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NEST EGGS AND STORMY WEATHER: LAW, CULTURE, AND BLACK WOMEN'S LACK OF WEALTH

Regina Austin

"Nest' egg': money saved and held in reserve for emergencies, retirement, etc. Wise men say
Keep something til a rainy day:
Don't know why there's no sun up in the sky,
Stormy weather,
since my man and I ain't together,
keeps rainin' all the time.

Nest eggs are supposed to provide protection against a rainy day, but suppose it rains all the time? I know I am mixing metaphors or whatever, but that is black women's fate in America, is it not? Are our lives not what happens when Poor Richard's Almanac runs up against the Blues?

There are many ways to think about black women and economic or distributive justice, but the best way to do it may be in terms of savings, asset accumulation, or simply put, wealth. Black women have been in the red, asset-wise, since our ancestors were brought here as someone else's property. Things might have improved if the freed slaves had been given the forty acres and a
mule they were promised, but that never materialized.4 Because I very much doubt that reparations of that or any other kind will be forthcoming in the near future, it behooves us to give some thought to other means of augmenting black women’s wealth.

Although some attention has focused on income inequality between black women and others, more study needs to be directed at wealth inequality across race and gender lines. “[W]ealth is one indicator of material disparity that captures the historical legacy of low wages, personal and organizational discrimination, and institutionalized racism”5 to which black women have been subjected in this country. As a general matter, the significance of wealth to well-being in our consumption-oriented society tends to be underestimated. Moreover, exploring policies that impact on the distribution of the wealth across racial and gender groups is far scarier than discussing measures for equalizing income. Yet, assets, not income, assure class mobility. It is the redistribution of the wealth, not the reallocation of income, that is likely to produce changes in the class positions of black women and their children. Indeed, if the women who are now receiving public assistance are to achieve the level of self-sufficiency really required to end welfare as we know it, then we must begin to consider creating mechanisms by which they can acquire wealth to insure their futures.

My dictionary defines wealth as “a great quantity or store of money or property.”6 When I use the term “wealth,” however, I am referring to something more modest, basically accumulated assets. Wealth is what is left over after the bills are paid. It is what a woman is able to put aside or accumulate, especially with her employer’s assistance. It is what a woman owns less what a woman owes.

Economists have various ways of categorizing and measuring wealth that may be useful for my purposes.7 Generally, wealth is the value of total assets less total debt at a fixed point in time. For the very rich, assets may consist largely of stocks, bonds, trust funds, business equity, and nonresidential real estate. For the nonwealthy, which is to say most of us, assets include residential

property; automobiles; deposits held in bank accounts, money market funds, and certificates of deposit; and individually-held retirement accounts. Some measures of wealth include employer-supported or controlled pension funds, the cash surrender value of life insurance policies, and durable goods, while others do not. Debt typically consists of mortgages, loans, or other obligations owing to banks, mortgage companies, credit unions, or finance companies as well as the balance due on credit card, retail store, or gasoline charge accounts.

It is not easy to determine exactly how much wealth black women possess or control. Some of the crucial data is collected separately by race and by gender, with data pertaining to black women being included in both categories. The available wealth statistics, nonetheless, suggest that black women’s holdings are quite limited.

First, consider household wealth by race. Keep in mind that, in the period generally applicable, female-headed households constituted roughly forty-eight percent of all black households, compared with fourteen percent for whites. Moreover, black women theoretically have control over the wealth held by black married households.

In 1993, white households had median measured net worth of $45,740, while black households had median measured net worth of $4,418. White households had substantially higher median measured net worth than black households in every income quintile. In the highest quintile, the median net worth of whites was $123,350 and that of blacks was $45,023. In the lowest quintile, the median net worth of whites was $7,605, compared with $250 for blacks. The $250 figure represented an improvement from 1991 when the median net worth of black households in the lowest quintile was measured at zero dollars.

Although I do not have 1993 data on the net worth of families headed by black females alone, female-headed households in

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10. See id. at 19.

11. See id. at 9.

12. See id.
general had a net median worth of $13,294 as compared with $61,905 for married-couple households.\footnote{13}

Data from 1988 may be useful in completing this rough portrait of black women’s wealth.\footnote{14} Note that in 1988 married couples were only thirty-five percent of black households, compared with about sixty percent of white households. Black married-couple households had median net worth of $17,635, compared with $62,386 for their white counterparts. Households maintained by black females had a median household net worth of $757, compared with a median net worth of $22,099 held by white female households.

Older, nonmarried black women are particularly poor in terms of assets. In 1994, only thirty-two percent of black nonmarried women sixty-five and older received income from assets, compared with sixty-three percent for their white female counterparts.\footnote{15} Indeed, income from assets constituted only 3.4\% of nonmarried black women’s income as opposed to 20.1\% of white women’s income.\footnote{16} Only twelve percent of nonmarried black women sixty-five and over received income from a private pension or annuity, whereas twenty-two percent of nonmarried white women, twenty-seven percent of black married couples, and forty-two percent of white married couples did so.\footnote{17} In general, older nonmarried black women were more dependent upon social security, government employee pensions, earnings, and welfare than white women.\footnote{18}

The bottom line, then, is that black females seem to control very little wealth. As a result, many black women do not enjoy the numerous advantages that come with owning assets. Sickness, disability, death, unemployment, other forms of job instability, childbirth, separation, or divorce can threaten the security of a black woman and her family. Material wealth provides some protection against unexpected changes in the amount and flow of income and expenditures due to such changes in a woman’s life circumstances. Assets also facilitate future consumption, particu-

\footnotesize{13. See id. at 10.  
15. See Susan Grad, Social Security Administration, Income of the Population 55 or Older, 1994, at 8-9 tbl.1.3 (1996). The figure was 43\% for black married couples, 82\% for white married couples, and 26\% for nonmarried black men.  
16. See id. at 112 tbl.VII.4.  
17. See id. at 8-9 tbl.1.3.  
18. See id. at 112 tbl.I.3.}
larly of expensive items like a car, a house, or a college education for one's self or one's children. Wealth also provides the foundation for the risk taking and entrepreneurship that can generate greater income and increased wealth. At some point, most people's wage earning capacity ends; wealth in the form of savings or pension benefits eases existence during retirement. Finally, wealth provides a legacy for one's children in several ways. Children whose families have assets are more likely to maintain the class standing of their parents, if not move higher in the class hierarchy than children from families who may have comparable incomes and occupational attainment, but possess fewer assets. If their parents or their families have assets, young people can look to those assets for assistance in pursuing higher education, establishing families of their own, purchasing a home, or starting a business. Finally, inherited wealth provides the foundation for the asset base on which each succeeding generation optimizes the life chances of its offspring.

In addition to its material value, wealth has psychic, social, and political advantages. Joe Lewis is reported to have said, "I don't like money actually, but it quiets my nerves." A woman who possesses wealth has greater control over her welfare and circumstances and greater cause for peace of mind. Wealth increases one's ability to plan for the future. In fact, it increases one's stake in and connection to the future. Wealth can also expand one's social power and influence. People with wealth may also have a greater stake in the political system and in preserving the relative status quo.

In sum, "assets improve economic stability; connect people with a viable, hopeful future; stimulate development of human and other capital; enable people to focus and specialize; provide a foundation for risk taking; yield personal, social, and political dividends; and enhance the welfare of offspring." These bene-

19. See Oliver & Shapiro, supra note 5, at 157-63.
20. See id. at 152.
22. See also Elizabeth A. Good & Sue Pearlmuter, Economic Self-Sufficiency It's Not Just Money, 8 AFFILIA J. OF WOMEN & SOC. WORK 368, 379 (1993) (survey of low-income women found association between economic self-sufficiency and autonomy and self-determination, a component of which was putting money in a savings account).
fits of wealth are largely missing from the lives of black women who do not have assets.

Explanations for black women's lack of wealth fall into two broad categories that differ according to the degree of control or agency that they assume black women have over their asset accumulation. One set of reasons focuses on institutional and structural impediments to black women's wealth acquisition. The second set of rationales considers individual and cultural variables that impact negatively on black women's desire or capacity to save.24

In my view, structural impediments to black women's wealth accumulation on the one hand, and individual and cultural factors on the other, are dialectically related. Material conditions create cultural and psychological responses that, in turn, take on a life of their own, impacting on, as well as adapting themselves to, the material world. Nonetheless, more research needs to be done on the cultural and psychological factors affecting black women's wealth accumulation because they are erected as a significant impediment to the adoption of reforms of the structural obstacles.

The structural or institutional hypothesis starts with the assumption that asset accumulation is not simply a matter of saving, nest egg ing, or striving. According to economist Michael Sherraden, "In most households unstructured savings out of the ordinary income streams is insignificant compared to institutionalized asset accumulation."25 Savings most often "enter households through various institutional arrangements [whereby] money is guided directly into asset accumulation, and subsidized in the process."26 Thus, the bulk of the net worth of most households consists of housing equity and retirement or pension holdings. Housing equity is subsidized by the federal income tax deductions for home mortgage interest27 and real estate taxes,28 as well as by limitations on the recognition of gains from the sale of a principal residence.29 Taxes are deferred on contributions to

24. See generally John P. Casey, Fringe Banking: Check-Cashing Outlets, Pawnshops, and the Poor, 81-84 (1994) (exploring stereotypes about the "saving" behavior of low-income people).
26. Id.
29. See I.R.C. §§ 1034(a), 121(b)(1).
pension plans, tax deferred annuities, individual retirement accounts, and Keogh plans. Employers may deduct contributions to qualified employee pension plans. Of course, the case with which workers can participate in these forms of asset accumulation facilitates their utilization.

As the discussion that follows indicates, black women are not substantial beneficiaries of the principal forms of government subsidized asset accumulation, nor of other kinds of institutional privileges that facilitate wealth accumulation, such as beneficial tax treatment of gifts and capital gains or employee-sponsored health and life insurance.

"One road to wealth is long-term steady employment in the kinds of work organizations that offer job-sponsored benefits and retirement packages." That is, unfortunately, one path to wealth from which black women have been foreclosed until very recently. Black women today earn roughly sixty-three percent of the median weekly earnings of white men. The width of the contemporary gap between black female wage-earners and white men reflects vast improvements in the position of black women in the labor market. Historically, the difference between black female earnings and white male earnings was much greater. This gap has had a devastating impact on black women’s wealth. "[O]ver the years these earnings shortfalls have resulted in less savings, less investments, and less transfers to succeeding generations. Over time, less income can result in vast differences in asset accumulation."

In addition to low wages, black women suffer from greater job insecurity that is attributable to unemployment and to temporary or contingent employment that interrupts the flow of income and impedes the building of assets. Though I do not have exact figures to support the claim, it appears that substantial numbers

31. See I.R.C. §§ 401(k), 403(b).
32. See I.R.C. §§ 219, 408.
33. See I.R.C. § 401(c).
34. See I.R.C. § 404(d).
35. See generally Beverly I. Moran & William Whitford, A Black Critique of the Internal Revenue Code, 1996 Wis. L. Rev. 751, 768-91 (reporting results of a statistical assessment of the limited benefits to blacks of key provisions of the tax code pertaining to wealth accumulation).
36. OYHIK & SHAPERO, supra note 5, at 112.
37. This statistic concerning black women compares with the 73.3% that white women earn and the 70.2% that black men earn.
38. SHERARDEN, supra note 23, at 131.
of black women do not have jobs that carry with them the sort of job-related benefits that help a woman to protect her assets and lifestyle in the event of unemployment, illness, disability, or retirement. Between 1987 and 1993, only 50.2% of blacks were covered by private health insurance, as compared with 73.7% of whites. In 1993, only 37.5% of black female wage earners were protected by pension plans of some kind, though in this regard, they were not much worse off than white or black men or white women.

Entrepreneurship and business ownership are theoretically another route to wealth accumulation. For a host of reasons, blacks, in general, have not been successful in pursuing entrepreneurial endeavors, though there is evidence that the trend is changing for both men and women.

In terms of expenditures, black women are more likely to be single parents and the heads of households than white women. Raising children entails rather large expenses. Though women, in general, pay more than men for many goods and services, the cost of black women’s consumption is also increased by the premium or “tax” that discrimination forces blacks to pay in pursuing ordinary commercial transactions.

The handicaps that black women encounter in commercial transactions extend to their dealings with financial institutions. Many black neighborhoods do not have local bank or Savings & Loan branches; instead, residents must rely on check-cashing outlets that generally charge high fees and do not offer the range of financial services that banks provide. In any event, most banks no longer offer accounts that suit the needs of small-balance depositors or savers. Institutional support for generalized small-scale savings is quite limited. Moreover, the absence of neighborhood banks also restricts the availability of sources of credit for large purchases.

The discrimination blacks have faced in the market for mortgages has had a particularly devastating impact on their accumu-

40. See id. at 383 tbl.600.
42. See generally Frances Cebra Whiteley & Marily Carroll, Women Pay More (And How to Put a Stop to It) (1995).
43. See generally Austin, supra note 41, at 148-56.
44. See generally Casey, supra note 24.
lation of wealth. In their book *Black Wealth/White Wealth: A New Perspective on Racial Inequality*, sociologists Melvin Oliver and Thomas Shapiro extensively analyze the impact on blacks of discrimination in the markets for housing and residential mortgages. The authors estimate that discrimination in the form of denied mortgages, higher mortgage rates, and lost housing appreciation has cost blacks $82 billion.

Oliver and Shapiro do not include in their figures the value of land that blacks have lost as a result of what David H. Harris, Jr. of the Land Loss Prevention Project terms "formidable forces in the law." Blacks' land ownership of farmland has declined drastically since the turn of the century as a result of "partition sales, tax and debt foreclosures, adverse possession, [and] eminent domain ... [as well as] illiteracy, racism, intimidation, and political and economic powerlessness." Urban land holdings have been impacted by "[h]ome improvement schemes, gentrification, environmental racism and the economic development activities of local governmental entities" that always seem to result in whites winding up with ownership of black folks' land.

In terms of policy changes at the macroeconomic level, efforts should be made to curb the institutional impediments that block black women's ability to build their wealth and to get government on the side of wealth acquisition, particularly for poor black women. The most significant reforms would be those that increase black women's returns for their participation in the labor market, particularly through the provision of benefits like health insurance and pension coverage. Other reforms that would be advantageous include ending discrimination in the markets for housing and home mortgages, facilitating business development by black women, including entrepreneurship in public housing communities by public housing residents, and either forcing existing financial institutions to service the needs of small scale savers, or subsidizing the development of new thrift institutions like community-based or work-based credit unions that would better serve black women.


46. Oliver & Shapiro, supra note 5, at 151.


48. Id.

49. Id.

50. See Casken, supra note 24, at 148-49.
Ideally, the government should do for poor black women what it has done for working-class and middle-class white men. Government programs targeting poor women have not been aimed at improving their asset base and thereby permanently altering their class status. As William Julius Wilson stated in his book When Work Disappears:

[T]argeted programs for the poor in the United States do not even begin to address inequities in the social class system. Instead of helping to integrate the recipients into the broader economic and social life of mainstream society—to “capitalize” them into a different educational or residential stratum, as the GI bill and the postwar mortgage programs did for working- and middle-class whites—they tend to stigmatize and separate them.51

I doubt that there exists, at this time, the political will to capitalize poor black women’s assent to higher class standing by subsidizing their asset acquisitions, especially given the cultural explanations for black women’s asset poverty. Even small-scale policy reform at the structural and institutional level is likely to be impeded by the belief that the sparsity of black women’s wealth is due to their lack of frugality and unwillingness to make present sacrifices for future gain. Despite the breath and depth of the material, structural, and institutional impediments to black women’s asset accumulation, it is black women’s moral and cultural fiber that gets called into question when the subject turns to black women’s net worth.

Popular ideology attributes indigenous black women’s lack of wealth to their profligate spending and perverse mismanagement of money.52 Black women are constructed as undisciplined consumers who lack the financial discipline to save. Unsatisfied with delayed gratification, they spend money that is not theirs (bambouzing it from men) and that they do not have (running up high credit card balances). Given the financial hardships they suffer by virtue of being near the bottom of the socioeconomic ladder, they are blamed for not conforming to the model of economically rational actor who engages in long-range, life-cycle

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52. See generally GEORGE SUBIRIA, MONEY ISSUES IN BLACK MALE-FEMALE RELATIONSHIPS (1994). The indictment regarding black women’s capacity to save tends to be directed more at younger native-born black females of all classes and less at older black women and black women who are foreign born or members of immigrant communities.
planning by rationally allocating her resources between current desires and future needs.\textsuperscript{53} It does not matter that the rest of the society, obsessed with consumption, is not saving as much as it once did and is running up debt. Black women's lot is worse overall and, therefore, black women have more of a responsibility to exercise greater self-control and to resist the temptations of rampant consumerism. According to these notions, black women's lack of wealth is a product of the moral failure and of the values of individual black women and their culture.\textsuperscript{54}

Clearly, some of the accusations leveled against black women regarding their consumption and spending habits are capable of empirical proof, but the data nearly is impossible to acquire. Little attention generally is paid to the specifics of debt accumulation or to its gendered implications.\textsuperscript{55} The characteristics and circumstances of black female debtors is an area of research that needs to be extensively mined.

In any event, the role that economic rationality plays in anyone's savings behavior is not clear. Cultural and psychological factors probably have greater operational power.\textsuperscript{56} Even "[t]he economic [rationality] paradigm implies that behavior depends on expectations about the future."\textsuperscript{57} Those expectations are likely to be the product of personal experience and of psychosocial orientations.\textsuperscript{58}

Savings behavior seems to be less the product of a rational or systematic weighing of the costs and benefits of saving and more the result of the operation of "rules of thumb . . . that . . . reflect social and cultural norms"\textsuperscript{59} or habits regarding the allocation or disposition of financial resources.\textsuperscript{60} "The foundation of all wealth is land." "Money may not be everything, but it's far ahead of what's in second place." Witty little savings and clever duties are part of the context in which savings behavior occurs.

\textsuperscript{54} The objective data does or does not support this view.
\textsuperscript{55} There are a few notable exceptions. See generally KAREN CROSS, RECONSTRUCTING THE BANKRUPTCY SYSTEM: NEW VISIONS OF INDIVIDUAL DEBTORS, 88 MICH. L. REV. 1506 (1990); PAMELA D. VANN, THE BODY AS PROPERTY: AS WE FORGIVE OUR DEBTORS: BANKRUPTCY AND CONSUMER CREDIT IN AMERICA (1989); ZIPPORETH BANSHAW WISCHM, WOMEN IN BANKRUPTCY AND BEYOND (1989).
\textsuperscript{56} See BERNHEIM, supra note 53, at 67-80.
\textsuperscript{57} id. at 69.
\textsuperscript{58} See id.
\textsuperscript{59} id. at 64.
\textsuperscript{60} See id. at 71.
Thus, the amount of material wealth a group of the population controls may reflect the amount of social capital that is invested in promoting its acquisition of wealth.

Taken all together, the cultural or sociological factors that impact on black women's saving behavior are a vast unexplored area of research, especially as these factors are impacted by or respond to the law. The condemnation of black women regarding their habits of thrift and economy, therefore, seems a bit premature. One of the biggest unknowns is the bearing institutional and structural impediments have on black women's orientation to the future and its impact in turn on their limited wealth accumulation. The inquiry is all the more difficult because there is no essentialist core to black women's financial existence that has across-the-board explanatory power. Black women's culture is as diverse as its practitioners. It varies among subgroups, differing in age, class, sexual orientation, geographical location, and national origin. The culture, or cultures, of black women vary in part because the material, structural, and institutional factors already outlined impact different subgroups of black women differently.

I join the plea made by Professor Patricia Hill Collins in this Symposium for greater support and funding of research that focuses on black women and their families as accumulators and transmitters not only of culture, but also of wealth.61 However, the inquiry into the cultural and legal aspects of black women's relative lack of assets has to begin somewhere. What follows are the speculations and many unresolved questions I have regarding the influence of cultural and legal factors on the efforts of indigenous poor, working-poor, and lower, middle-class black women to acquire wealth. What follows is, in a way, my own research agenda concerning issues of wealth accumulation.

In my experience, poor and working-class black women stash money away or hide it about the house in secret places where they hope other family members or burglars are unlikely to find it. This is especially true for women who do not have bank accounts either because banks are not convenient to use, banks are not to be trusted, or the women cannot satisfy the minimum requirements for a formal checking or savings account. Many black women have lost their little pot of money to an untrustworthy

relative who did not share their plans for the future or to burglars who seemed to know just where to look. The informal nature of savings activity makes the accumulation of assets quite haphazard and risky; however, the institutional support for doing much more simply does not exist.

Mental accounting or the allocation of funds based on their source is very important in savings behavior. Income from some sources is spent immediately, while income from other sources is not. Income tax refunds represent a form of savings that many black women use to finance expensive or special purchases. The relationship between tax refunds and asset accumulation for these women should be explored further. Other black women put the sums they make from working a second job or engaging in informal economic activity, like selling cosmetics or styling hair in the kitchen, into a special fund for long-range consumption. We need to know more about the relationship between the underground economy, which is to a large extent the creation of legal regulation, and black women’s accretions of wealth.

The figures regarding the disparity between the asset holdings of black married couples and black female household heads seem to suggest that singlehood is a major cause of black women’s asset poverty. Singlehood, unlike whiteness, which also is associated with greater wealth, is assumed to be a circumstance that blacks control. It is not clear why married couples acquire so much more wealth than singles do. Asset accumulation no doubt is easier when there are two wage earners rather than one. Moreover, there may be efficiencies arising from the consolidation of living expenses and the division of labor that are produced when two adults maintain a single household. It may also be the case that marriage increases worries and responsibilities, which, in turn, result in greater incentives to acquire assets. Whatever the explanation, it appears that the legal, cultural, and all-important economic factors that influence rates of marriage among blacks are having an impact on rates of wealth accumu-

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62. See, e.g., Mitchell Duneier, Author’s Dream: Going It Alone, CHI. TRIB. Dec. 27, 1994, at 1 (young black mother’s drug-addicted boyfriend stole money for utility bills from various places where she had hidden it, including a shelf in the kitchen cupboard).

63. In this context, the word “informal” means “off the books.”


65. See infra text accompanying note 14.

66. See generally The Decline in Marriage Among African Americans: Causes, Conse-
lation. It also is possible, however, that the norms and the material reality impacting on wealth accumulation are influencing black rates of marriage.

In some segments of the heterosexual black population, saving and asset accumulation are gender roles assigned to women and are sources of conflict between women and their spouses or partners. If money is the biggest source of tension in most marriages and long-term relationships, it must be especially problematic among those torn between accumulating wealth and satisfying short-term, seemingly immediate needs. Need and risk may be viewed differently by black women and men, and the tensions caused by this disparity, if it exists, might work against the formation of more formal unions.

Many of the black women I queried on the subject of black women's wealth jokingly cited men as the chief cause of black women's asset poverty. There is a widespread notion that black women are foregoing long-term liaisons because black males cannot play the breadwinner role or otherwise substantially contribute to the financial well-being of a family, including asset accretions. Popular belief has it that black women are, instead, choosing to do badly all by themselves, as they say: they do not need a man to make their lives worse. However, there is some evidence that economic pressures are not preventing the formation of strong and stable relationships between unmarried black males and females. Black women's asset accumulation would be strengthened if more social capital in the form of culture and law was invested to promote easier asset accumulation for those other than the traditional nuclear family unit.

Black women's time and money may be subject to familial and communal demands that stifle wealth accumulation. Black working people bear a greater burden than their white counterparts for helping relatives who are unable to sustain themselves without financial assistance. In the case of sick or infirm relatives, the obligation may entail a woman's taking time off from work or totally suspending employment. Thus, assets that might have been used for long-term improvement of a black woman's eco-


nomic status might be employed instead to support and to care for a needy or otherwise dependent relative. A black woman’s children indeed may represent her biggest capital investment or her greatest protection against a poor and lonely old age. The parent’s expectation of support may be the quid pro quo for the sacrifices she made to increase the earning capacity of her children. Furthermore, her children’s needs to amass assets for their old age may be offset by a reciprocal obligation owed to them from their own young. Broader support for long-term health care and more generous family leave provisions that are compatible with black women’s cultural obligations to family would strengthen black women’s wealth position.

Black women’s philanthropy to the church and to other social organizations and associations may also affect their individual wealth accumulation. Of course, charitable giving, like generosity within the extended kinship network, may create collective resources or assets that can be called upon in time of need. We really need to test the extent to which reciprocal communal obligations—which actually deliver material benefits in sufficient amounts sufficient to the financially distressed—as opposed to private wealth, are an important element of black people’s notion of the good life.

Beliefs about the protection that social welfare programs will provide in the future could affect a black woman’s incentives to save. Theoretically, “[w]hen the government provides either larger retirement benefits or a more comprehensive safety net, it reduces the incentives for a private individual to save on [her] own behalf.” 69 Black women have not benefited as much as others from social welfare programs, but it is not clear that black women are aware of their relative disadvantage.

Asset accumulation by black women may also be impeded by the absence of cultural mechanisms for the smooth transfer of wealth from one generation to the next. The inability to keep wealth intact as it is passed on, or to keep it in the hands of black people who could use it, reduces its value to each succeeding generation and to black people’s overall wealth. I have heard the stories black folks tell about relatives fighting over a bit of land or the small sum left in a bank account by a deceased family member. The association between wealth and family dissension may act as an impediment to wealth acquisition.

69. Bernheim, supra note 58, at 87.
The lack of access to estate planning and to related legal services and the resulting inability to negotiate the inheritance laws have operated to deprive blacks of their ancestors' wealth. For example, sociologist Carol Stack has written about blacks who returned from the North to their Southern roots in rural North and South Carolina; she found:

People who could not readily file wills at the courthouse or who feared the entanglement of legal paper were eventually beset with problems arising from inheritance of land. "Heirs property," held in common by a group of relatives, became the usual form of land ownership among blacks. Heirs property proved notably susceptible to tax forfeiture and forced-pyrtion sales. An heirs farm could be force-sold under a thousand and one circumstances—what if, for example, one of the family members listed on the deed applied for admission to a nursing home? In the South, nonblacks typically stand ready to take land that blacks lose. In urbanized communities, the situation is somewhat different. The houses that the elderly leave behind when they die are abandoned by relatives who do not quite know what to do with them.

It is my sense that black women, particularly older ones, have acquired more wealth than they have been able to keep or to pass along to their descendants because the women have been the victims of various frauds, schemes, and scams that take advantage of their age, gender, or lack of financial and business sophistication. Also, the insurance companies whose home service agents sell black women multiple, expensive life insurance policies.
which, if they have not lapsed, pay out small face amounts inadequate to bury the insureds, let alone leave their descendants a legacy, are deserving of special condemnation. 74

In part, the crooks have been able to commit their misdeeds because the benefits of consumer protection services have not been sufficiently comprehensive where black women are concerned. In part, black women have been victimized because their culture has not prepared them for the task of amassing and managing assets or because the financial markets that are accessible to them have not supplied them with trustworthy advisors or intermediaries.

In my view, the biggest impediment to black women’s wealth accumulation is the absence of a black economic action agenda and program directed at helping black women secure long-term financial security for themselves, their families, and their communities. Black women are not educated or informed about how to manage money—how to spend it, save it, invest it, negotiate with it, or give it away. 75 As popular economic commentator George Subira put it, “[P]roper information about money management has no systematic way of entering their lives. The information is not part of their high school or college education, is not part of the Black media (except Black Enterprise), is not offered in our churches or social organizations, and is generally not discussed intelligently at the family dinner table.” 76 In explaining why blacks do not manage their money better, Subira points to such factors as a false sense of security, a belief that only the rich need or can afford assistance with managing their financial well-being, a healthy suspicion of those providing financial assistance, an underutilization of financial assistance by other blacks who might serve as role models, and a lack of economic guidance from black leaders. 77 This indictment should include lawyers. I

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74. See generally Jane Bryant Quinn, Insurer That Victimized the Poor, WASH. POST, July 30, 1995, at H02 (exploring fraud in the home service life insurance industry). See also Louis Sahagun, In Wake of Gang Violence, Insurers Come Knocking, L.A. TIMES, Oct. 5, 1990, at Al (home service life insurance company targets parents in a crime-plagued neighborhood); Catherine Trevisan, Agents Faked Applications, Women Lawsuit Charge, The Tennessean, Sept. 16, 1996, at 1A (charge of fraud-based agents’ intentional “clean sheeting” or recording of false answers on applications leveled against company 86% of whose policyholders were black). For a fictional account of the significance of burial insurance to older black women, see Allen Gurganus, Blessed Assurance: A Moral Tale in Which People 192 (1991).

75. See SUBIRA supra note 52, at 179.

76. Id. at 180.

77. See id. at 183-84.
like to think that this situation is changing.78

Much of my recent research has explored the ways in which black economic activity has come to be associated with deviance of one sort or another. The acquisition of wealth stands on a par with other forms of economically advantageous or enterprising behavior that are treated as forbidden, mysterious, or aberrant when undertaken by blacks. Blacks are belittled or impeded as they struggle to understand and conquer their economic marginalization. The label “deviant” gets applied to the black actors on both sides of a commercial transaction: buyers and sellers, clients and lawyers, investors and investment advisors. The worst thing about the deviance approach to black economic activity is that many black people, especially women, have bought into the idea and embraced it. However, black economic activity is not deviance; it is only constructed as such to make it easier to exploit black people. It is necessary for blacks to get beyond the blanket suspicions and barriers created by the labeling of black economic activity as deviant in order to begin to achieve enduring economic progress.

I like to talk in terms of building and strengthening the black public sphere. The black public sphere contemplates uniting political and economic arenas with the goal of building black institutions, increasing employment opportunities for blacks, and expanding the power that comes from collectively generating wealth and controlling the messages and the mechanisms for deciding how it should be used. The black public sphere approach is based on a notion of the black good life that can only be achieved if blacks control outlets for their cultural creativity and their economic productivity. The black public sphere approach proceeds on the assumption that blacks can compete with anyone else and can build a base of wealth like everyone else if racist institutional and structural barriers are brought down.

Of course, our society is characterized by many competing and overlapping public spheres. Most black women participate in more than one. When it comes to managing and using wealth, many white and nonblack minority women are operating under

78. One sign of change is the appearance of books on money management and investing written by and for blacks, including one that is directed at black women. See e.g., KEVIN E. BOSTON, SMART MONEY MOVES FOR AFRICAN AMERICANS (1996); CHERYL D. BROUS-SARI, THE BLACK WOMEN’S GUIDE TO FINANCIAL INDEPENDENCE (5th ed. 1996); BROOKE M. STEPHENS, TALKING DOLIORS AND MAKING SENSE: A WEALTH BUILDING GUIDE FOR AFRICAN-AMERICANS (1997).
the same disabilities that impact blacks of both genders. As Sheryl Marshall put it in an essay entitled Getting Money and Using It:

Women have not grasped the economic implications of enfranchisement, nor the intimate connection in our political/legal system among economics, politics, and the law. It is probably safe to say that the majority of women—in spite of external manifestations to the contrary—have not internalized the concept of personal, lifelong independence.79

Many do not have checking accounts, have never made an investment, do not know what they are entitled to under their spouses’ Social Security or pension plans, and have no financial plan of their own.80 Marshall attributed women’s lack of financial risk-taking to many factors, including women’s socialization, formal education, experience, support systems, and perception by the business community.81 The next stage of the feminist movement will likely concentrate on infiltrating and changing structures of economic power.82 Although white women start out with access to significantly more wealth than black women, there may be points of convergence between the black and white female public spheres. Achieving changes in public policy that will make it more likely that black women will be able to build the assets required to support a good life for themselves and their families will require that those points of convergence be strengthened and emphasized.

It will take a great deal of time and effort to build coalitions around women’s efforts to build assets. However, with every election and through successful organizing campaigns like that being waged against the underinvestment in breast cancer research, women’s political clout is growing. Women need to use their political capital to support the accumulation of material capital with which all women might assure their long-term financial security.

Increases in black women’s material capital will depend, therefore, on the combined impact of their social and political capital and that of others whose concerns mirror, overlap, and coincide with their own. In that regard, let me end with the words of Ose-

80. See id.
81. See id.
ola McCarty, the laundry woman who donated her life's savings to the University of Southern Mississippi for scholarships for needy students.\textsuperscript{83} Ms. McCarty's lonely and isolated existence came to an end when she took her hard-earned savings and unselfishly gave it away. The social power that wealth can create is evident in Ms. McCarty's story; by so generously donating her accumulated assets, she has been rewarded with honors, attention, and a bit of fame.\textsuperscript{84} Her contribution to the University of Southern Mississippi has been more than matched by those of others stimulated by her example. Ms. McCarthy is publishing a collection of her sayings that will be entitled \textit{Simple Wisdom for Rich Living}. On the subject of savings, she says, "The secret to building a fortune is compounding interest."\textsuperscript{85} She is right about that.


\textsuperscript{84} This point was raised by Hugh F. (Trey) Daly of the Legal Aid Society of Cincinnati who commented on this Article at the Agenda for the 21st Century Labor Force Conference.

\textsuperscript{85} Bragg, \textit{supra} note 83, at A22.