.gov/exhibits/civil-rights-act/legal-events-timeline.html

Lurie, N. O. (1991). The American Indian Historical Background. In Norman R. Yetman (ed.), *The Dynamics of Race and Ethnicity in American Life*, 5th ed. (Pp. 132-146). Boston, MA: Allyn and Bacon.

Mannix, E., & Neale, M. A. (2005). What Differences Make a Difference? The Promise and Reality of Diverse Teams in Organizations. *Psychological Science in the Public Interest, 6*(2), 31-55. https://doi.org/10.1111/j.1529-1006.2005.00022.x

Marger, M. N. (2015). *Race and Ethnic Relations* (10th ed.). Boston, MA: Cengage.

Martinez, V. R. (2023). Reframing the DEI case. *Seattle University Law Review*, *46*(2), 399-420.

McLeod, P. L., Lobel, S. A., & Cox, T. H. (1996). Ethnic diversity and creativity in small groups. *Small Group Res*, *27*(2), 248-264. https://doi.org/10.1177/1046496496272003

Merton, R. (1968). *Social Theory and Social Structure*. New York, NY: The Free Press.

Merton, R. K. (1936). The Unanticipated Consequences of Purposive Social Action. *American Sociological Review*, *1*, 894-904.

Mills, Wright C. (1959). *The Sociological Imagination.* New York, NY: Oxford University Press.

National Archives Museum. (online). Patriotism at a Cost. Retrieved July 2, 2024 from https://museum.archives.gov/featured-document-display-honoring-native-american-soldiers-world-war-i-service

National Archives. (online-a). Civil Rights Act of 1964. *Milestone Documents.* Retrieved July 27, 2024 from https://www.archives.gov/milestone-documents/civil-rights-act

National Archives. (online-b). Emancipation Declaration (1863). *Milestone Documents.* Retrieved May 24, 2024 from https://www.archives.gov/milestone-documents/emancipation-proclamation

National Archives. (Online-c). Executive Order 8802: Prohibition of Discrimination in the Defense Industry (1941). Retrieved July 24, 2024 from https://www.archives.gov/milestone-documents/executive-order-8802

National Archives. (online-d). Fugitive Slaves, Fugitive from Labor. *Educator Resources*. Retrieved July 23, 2024 from https://www.archives.gov/education/lessons/fugitive-slaves.html

Oyinlade, A. O. (2013). Affirmative Action Support in an Organization: A Test of Three Demographic Models. *Sage Open*, *3*, 1-12.

Parekh, B. (1973). *Bentham's Political Thought*. London: Croom Helm.

Parrott-Sheffer, C. (2024). Fifteenth Amendment- US Constitution. *Britanica.com*, June 13. Retrieved July 2, 2024 from https://www.britannica.com/topic/Fifteenth-Amendment

Pearson, A. R., Dovidio, J. F., & Gaertner, S. L. (2009). The Nature of Contemporary Prejudice: Insights from Aversive Racism. *Social and Personality Psychology Compass 3*(3), 314-338.

Pember, M. A. (2019). Death by Civilization. *The Atlantic*, March 8. Retrieved July 23, 2024 from https://www.theatlantic.com/education/archive/2019/03/traumatic-legacy-indian-boarding-schools/584293/ ().

Peters, G., & Wooley, J. T. (online). Abraham Lincoln, Proclamation 95: Regarding the Status of Slaves in States Engaged in Rebellion Against the United States [Emancipation Proclamation].

Pincus, F. L. (2003). *Reverse Discrimination: Dismantling the Myth*. Boulder, CO: Lynn Rienner Publishers, Inc.

Postema, G. J. (2001). Law as Command: The Model of Command in Modern Jurisprudence. *Philosophical Issues*, *11*, 470-501.

Reskin, B. (1998). *The Realities of Affirmative Action*. Washington, DC: American Sociological Association.

Riley, R. (2016). 5 Inventions by Enslaved Black Men That Were Blocked by U.S. Patent Office. *Atlanta Black Star*. Retrieved July 23, 2024 from https://atlantablackstar.com/2016/11/21/5-inventions-enslaved-black-men-blocked-us-patent-office-2/

Robin, K. D. (2002). *Freedom Dreams.* Boston, MA: Beacon Press.

Sandoval-Strausz, A. (2005). Travelers, strangers, and Jim Crow: Law, public accommodations, and civil rights in America. *Law and History Review, 23*(1), 53-94.

Saul, S. (2022). 9 States Have Banned Affirmative Action. Here's What That Looks Like. New York Times. Retrieved September 24, 2024 from https://www.nytimes.com/2022/10/31/us/politics/affirmative-action-ban-states.html

Schaefer, R. T. (2013). *Race and Ethnicity in the United States*. New York, NY: Pearson.

Sevel, M. (2018). Obeying the Law. *Legal Theory*, *24*, 191-215.

Smith, T. J. Jr., & Mullis, D. E. (1988). McCleskey v. Kemp: an equal protection challenge to capital punishment. *Mercer Law Review, 39*(2), 675-696.

Stafford, D. (1999). *Roosevelt and Churchill: Men of Secrets*. Woodstock, New York: The Overlook Press.

Taifa, N. (2021). Race, Mass Incarceration, and the Disastrous War on Drugs. *Brennan Center for Justice*. Retrieved July 24, 2024 from https://www.brennancenter.org/our-work/analysis-opinion/race-mass-incarceration-and-disastrous-war-drugs (.

Takaki, R. (2008). *A Different Mirror: A History of Multicultural America*. New York, NY: Little, Brown.

Tarlton Law Library. *The Papers of Justice Tom C. Clark*. Retrieved August 1, 2024 from

https://tarlton.law.utexas.edu/clark/sweatt-v-painter ()

The American Presidency Project. Retrieved May 24, 2024 from https://www.presidency.ucsb.edu/node/203073

U.S. Department of States Office of the Historian (online-b). Chinese Immigration and the Chinese Exclusion Acts. Retrieved July 24, 2024 from https://history.state.gov/milestones/1866-1898/chinese-immigration

U.S. Department of States, Office of the Historian. (online). *Miles Stones: 1921-1961.* Retrieved May 21, 2024 from https://history.state.gov/milestones/1921-1936/immigration-act.

United States Courts. History - Brown v. Board of Education Re-enactment. Retrieved July 17, 2024 from https://www.uscourts.gov/educational-resources/educational-activities/history-brown-v-board-education-re-enactment

Urofsky, M. (2024). Hommer Plessy: American Shoemaker. *Britannica* Retrieved June 28, 2024 from https://www.britannica.com/biography/Homer-Plessy

US Government Publishing Office. (2020). 116th Congress Public Law 116 - 270 - HBCU Propelling Agency Relationships Towards a New Era of Results for Students Act or the HBCU PARTNERS Act. Retrieved July 24, 2024 from https://www.govinfo.gov/content/pkg/PLAW-116publ270/html/PLAW-116publ270.htm

Virginia Museum of History and Culture (Online). Civil Rights Movement in Virginia. Brown I and Brown II. Retrieved July 17, 2024 from https://virginiahistory.org/learn/civil-rights-movement-virginia/brown-i-and-brown-ii

Voting Rights Act. (1965). The Voting Rights Act of 1965. Pub. L. No. 89-110, 79 Stat. 437. Retrieved August 2, 2024 from https://uscode.house.gov/statutes/pl/89/110.pdf

White, D. (2012). *Freedom on My Mind*. Boston: Bedford/St. Martin's.

Wills, G. (2005). *"Negro President": Jefferson and the Slave Power*. Boston, MA: Houghton Mifflin.

Wright, R. (1992). *Stolen Continents: The Americas Through Indian Eyes Since 1942*. Boston, MA: Houghton Mifflin.

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