

# Heroes Abroad, Forgotten at Home: The Case for Reparation for Black WWII Veterans

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## ABSTRACT

*Over one million Black Americans served during World War II. Black soldiers earned acclaim and awards in the air as the Tuskegee Airmen, on the ground as 761st Tanker Battalion, and at sea as Sailor Doris Miller. Despite their extraordinary sacrifices, most Black WWII veterans never received their GI Bill benefits. Although the GI Bill is a federal program, soldiers could only be approved for benefits in their local state offices. In the South, with the widespread racism of the period, local officials almost always denied Black soldiers applying for their benefits and the North was only slightly better. This Note argues that Black World War II veterans or their descendants should receive their GI Bill benefits that they were originally denied. This Note further argues that to fully address the time and wealth lost to American discrimination, remaining Black WWII veterans or their direct descendants should receive individual compensation to fully address the harm committed.*

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## I. INTRODUCTION

Despite being confined to segregated units and experiencing stifling discrimination, over one million Black people served during World War II.<sup>1</sup> Black soldiers aided the war effort in both combat and support roles.<sup>2</sup>

The Tuskegee Airmen, the country's first Black military aviators, would garner significant acclaim in combat. In fact, by the end of the war, the Tuskegee Airmen flew over 15,000 flights and damaged or destroyed 273 German planes, over 900 vehicles, and one German Destroyer.<sup>3</sup> They earned more than 150 Distinguished Flying Crosses, the highest award for aerial performance.<sup>4</sup> The 761<sup>st</sup> tank battalion, commonly called the Black Panthers, was the first Black tank squadron.<sup>5</sup> They distinguished themselves in four major campaigns, including the Battle of the Bulge.<sup>6</sup> By the conflict's conclusion, the Black Panthers had earned 11 Silver Stars, 69 bronze stars, and a remarkable 300 Purple Hearts.<sup>7</sup> Nearly 2,000 Black soldiers served on D-Day, the battle which ensured Allied victory in Western Europe.<sup>8</sup> Intriguingly, some Black soldiers had the unique role of erecting explosive balloons high over the beaches of France to dissuade German planes from attacking Allied troops.<sup>9</sup> In the Navy, one Black seaman went above and beyond the call of duty. Despite being a cook who was never trained to use an antiaircraft gun, Doris Miller successfully operated an antiaircraft gun during Pearl Harbor and carried many wounded soldiers to safety, including his commander.<sup>10</sup> For his accomplishments, he earned a Navy Cross,

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1. Alexis Clark, *Black Americans Who Served in WWII Faced Segregation Abroad and at Home*, HISTORY.COM (Aug. 3, 2023).

2. *Id.*

3. *Tuskegee Airmen*, HISTORY.COM (Jan. 26, 2021), <https://www.history.com/topics/world-war-ii/tuskegee-airmen>.

4. *Id.*

5. Ryan Mattimore, *The Original Black Panthers Fought in the 761st Tank Battalion During WWII*, HISTORY.COM (Aug. 15, 2023), <https://www.history.com/news/761st-tank-battalion-black-panthers-liberators-battle-of-the-bulge>.

6. *Id.*

7. *Id.*

8. *Fighting Germans and Jim Crow: Role of Black Troops on D-Day*, NBC NEWS (June 4, 2019), <https://www.nbcnews.com/news/nbcblk/fighting-germans-jim-crow-role-black-troops-d-day-n1013716>.

9. *Id.*

10. *Doris Miller*, ENCYC. BRITANNICA, <https://www.britannica.com/biography/Doris-Miller> (Oct. 8, 2023).

the second highest award in the Navy, and the Navy commissioned a warship in his honor after his death.<sup>11</sup>

Due to rampant racism in the military, Black people were often relegated to support roles.<sup>12</sup> Frequently, military leaders did not believe Black soldiers could be in combat or lead other soldiers.<sup>13</sup> Still, Black people distinguished themselves in support roles. The support unit which gained the most acclaim was the predominantly Black truck convoy known as the Red Ball Express.<sup>14</sup> The Red Ball Express truck convoy delivered supplies to Allied troops in Europe.<sup>15</sup> The Red Ball Express was critical after an extensive bombing campaign destroyed the French rail system.<sup>16</sup> Consequently, the traditional form of delivering supplies, rail, was unavailable.<sup>17</sup> The members of the Red Ball Express worked tirelessly to ensure that Allied forces had sufficient supplies to continue their path toward Germany and victory in Europe overall.<sup>18</sup> The Red Ball Express operated round the clock for nearly three months, delivering more than 400,000 tons of ammunition, food, and fuel to Allied troops.<sup>19</sup> After completing their final delivery, General Dwight D. Eisenhower, who would later become president, said that the Red Ball Express was the Army's "lifeline."<sup>20</sup> Despite these extraordinary sacrifices throughout the war, Black people could not use the GI Bill like their white counterparts.<sup>21</sup>

This Note argues that Black World War II veterans or their descendants should receive their entire GI Bill benefits. However, this Note also maintains that to fully address the economic consequences of the GI Bill on Black communities, Black veterans are entitled to more. Black WWII veterans or their descendants are entitled to individual compensation for the generations of wealth lost because of discrimination. Part II describes the racist politics that ensured the discriminatory implementation of the original GI Bill. Furthermore, it details the consequences of the racist implementation of the GI Bill. Specifically, it examines the denial of educational and housing opportunities for Black veterans. Part III analyzes the effects of the discriminatory GI Bill on Black communities and states the moral and historical reasons Black WWII veterans are entitled to government reparations. Part IV explains why pending legislation which extends

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11. *Id.*

12. Clark, *supra* note 1.

13. *Id.*

14. Matthew Delmont, *The Black WWII Soldiers Who Spirited Supplies to the Allied Front Line*, SMITHSONIAN MAG. (Apr. 8, 2022), <https://www.smithsonianmag.com/history/the-black-wwii-soldiers-who-spirited-supplies-to-the-allied-front-line-180979886/>.

15. *Id.*

16. *Id.*

17. *Id.*

18. *75th Anniversary of Red Ball Express Holds Special Meaning for Army General*, ARMY (Aug. 21, 2019), [https://www.army.mil/article/226035/75th\\_anniversary\\_of\\_red\\_ball\\_express\\_holds\\_special\\_meaning\\_for\\_army\\_general](https://www.army.mil/article/226035/75th_anniversary_of_red_ball_express_holds_special_meaning_for_army_general) [hereinafter *75th Anniversary*].

19. Delmont, *supra* note 14.

20. See *75th Anniversary*, *supra* note 18.

21. Clark, *supra* note 1.

previously denied benefits to living veterans and their descendants is inadequate. Finally, Part V argues that living WWII veterans and their descendants should be entitled to compensation over other forms of reparations.

## II. GI BILL: FACIALLY NEUTRAL, DISCRIMINATORY IN PRACTICE

### A. Education Benefits

American servicemen displayed courage in every theater of World War II and stopped the world from being engulfed by Nazism and Fascism.<sup>22</sup> As a reward for their sacrifices, the United States government passed the Servicemen's Readjustment Act of 1944, known today as the GI Bill.<sup>23</sup> The Bill's most beneficial entitlements guaranteed each soldier \$500 for education and access to a government-insured home or business loan.<sup>24</sup> While drafters wrote a racially inclusive GI Bill, southern Democrats made sure that individual states and, importantly, local officials, controlled the disbursement of the benefits.<sup>25</sup> In local offices, racist officials almost always objected to Black soldiers who attempted to use their education benefits at white institutions or attempted to gain a home loan.<sup>26</sup> As a result, Black soldiers were prevented or delayed from obtaining an education, purchasing homes, or starting new businesses.<sup>27</sup> *The Pittsburgh Courier*, the most widely disseminated Black newspaper of the period, observed that it was as if the GI Bill had been earmarked "For White Veterans Only."<sup>28</sup>

Many Black veterans hoped the education provision of the GI Bill would be their ticket to the middle class.<sup>29</sup> It seemed that the robust education program could transform the lives of returning Black soldiers. Veterans used the original GI Bill to fund various educational programs, including a bachelor's degree, vocational school, apprenticeship, technical training, or on-the-job training.<sup>30</sup> Additionally, veterans enrolled in school were provided a monthly stipend and a payment of up to \$500 for tuition, books, and supplies.<sup>31</sup> Nevertheless, what likely gave Black soldiers the most hope was that, unlike most programs of the

22. See generally *World War II*, HISTORY.COM (June 27, 2023), <https://www.history.com/topics/world-war-ii/world-war-ii-history>.

23. *G.I. Bill*, HISTORY.COM (June 7, 2019), <https://www.history.com/topics/world-war-ii/gi-bill#:~:text=Officially%20the%20Servicemen's%20Readjustment%20Act,attending%20college%20or%20trade%20schools>.

24. *Id.*

25. See *id.*

26. See generally IRA KATZNELSON, *WHEN AFFIRMATIVE ACTION WAS WHITE* 129–41 (2005).

27. *Id.*

28. *Newspapers: The Pittsburgh Courier*, PBS, [https://www.pbs.org/blackpress/news\\_bios/courier.html](https://www.pbs.org/blackpress/news_bios/courier.html) (last visited Nov. 8, 2023); KATZNELSON, *supra* note 26, at 115 (quoting Truman K. Gibson Jr., *Government Fails Negro Vets* PITTSBURGH COURIER (Apr. 13, 1946)).

29. KATZNELSON, *supra* note 26, at 119.

30. Sarah Turner & John Bound, *Closing the Gap or Widening the Divide: The Effects of the G.I. Bill and World War II on the Educational Outcomes of Black Americans*, 63 J. ECON. HIST. 145, 149 (2003).

31. *Id.* at 148.

New Deal, the GI Bill included them.<sup>32</sup> As long as the individual served for at least ninety days and did not receive a dishonorable discharge, they were ostensibly legally entitled to receive their benefits.<sup>33</sup> Nevertheless, due to overt and structural racism, the transformational program never fulfilled its promise to Black soldiers.<sup>34</sup> The racial obstacles were different across the country, but the impediments were effective all the same.

Black veterans faced racial quotas, high selectivity rates, and a general disdain for their presence at white educational institutions in the North.<sup>35</sup> President Truman's own Committee on Civil Rights confirmed this point finding "much discrimination" in the admission process at northern colleges, graduate schools, and vocational programs.<sup>36</sup> Consequently, there was never more than a small cohort of Black students enrolled at any given time.<sup>37</sup> For instance, the University of Pennsylvania, which had one of the fewest racial restrictions amongst the Ivy League in the 1940s, only permitted forty-six Black students to enroll.<sup>38</sup> A poll of students at Princeton University conducted in 1942 is telling: the poll found that almost two thirds of students did not want Black people at the university.<sup>39</sup> The one-third of polled students who could stomach the presence of Black people on campus had stipulations about their attendance. They wanted them to meet higher standards than their white counterparts. The polled students also desired absolute prohibitions from certain social gatherings and a quota to limit the number of Black students overall.<sup>40</sup> With these discriminatory practices, education became a lottery ticket few would receive: each year, no more than 5,000 Black students were enrolled in northern and western universities during the 1940s.<sup>41</sup>

As a result, 95% of Black veterans who attempted to utilize their education benefits did so in the segregated South.<sup>42</sup> Unfortunately for them, southern racism would stifle their aspirations.<sup>43</sup> The education obstacles Black veterans faced were numerous.

First, white veterans simply had more college options than Black veterans. Despite Black people representing a quarter of the population in the South, white institutions outnumbered Historically Black Colleges and Universities (HBCUs) five to one.<sup>44</sup> In some states, the statistics were even worse. In Mississippi, where over half of the state's citizens were Black, only 21% of universities were

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32. KATZNELSON, *supra* note 26, at 140.

33. *Id.* at 118.

34. *Id.* at 129.

35. *Id.* at 130.

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. KATZNELSON, *supra* note 26, at 130.

43. *See generally id.* at 129–41.

44. *Id.* at 131.

predominantly Black institutions (HBCUs).<sup>45</sup> Furthermore, southern universities universally mandated segregated education in line with the “separate, but equal” doctrine which the Supreme Court set forth in *Plessy v. Ferguson*.<sup>46</sup> After *Plessy*, all states were legally authorized to have separate but equal public accommodations for different racial groups.<sup>47</sup> While southern politicians zealously enforced the separate public accommodations doctrine, Black soldiers discovered that politicians rarely had the energy to make the accommodations equal.<sup>48</sup>

Consequently, given the dearth of institutions for Black people, it is estimated that in 1947, 20,000 eligible Black soldiers were not able to attend HBCUs due to limited space.<sup>49</sup> Overall, a survey of 21 HBCUs within the South indicated that 55% of Black veteran applicants were turned away due to space constraints during the period.<sup>50</sup> More data also confirms this point: among veterans born between 1923 and 1928, 28% of white veterans enrolled in college programs compared to only 12% of Black veterans.<sup>51</sup> Even though Black veterans expressed a stronger desire than their white peers to use their education benefits, fewer Black veterans entered universities or colleges.<sup>52</sup>

The second obstacle hindering the education of Black soldiers was funding. Specifically, the average HBCU’s budget was about one-fourth of the allocation for the average white institution.<sup>53</sup> A comprehensive report on higher education commissioned by President Harry Truman substantiates this point. The report found that:

Although segregation may not legally mean discrimination as to the quality of the facilities it usually does so in fact. The schools maintained for the Negroes are commonly inferior to those for the whites. The Negro schools are financed at a pitifully low level . . . and many of the teachers are sorely in need of education themselves.<sup>54</sup>

The budget constraints often crippled Black institutions. Furthermore, most HBCUs only offered training or education in areas where Black people could obtain work.<sup>55</sup> Consequently, most schools were limited to teaching, theology,

45. *Id.*

46. *Id.*

47. *Id.*

48. *See generally id.* at 131–32.

49. *Id.* at 132.

50. Turner & Bound, *supra* note 30, at 153.

51. KATZNELSON, *supra* note 26, at 134.

52. *See* Turner & Bound, *supra* note 30, at 151.

53. Hilary Herbold, *Never a Level Playing Field: Blacks and the GI Bill*, 6 J. OF BLACKS IN HIGHER EDUC. 104, 106 (1994).

54. PRESIDENT’S COMM’N ON HIGHER EDUC., HIGHER EDUCATION FOR AMERICAN DEMOCRACY 34 (1947).

55. *Id.*

and trade programs.<sup>56</sup> “No school had an accredited engineering department or a graduate program at the doctoral level, and seven states had no graduate program at all.”<sup>57</sup> Outside of the curriculum, HBCUs were also deficient in the quality of libraries and laboratories.<sup>58</sup> Consequently, even if Black veterans could attend an HBCU, they likely could not receive an equal education to their white peers.

Still, there were lucrative alternatives to getting a college education.<sup>59</sup> Even with the impediments to receiving a four-year degree, Black veterans might have improved their economic situation by learning trades at vocational schools. In the three decades after World War II, certain trades paid salaries that matched or rivaled jobs requiring a college degree.<sup>60</sup> These were jobs in automobile manufacturing, electrical fields, or telecommunications.<sup>61</sup> However, the racism which pervaded the higher education landscape would diminish the vocational opportunities for Black people as well.<sup>62</sup> White Veterans Affairs administrators directed Black veterans into low-wage training programs that involved menial or unskilled work.<sup>63</sup> These included jobs as porters, tailors, and dry cleaners.<sup>64</sup>

Black WWII veterans who tried to receive agriculture training in order to one day own their own farm were unsuccessful as well. In the South, if Black veterans began to create their own farms, this would threaten the racial caste system of the South (i.e., a cheap supply of Black bodies to work for wealthy white farmers).<sup>65</sup> As a result, only 1% of the 350,000 Black veterans who grew up on farms learned to operate or own their own farms.<sup>66</sup>

Given the excess of Black veterans compared to the availability of vocational programs, Black veterans became incredibly vulnerable to exploitative for-profit schemes run by both Black and white fraudsters.<sup>67</sup> These schools pocketed the veteran’s full education benefit, but provided inadequate or no training.<sup>68</sup> Some schools trained in subjects so rudimentary that they were deemed practically useless in aiding veterans to find jobs.<sup>69</sup> Additionally, states were “too understaffed” to oversee or validate the quality of for-profit vocational schools and Veteran Affairs (VA) oversight was hampered because the GI Bill required state control.<sup>70</sup>

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56. *Id.*

57. *Id.* (citing KEITH W. OLSON, *THE GI BILL, THE VETERANS, AND THE COLLEGES* at 74 (1974)).

58. KATZNELSON, *supra* note 26, at 133.

59. Edward Humes, *How the GI Bill Shunted Blacks into Vocational Training*, 53 J. OF BLACKS IN HIGHER EDUC. 92, 97 (2006).

60. *See id.* at 97.

61. *Id.*

62. *Id.* at 98.

63. Humes, *supra* note 59, at 97.

64. KATZNELSON, *supra* note 26, at 137–38.

65. *Id.* at 135.

66. *Id.*

67. *Id.* at 137.

68. *Id.*

69. *Id.*

70. *Id.*

Black veterans also encountered barriers when seeking entry into job placement programs that would provide paths to high-paying trade jobs. Although the GI Bill mandated the United States Employment Service (USES) match returning veterans with suitable employment, USES directed Black veterans into menial jobs regardless of the trade or skills they obtained during their military service.<sup>71</sup> Mississippi provides an illuminating example of how the program functioned. In 1946, USES staff in Mississippi placed over 6,000 former soldiers into nonagricultural jobs.<sup>72</sup> White officials put 92% of the Black soldiers into unskilled positions like janitors, porters, and dishwashers and 86% of white soldiers into skilled or semi-skilled jobs.<sup>73</sup>

On-the-job training that paid veterans to intern at a business after the company would hire them, was no better.<sup>74</sup> The Southern Regional Council estimates that only one out of every 12 on-the-job training programs in the South were open to Black veterans.<sup>75</sup> Two years after the program's inauguration, only 7,700 of the 102,000 participating veterans were Black.<sup>76</sup> However, the greatest obstacle Black people faced with on-the-job training programs was not the program itself. Unfortunately, Black veterans found that "white owners and operators of business establishments . . . [would] not accept Negro trainees, veteran or non-veteran, for training leading to objectives which [were] in the higher paying brackets."<sup>77</sup> The small number of Black proprietors similarly declined to hire Black veterans, fearing it would decrease their profits and increase their competition.<sup>78</sup>

Overwhelmingly the education benefit was most helpful to white veterans. White veterans saw positive effects on college attendance and subsequent income regardless of their geographic region.<sup>79</sup> However, 95% of Black veterans received higher education in the South and saw no subsequent economic improvement.<sup>80</sup> Studies indicate that the GI Bill's education benefits exacerbated the educational and economic divide between Black and white communities, outside of the few Black veterans who could enroll in northern colleges.<sup>81</sup>

### *B. Housing Benefits*

Unsurprisingly, the racism which reduced the utility of the education benefit for Black veterans frustrated the other potentially transformational aspects of the Bill as well.<sup>82</sup> The housing provision of the GI Bill did not give veterans a loan to

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71. *Id.* at 138.

72. *Id.*

73. *Id.* at 97–98.

74. *See id.* at 135.

75. KATZNELSON, *supra* note 26, at 135.

76. *Id.*

77. *Id.* at 136 (quoting VA Special Assistant Joseph Albright).

78. *Id.* at 135.

79. Turner & Bound, *supra* note 30, 23–24.

80. Herbold, *supra* note 53, at 108.

81. Turner & Bound, *supra* note 30, at 25.

82. KATZNELSON, *supra* note 26, at 140.



purchase their homes.<sup>83</sup> Instead, the benefit insured private loans for homes, businesses, and farms.<sup>84</sup> Essentially, the government became a cosigner to encourage financial institutions to loan to veterans.<sup>85</sup> If veterans failed to pay the loan, the government would pay the financial institution. As a result, the loan became much less risky for private lenders. Consequently, the number of white homeowners in America and their economic standing substantially increased.<sup>86</sup>

Black veterans wanted to purchase homes like their white counterparts, but Black veterans who tried doing so faced rampant housing discrimination.<sup>87</sup> Even with the federal government backing their investment, most lending institutions refused to make loans to Black people.<sup>88</sup> They were deemed unworthy borrowers regardless of how many hills they charged, awards they received, or heroic acts they had performed.<sup>89</sup>

To understand why the GI Bill failed prospective Black homeowners, it is imperative to examine the discriminatory landscape in which Black veterans sought private loans. While the GI Bill was facially race-neutral, federal policies discouraged private lenders from offering loans to Black people.<sup>90</sup> Specifically, the Home Owners Loan Corporation (HOLC) and the Federal Housing Administration (FHA)—which predated the GI Bill—endorsed and heavily encouraged housing discrimination.<sup>91</sup> These organizations created the framework for housing discrimination that private lenders, citizens, and the VA followed.<sup>92</sup>

The HOLC was a government organization created in 1933 to help Americans keep their homes during the Great Depression<sup>93</sup> by providing approximately one million Americans with low-interest long-term mortgage loan refinancing options.<sup>94</sup> The organization's method for rating mortgage-worthiness was also incredibly racist.<sup>95</sup> The HOLC developed a rating process to determine which neighborhoods were worthy of receiving affordable refinancing options known today as redlining.<sup>96</sup> Neighborhoods with the highest rating, A, were

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83. *Id.* at 139.

84. Juan F. Perea, *Doctrines of Delusion: How the History of the G.I. Bill and other Inconvenient Truths Undermine the Supreme Court's Affirmative Action Jurisprudence*, 75 U. PITT. L. REV. 583, 596 (2014).

85. *Id.*

86. *See generally* Perea, *supra* note 84, at 601.

87. *See generally* Louis Lee Woods II, *Almost "No Negro Veteran... Could Get a Loan": African Americans, the GI Bill, and the NAACP Campaign Against Residential Segregation, 1917–1960*, 98 J. AFR. AM. HIST. 392, 392–93; Perea, *supra* note 84, at 596–601.

88. Perea, *supra* note 84, at 596.

89. *Id.*

90. *See id.* at 596–601.

91. *Id.* at 596.

92. *See* Woods, *supra* note 87, at 406.

93. C. LOWELL HARRISS, *HISTORY AND POLICIES OF THE HOME OWNERS' LOAN CORPORATION* 1 (1951).

94. *See id.*

95. *See* Perea, *supra* note 84, at 598.

96. *Id.* at 597.

deemed attractive or good investments for lenders to provide a home loan.<sup>97</sup> Alternatively, neighborhoods with lower ratings were deemed less desirable for lending.<sup>98</sup> Neighborhoods that were racially homogeneous with a high demand for buyers were rated A, whereas neighborhoods that were at risk of being integrated by Black people or other non-white racial groups received lower grades.<sup>99</sup> The presence of Black people was a “substantial concern” for the HOLC and essentially guaranteed that the community at issue would receive a D rating.<sup>100</sup> For example, in Detroit, every community with any number of Black people was given a D rating.<sup>101</sup> Housing officials gave Kansas City a D rating because there were Black people living throughout the city.<sup>102</sup> Thus, the HOLC’s practices encouraged housing discrimination around the country.<sup>103</sup>

The HOLC practices may have been sufficient to spread discriminatory lending practices. However, the Federal Housing Administration (FHA), established after the HOLC, also furthered housing discrimination.<sup>104</sup>

The FHA was established in 1934 to promote more lending and homeownership during the Great Depression, insuring private loans to encourage banks to lend to Americans with stable but modest incomes.<sup>105</sup> Nevertheless, the FHA also played a significant role in housing discrimination as described by Urban studies scholar Charles Abrams:

From its inception, FHA set itself up as the protector of the all-white neighborhood. It sent its agents into the field to keep Negroes and other minorities from buying homes in white neighborhoods. It exerted pressure against builders who dared to build for minorities and against lenders willing to lend on mortgages. This official agency not only kept Negroes in their place but pointed at Chinese, Mexicans, American Indians, and other minorities as well. It not only insisted on social and racial “homogeneity” in all its projects as the price of insurance but became the vanguard of white supremacy and racial purity—in the North as well as the South.<sup>106</sup>

The FHA went so far as to teach their discriminatory practices in their *Underwriting Manual* in 1938.<sup>107</sup> The Manual said that it was of “great importance” to prevent adverse influences including “lower class occupancy” and

97. *Id.* at 597–98.

98. *Id.*

99. *See id.*

100. *Id.*

101. *Id.*

102. DESMOND KING, *SEPARATE AND UNEQUAL* 191 (1995).

103. *See Perea, supra* note 84, at 597.

104. *See id.* at 597–99.

105. *See Marie Justine Fritz, Federal Housing Administration*, ENCYC. BRITANNICA, <https://www.britannica.com/topic/Federal-Housing-Administration> (last visited Nov. 8, 2023).

106. CHARLES ABRAMS, *FORBIDDEN NEIGHBORS* 229–30 (1955).

107. *Perea, supra* note 84, at 597.

“inharmonious racial groups” from neighborhoods with potential.<sup>108</sup> Furthermore, the FHA stated that valutors should not “hesitate to make a reject rating” if such adverse influences were present.<sup>109</sup> The original 1934 version of the Manual included a model racially restrictive covenant to show homeowners how to keep their neighborhoods segregated.<sup>110</sup>

No persons of any race other than——[race to be inserted] shall use or occupy any building or any lot, except that this covenant shall not prevent occupancy by domestic servants of a different race domiciled with an owner or tenant.<sup>111</sup>

The FHA was so invested in racism and segregation that it encouraged racially restrictive covenants for two years after the Supreme Court, in *Shelley v. Kraemer*, deemed racially restrictive covenants against public policy and unenforceable in court.<sup>112</sup> With the government’s heavy influence, private lenders were discouraged from lending to Black people and incentivized to lend to white individuals buying property in segregated neighborhoods.<sup>113</sup>

Private realtors also worked together to encourage discrimination. The National Associate of Real Estate Boards (NAREB) stated “[a] realtor should never be instrumental in introducing into a neighborhood a character of property or occupancy, members of any race or nationality, or any individual whose presence will clearly be detrimental to property values in the neighborhood.”<sup>114</sup> Furthermore, the NAREB published a pamphlet that discussed buyers who would lower property values, including:

A bootlegger who would cause considerable annoyance to his neighbors, a Madame who had a number of Call Girls on her string, a gangster who wants a screen for his activities by living in a better neighborhood, a colored man of means who was giving his children a college education and thought they were entitled to live among whites.<sup>115</sup>

Housing discrimination did not end there. Black people also faced racist zoning restrictions.<sup>116</sup> In some cities, the restrictions were explicit.<sup>117</sup> For example, in

108. FED. HOUS. ADMIN., HA Form No. 2049, UNDERWRITING MANUAL para. 935 (Feb. 1938).

109. *Id.*

110. Memorandum from Richard Stearns on the Racial Content of the FHA Underwriting Practices, Univ. of Balt., Balt. Stud. Archives 3–4 (Sept. 13, 1983) (PL 034638-50 at PL 034640-41), [http://archives.ubalt.edu/aclu/pdfs/R0002\\_ACLU\\_S03A\\_B02\\_F020.pdf](http://archives.ubalt.edu/aclu/pdfs/R0002_ACLU_S03A_B02_F020.pdf).

111. *Id.*

112. *Perea, supra* note 84, at 597; *Shelley v. Kraemer*, 334 U.S. 1, 20 (1948).

113. *See Perea, supra* note 84, at 598.

114. *Id.* at 599 (citing CHARLES ABRAMS, FORBIDDEN NEIGHBORS 156 (1955)).

115. *Id.*

116. Cyd McKenna, The Homeownership Gap: How the Post-World War II GI Bill Shaped Modern Day Homeownership Patterns for Black and White Americans, at 52 (June 2008) (Masters

Birmingham, Alabama, the local zoning ordinance stated that “no building or part thereof shall be occupied or used by a person or persons of the negro race” in certain districts, while the same was true for white people in other districts.<sup>118</sup> Notably, the ordinance did make an exception for Black servants or Black people who lived in the community before the enactment of the regulation.<sup>119</sup> Other localities used less explicit zoning methods, but they were still effective in restricting where Black families could live.<sup>120</sup> One code required homebuilders to meet impractical lot and property requirements, forcing the builder to appeal to the planning authority for a variance. Only builders who would agree to sell solely to white homeowners would win their appeal.<sup>121</sup>

Importantly, when Black families successfully moved to white neighborhoods, their white neighbors often greeted them with violence.<sup>122</sup> White mobs would ban together to break windows, launch bombs, and eventually burn the Black residence to the ground.<sup>123</sup> Police officers who were much more sympathetic to the antipathies of white residents rarely did anything to protect Black people in these environments.<sup>124</sup>

The VA insured private loans through the GI Bill. With the federal government, private companies, and citizens working against their interests, it was foreseeable that Black soldiers could not receive home loans.<sup>125</sup> This was the case regardless of whether Black veterans attempted to purchase a home in the North or the South. For example, in two different states, New York and Mississippi, less than a tenth of a percent of loans went to Black veterans. Of the more than one million Black people served during WWII, “fewer than 30,000 or 2.6 percent ever benefited from the homeownership provisions of the GI Bill.”<sup>126</sup>

### III. THE NORMATIVE CASE FOR REPARATIONS FOR BLACK VETERANS OR THEIR DESCENDANTS

This Part will first make the case for reparations for Black veterans and their descendants. This Part begins by analyzing the damaging, quantifiable effects of racial discrimination against Black veterans, which effectively cut them off from the benefits of the GI Bill. This Part will then turn to the moral and historical arguments for reparations.

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Thesis, Massachusetts Institute of Technology), <http://dspace.mit.edu/bitstream/handle/1721.1/44333/276173994-MIT.pdf>.

117. *Id.*

118. *Id.*

119. McKenna, *supra* note 116, at 52.

120. *Id.*

121. *Id.*

122. Perea, *supra* note 84, at 600.

123. *Id.*

124. *Id.*

125. *See id.* at 597–600.

126. Woods, *supra* note 87, at 411.

### A. *Effects on Black Veterans and Their Descendants*

Supporters of the GI Bill have called the program the “magic carpet to the middle class,” and for millions of white veterans, it was.<sup>127</sup> Over time, the synergy of educational, housing, and employment resources enabled white veterans to enter the middle class and begin building wealth.<sup>128</sup> While the GI Bill helped build the white middle class and propelled white veterans into economic security, it facilitated relative poverty for Black veterans.<sup>129</sup> One main reason for the difference in outcomes for Black and white veterans was the housing provision of the Bill.<sup>130</sup> Homeownership is a central way in which most Americans build wealth, constituting the largest part of the wealth held by the middle class.<sup>131</sup> Furthermore, homeownership and home equity affect the development of American communities.<sup>132</sup> The wealth of parents then transfers to their children.

White Americans inherit “legacies of advantage” from beneficial programs like the GI Bill.<sup>133</sup> As a result, white communities have provided their offspring with good opportunities and a cushion to withstand the economic burdens of life.<sup>134</sup> However, the descendants of Black WWII veterans did not inherit “legacies of advantage;” instead, they inherited legacies of “discrimination, inequality, and exclusion.”<sup>135</sup> The government’s facilitation of white homeownership and obstruction of Black homeownership advanced the wealth divide that affects both communities today.<sup>136</sup> A closer look at housing benefits will illuminate this issue.

By 1984, 70% of white Americans were homeowners while only 40% of Black people owned their home.<sup>137</sup> Furthermore, for those Black Americans who could afford to purchase homes, discriminatory practices drove down the value of Black homes.<sup>138</sup> In *Black Wealth/White Wealth*, renowned academics Melvin L. Oliver and Thomas M. Shapiro explain this economic situation:

Locked out of the greatest mass-based opportunity for wealth accumulation in American history, African Americans who desired and were able to afford homeownership found themselves consigned to central-city communities where their investments were affected by the “self-

127. See Perea, *supra* note 84, at 585.

128. See KATZNELSON, *supra* note 26, at 113.

129. See Perea, *supra* note 84, at 601.

130. See *id.*

131. *Id.* at 602.

132. *Id.*

133. See Liz Mineo, *Racial Wealth Gap May Be a Key to Other Inequities*, HARV. GAZETTE (June 3, 2021), <https://news.harvard.edu/gazette/story/2021/06/racial-wealth-gap-may-be-a-key-to-other-inequities>.

134. See *id.*

135. *Id.*

136. See Perea, *supra* note 84, at 601–03.

137. *Id.*

138. MELVIN L. OLIVER & THOMAS M. SHAPIRO, *BLACK WEALTH/WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY* 18 (1995).

fulfilling prophecies” of the FHA appraisers: cut off from sources of new investment their homes and communities deteriorated and lost value in comparison to those homes and communities that FHA appraisers deemed desirable.<sup>139</sup>

A history of housing discrimination drove racial disparities in wealth which persist today. By 2010, the median net worth of a white family was \$110,729 while the median net worth of a Black family was \$4,955.<sup>140</sup> The effects of housing discrimination did not end there.

Higher property values and higher homeownership percentages create a richer tax base for white communities.<sup>141</sup> The richer tax base leads to well-funded schools, infrastructure, and municipal services for white areas.<sup>142</sup> However, the inverse is also true for Black communities. A lower percentage of homeownership and lower property values for Black families creates a much poorer tax base for Black communities.<sup>143</sup> The poorer tax base leads to poorly-funded schools, infrastructure, and services for Black communities.<sup>144</sup>

The wealth accumulation gap driven by government-facilitated discrimination affects the socioeconomic future of both Black and white communities today.<sup>145</sup> First, the wealth of one’s parents is one of the best predictors of a person’s economic future.<sup>146</sup> Furthermore, economic inequality is primarily responsible for current disparities in health, income, education, and crime between Black and white communities.<sup>147</sup> Black communities trail behind white communities in almost every significant category including family income, life expectancy, and graduation rates.<sup>148</sup> Given that “[t]he most significant experience common to Black Americans that has plausibly contributed to their relative disadvantage is a history of racial discrimination,”<sup>149</sup> the government owes it to the remaining Black World War II veterans and their descendants to remedy this violation.

### *B. Moral and Historical Argument for Repair*

Corrective justice theory provides the moral basis for repairing the injury to Black WWII veterans and their descendants. Corrective justice theory holds that

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139. *Id.*

140. Perea, *supra* note 84, at 621.

141. *Id.* at 602.

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.* at 603.

146. McKenna, *supra* note 116, at 77.

147. Mineo, *supra* note 133; Hanna Love, *Want to Reduce Violence? Invest in Place.*, BROOKINGS INST. (2021), <https://www.brookings.edu/articles/want-to-reduce-violence-invest-in-place/>.

148. Kim Forde-Mazrui, *Taking Conservatives Seriously: A Moral Justification for Affirmative Action and Reparations*, 92 CAL. L. REV. 683, 696 (2004).

149. *Id.* at 698.

“one who causes harm to another by wrongful conduct is morally obligated to compensate the victim or otherwise remedy the harm.”<sup>150</sup> Corrective justice provides a sound basis for repair because it has survived the test of time and is widely accepted.<sup>151</sup> Corrective justice principles are present in most legal systems globally.<sup>152</sup> Even more compelling, corrective justice principles were incorporated into the United States civil system and are part of our social dynamics.<sup>153</sup> Since corrective justice theory holds weight in American courts and the country overall, it provides a reasonable basis for repairing the injustice inflicted upon Black WWII veterans.

It is a profound injustice to ask men to sacrifice themselves abroad while simultaneously enabling their mistreatment when they return.<sup>154</sup> Since the GI Bill’s discriminatory implementation continues to affect the descendants of Black veterans negatively,<sup>155</sup> corrective justice indicates that the United States has a moral obligation to remedy this harm.<sup>156</sup>

Furthermore, both federal and local governments have at times supported remedying injustices through legislative action.<sup>157</sup> Following World War II, Congress developed the Indian Claims Commission to pay tribes for land taken by the United States government.<sup>158</sup> Ultimately, the federal government gave \$1.3 billion to Native Americans through this commission.<sup>159</sup> Similarly, Congress provided land worth \$962 million to Native Alaskans for them to resign their claims to large parts of Alaska.<sup>160</sup> After WWII, Congress authorized two forms of reparations for Japanese Americans.<sup>161</sup> First, through the Japanese American Evacuation Claims Act of 1948, the federal government paid nearly \$37 million to 26,000 Japanese American claimants for their loss of real and personal property.<sup>162</sup> Second, Congress agreed to formally apologize to Japanese Americans and compensate them for their wrongful internment.<sup>163</sup> The United States paid the 82,219 qualifying recipients \$20,000.<sup>164</sup>

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150. *Id.* at 707.

151. *See id.* at 707–08.

152. *Id.* at 707–08.

153. *Id.* at 707.

154. *See Clark, supra* note 1.

155. Perea, *supra* note 84, at 601–03.

156. Forde-Mazrui, *supra* note 148, at 707.

157. *See, e.g.,* Christopher Burton, *3/5ths to 1/10th, How to Make Black America Whole: Exploring Congressional Act H.R. 40 – Commission to Study and Develop Reparation Proposals for African Americans Act*, 54 UIC J. MARSHALL L. REV. 531, 546 (2021).

158. *Id.*

159. *Id.*

160. *Id.*

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

American states and cities have also worked to correct their past injuries.<sup>165</sup> Florida was “the first state to pass a reparations law acknowledging a need to confront an eruption of racist violence that government officials failed to stop.”<sup>166</sup> The law set aside \$2 million for Black survivors of the 1923 Rosewood massacre, where a white mob killed six Black residents and burned the churches and homes within the town.<sup>167</sup> North Carolina compensated the survivors of the state’s eugenics program.<sup>168</sup> The state allocated \$10 million to compensate surviving victims, who were primarily disabled, poor, or Black.<sup>169</sup>

After apologizing for the state’s participation in the slave trade, discrimination, and denial of liberties to Black citizens, legislators in Asheville, North Carolina agreed to allocate \$2.1 million in reparations to Black residents.<sup>170</sup> The city council of Asheville passed the resolution hoping the program would aid in “the creation of generational wealth and economic mobility and opportunity in the Black community.”<sup>171</sup> In Chicago, Illinois, legislators approved a \$5.5 million reparations package for the 57 victims of police brutality committed by commander Jon Burge.<sup>172</sup> The city also financed counseling for victims of the Burge scandal and other victims of police brutality.<sup>173</sup> Chicago legislators also agreed to incorporate lessons on police brutality into the school curriculum and build a memorial.<sup>174</sup> In Evanston, Illinois, lawmakers agreed to pay reparations for the victims of city-sponsored housing discrimination and “the lingering effects of slavery.”<sup>175</sup> The city allocated \$10 million for the program and authorized up to \$400,000 for qualifying Black households.<sup>176</sup> Thus, national and local precedent supports remedying the harmful effects of past injuries like the discriminatory implementation of the GI Bill.

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165. See generally Char Adams, *Evanston is the First U.S. City to Issue Slavery Reparations. Experts Say It’s a Noble Start*, NBC NEWS (Mar. 26, 2001), <https://www.nbcnews.com/news/nbcblk/evanston-s-reparations-plan-noble-start-complicated-process-experts-say-n1262096>; Adam Yeoman, *Florida Pays Survivors of a 1923 Racist Attack: Rosewood: Blacks Were Run Out of Town by a White Mob. At Last, the State Allocates \$2 Million in Reparations*, LA TIMES (Feb. 12, 1995), <https://www.latimes.com/archives/la-xpm-1995-02-12-mn-30965-story.html>.

166. Adeel Hassan & Jack Healy, *America Has Tried Reparations Before. Here Is How It Went*, N.Y. TIMES (June 19, 2019), <https://www.nytimes.com/2019/06/19/us/reparations-slavery.html>.

167. *Id.*

168. *Id.*

169. *Id.*

170. *North Carolina City Commits \$2.1M for Reparations*, AP NEWS (June 9, 2021), <https://apnews.com/article/north-carolina-racial-injustice-business-race-and-ethnicity-d9190175bb260ba2882954fd731f9e92> [hereinafter *North Carolina*].

171. *Id.*

172. Hassan & Healy, *supra* note 166.

173. *Id.*

174. *Id.*

175. *North Carolina*, *supra* note 170; see generally Adams, *supra* note 165.

176. *North Carolina*, *supra* note 170.



## IV. REPARATIONS AND PENDING LEGISLATION

Simply because the corrective justice theory holds the United States morally responsible for the GI Bill's discriminatory implementation does not necessarily mean affected veterans are entitled to individual payments. Repairing an injustice can take multiple forms.<sup>177</sup> The four common forms of reparations are apologies, truth commissions, community reparations, and individual payments.<sup>178</sup>

An apology is a formal admittance of wrongdoing and is a common method of state atonement.<sup>179</sup> A truth commission is an "official body established to investigate a series of human rights violations . . . or other serious abuses."<sup>180</sup> They "aim to identify the causes and consequences of abuses" and "conclude with a final report, including recommendations for reform to prevent such abuses from being repeated."<sup>181</sup> Community reparations provide occupational, educational, and healthcare opportunities to underserved areas.<sup>182</sup> Finally, individual payments are payments to those directly affected by the wrongdoing or their descendants.<sup>183</sup>

However, corrective justice theory centers on correcting the harms from wrongdoing and "the ideal remedy would place the victims of wrongdoing in the same position they would have been in had the wrongdoing never occurred."<sup>184</sup> The original GI Bill enabled white veterans to enter the middle class and begin building generational wealth.<sup>185</sup> While truth commissions and apologies would be appreciated, simply by their function, they cannot put Black veterans in their rightful financial position. Second, community reparations are inapplicable because the Bill was a reward for the sacrifices of the individual.<sup>186</sup> Only individuals who served earned the opportunity to build economic security.<sup>187</sup> Those who did not serve did not receive benefits. Thus, to give community reparations to Black soldiers would not be recognizing their individual sacrifices, which was the purpose of the Bill.<sup>188</sup>

If passed and signed into law, the Sgt. Isaac Woodard, Jr. and Sgt. Joseph H. Maddox GI Bill Restoration Act of 2021 would have extended previously denied benefits to living Black WWII veterans and select descendants.<sup>189</sup> The proposed

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177. Burton, *supra* note 157, at 547.

178. *Id.* at 547.

179. *Id.* at 551.

180. Priscilla Hayner, *Truth Commission in* ENCYC. BRITANNICA, <https://www.britannica.com/topic/truth-commission> (last visited Nov. 8, 2023).

181. *Id.*

182. Burton, *supra* note 157, at 552.

183. *See id.* at 547.

184. Forde-Mazrui, *supra* note 148, at 748.

185. McKenna, *supra* note 116, at 78.

186. KATZNELSON, *supra* note 26, at 118.

187. *Id.*

188. *See generally* *The G.I. Bill*, KHAN ACADEMY, <https://www.khanacademy.org/humanities/us-history/postwarera/postwar-era/a/the-gi-bill> (last visited Nov. 8, 2023).

189. Rep. Jim Clyburn & Seth Moulton, *What America Owes Black Veterans of World War II*, TIME (Dec. 7, 2021), <https://time.com/6126195/black-veterans-gi-bill-world-war-two/>.

legislation enables recipients to attend school and purchase a home, but it does not address the wealth gap created by the original GI Bill.<sup>190</sup> Generations have passed, and most WWII veterans are now in their 90s.<sup>191</sup> Thus, it seems unlikely that many will go back to school or take out a mortgage. As a result, the opportunity to pass down generational wealth likely has passed as well. With the proposed legislation, recipients would inherit the educational and housing legacy of the program, but not the wealth lost due to discrimination. Consequently, under the corrective justice theory, which aims to put injured individuals in their rightful place, the account would not be settled.<sup>192</sup>

President Lyndon B. Johnson aptly stated: “[y]ou do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, ‘you are free to compete with all the others,’ and still justly believe that you have been completely fair.”<sup>193</sup> Only individual payments and receiving their previously denied benefits would elevate veterans and their descendants to their rightful place. The Institute for Economic and Racial Equity at Brandeis University estimates that Black WWII veterans were only allowed to utilize 40% of their original benefits.<sup>194</sup> Translating that rate into dollars, they have calculated that Black WWII veterans each lost \$170,000 due to institutional racism and other obstacles after receiving the GI Bill.<sup>195</sup> Thus, to fulfill the corrective justice theory, \$170,000 represents a working amount the country owes each individual Black WWII veteran.

## V. CONCLUSION

To address the generational wealth and the benefits Black veterans and their descendants lost to discrimination, the US government should provide Black veterans or their descendants both their owed benefits and individual compensation. Only this action will fully address the disparities in education, homeownership, and generational wealth the original GI Bill created. It is a small price to pay for those who have sacrificed and endured much more.

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190. Perea, *supra* note 84, at 601.

191. *WWII Veteran Statistics*, NAT’L WORLD WAR II MUSEUM, <https://www.nationalww2museum.org/war/wwii-veteran-statistics> (last visited Nov. 8, 2023).

192. Forde-Mazrui, *supra* note 148, at 707.

193. *Id.*

194. Aaron Morrison & Kat Stafford, *Black WWII Veterans Were Denied GI Bill Benefits. Veterans Day Legislation Looks to Correct that Now*, CHICAGO TRIB. (Nov. 11, 2021), <https://www.chicagotribune.com/nation-world/ct-aud-nw-gi-bill-racial-inequities-20211111-fbihr7f73nefdi3iav7q2nkoq4-story.html>.

195. *Id.*