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“‘Durability’ and Failure to Produce Black American (Afrodescendant) Success”

“Durability” is the operative term in the topic for this essay. But it is critical that we clarify the type of “durability” involved. We will let the “cat out of the bag” up front and then reveal the reasoning as we received it.

The political economy and public choice literature is definitive on our topic. The “interest group theory of government” clarifies that the role of government is to facilitate wealth transfers between interest groups usually through legislation. On the interest group side of the equation that determines recipients of transfers, “durability” (duration of receipt of transfers) is dependent upon transfer amounts and variations in the cohesiveness and level of resources (financial and nonfinancial) available to interest groups that compete for the identical transfers. On the government side of the equation, selected examples of factors that can affect Black Americans’ access to, and the durability of, these transfers include:

- The durability of transfers is likely to be reduced by the extent of independence of the executive (including bureaus that support the executive branch), legislative, and judicial branches of government. Greater independence (a potential sign of weakness in branches’ voluntary adherence to unified positions or views, and the enforceability of such positions or views) implies higher levels of resource expenditures by interest groups to secure transfers.
- Typically, successful legislation is a “necessary” condition for Black Americans’ (Afrodescendants) receipt of transfers; however, approved legislation alone does not guarantee receipt of transfers for which Black Americans may have competed.
- Without comprehensive consideration of historical legislative outcomes and appropriate assignment and application of probabilities, Black Americans’ selection of legislation to pursue and the level resources (monetary and nonmonetary) to expend to ensure the passage of legislation will likely be economically inefficient.
- It is crucial that Black Americans account for various routes to **legislative failures** beyond just legislative repeals: (i) Inadequate funding to implement legislation—including incomplete enforcement; (ii) ill-conceived assignment of legislative implementation authority to agencies with disincentives to implement legislation optimally; (iii) a partial rewrite of (revisions to) legislation—including expansion or narrowing of legislative intent (e.g., expanding or contracting the racial/ethnic and/or gender identity of

legislations' intended beneficiaries); and (iv) contingent events and/or legislative sunset provisions that trigger revisions to legislation or its expiration.

At a minimum, our use of “legislative failures” in the final bullet above can be interpreted to mean that legislation falls significantly short in producing the intended and/or expected results that motivated efforts to develop legislation and to secure its approval. Obviously, many factors can cause legislation to fail after becoming law.

But before Black Americans “place the cart before the horse,” we should assess objectively whether our “interest group coffer” contains resources (monetary and/or nonmonetary) that are sufficient to force legislative bills through their unique labyrinth. In other words, when Black Americans consider a legislative pathway to improve our wellbeing, we should be certain that our coffer includes enough “political capital” (money, connections, incriminating evidence, thuggish enforcers, etc.) to ensure that we can force the legislation through both US Congressional Houses and on to the President’s desk for a signature that is guaranteed.

It is understandable that past **Black American leadership** (especially religious leadership devoid of training in the political economy field) may have been unaware of the full scope of factors to consider before pursuing legislative solutions to Black America’s problems, as opposed to an alternative approach. Today, however, knowledge concerning these factors is at everyone’s fingertips. Even if today’s Black American leadership is unaware of the foregoing, they can consult an expanding number of Black American economists who possess expertise in the political economy field—correct? Probably incorrect!

We say “probably incorrect” because recent evidence from Black American economists who have tackled important topics that are integral to Black America’s current or future wellbeing do not appear to address sufficiently concerns about how pursuit of legislative solutions usually produces much less than desired results, if not outright failure.

For example, a search of the text and indexes of two of the most important volumes in the past five years that concern **Black American Reparations** reveals that neither volume includes the term “durability.”ⁱ This is not to say that the volumes do not highlight many of the factors that cause legislation intended to improve outcomes for Black Americans to fail. However, we were unable to easily identify that authors of these volumes saw the clear reality of much of this legislation; i.e., that it was designed to fail from the outset because of factors discussed above. Accordingly, these authors proceed with recommendations to adopt a legislative approach to pursue Black American Reparation.

Another particularly important and popular initiative to improve outcomes for Black Americans is the adoption of so-called “Baby Bonds” programs by selected states to help close the Black-White wealth gap. Probably the most widely read publication on “Baby Bonds” appears in the *Review of Black Political Economy* and is entitled “Can ‘Baby Bonds’ Eliminate the Racial Wealth Gap in Putative Post-Racial America?”ⁱⁱ Here again, highly respected Black economists propose a program to improve Black American wellbeing that is to be pursued through legislation. Given that the “Baby Bond” program involves a child investment program that matures at “adulthood,” the program and the related legislation appear extremely vulnerable. Twenty years is “forever,”

and stands as an ever-open window for revisions to, or abandonment of, the “Baby Bonds” program because interest groups that compete for the funds may be willing to logroll with politicians to negotiate the development of a program that offers a larger payout all around.

Generally, US government, political, and legislative history tells us that even programs as sacrosanct as Social Security (operational since the mid-1930s) surface periodically in response to a chorus of calls to revise the program, which usually suggest reducing or eliminating benefits. Also, consider that Pres. Barack Obama’s healthcare program (“Obamacare”) faced fierce headwinds and requests to revise or repeal the legislation as soon as it was established in law by Pres. Obama’s signature in 2010. At the same time, these two social benefit programs also confirm that legislation intended to improve outcomes for all (most of the population) is likely to experience better approval and survival rates than legislation that is designed to benefit relatively small population subgroups.

We close this essay by reinforcing the following historical point: Black Americans (Afrodescendants), who sought and seek to improve our wellbeing via the legislative route need only look in the rearview mirror to determine what happened to three very important and popular Federal legislative actions that were narrowly targeted to eliminate Black-White inequality:

1. **The Civil Rights Act of 1964** that addressed: (i) Public accommodations; (ii) employment discrimination (EEOC); (iii) Federally funded programs; and (iv) school desegregation.
2. **The Voting Rights Act of 1965** that addressed: (i) Voter discrimination; and (ii) the authorization of Federal oversight of voter registration processes to ensure against voter discrimination.
3. **The Fair Housing Act of 1968** that addressed: (i) Discrimination for all types of transactions related to the acquisition and disposal of housing.

The initial expectation concerning these three legislative actions—at least for Black Americans—was that they would improve our relative position in the U.S. socioeconomic hierarchy. If one compares the initial legislation with the most recently available version, one will observe that the power of the legislation to produce favorable change has been diminished or minimized by some or all of the factors discussed above as causes of legislative failures.ⁱⁱⁱ

We all know that *ceteris paribus*, we cannot “do the same thing repeatedly and expect different outcomes.” What we know from this essay is that outcomes for legislation designed for a narrowly defined population subgroup (Black Americans (Afrodescendants)) has a very consistent history: **The legislation fails!** Given our awareness of this fact, it will be “nobody’s fault but ours,” if we continue with *status quo* approaches (in this case, development of new legislation) and fail to identify more successful strategies for improving Black Americans’ (Afrodescendants’) future wellbeing.

A good starting point for identifying such strategies is the ***Long-Term Strategic Plan for Black America (LTSPFBA)***, https://www.ltspfba.org/LTSP/fin_ltspfba_071223.pdf.

B. Robinson
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Endnotes

ⁱ The two volumes are: (1) William Darity, Jr. and A. Kirsten Mullen (2020). *From Here to Equality: Reparations for Black Americans in the 21st Century*. UNC Press, Chapel Hill. (2) *California Task Force to Study and Develop Reparation Proposals for African Americans* (2023). Attorney General for the State of California. San Francisco.

ⁱⁱ Darrick Hamilton and William Darity, Jr. (2010). “Can ‘Baby Bonds’ Eliminate the Racial Wealth Gap in Putative Post-Racial America?” *Review of Black Political Economy*. DOI 10.1007/s12114-010-9063-1. (Ret. 091825)

ⁱⁱⁱ Part IX (beginning on page 966) of the *California Reparations Task Force Study (CRTFS)* that is cited in Endnote i explores the historical evolution of US court cases that concern Civil Rights, Voting Rights, Fair Housing, and more. The *CRTFS* publication delineates how these laws were diminished and made less beneficial than initially expected by Black Americans (Afrodescendants).