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Article

Whiteness as Property: Predatory Lending and the Reproduction of Racialized Inequality

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Abstract
With the recent economic crisis in the USA, stories of homes lost to foreclosure are increasingly common. In this paper, we attempt to connect this present day problem to its historical roots in racial oppression. We examine 2004 data from the Home Mortgage Disclosure Act database for racial disparities in lending. We find that African Americans are less likely than European Americans to receive loans from regulated lenders. We also find that regardless of lender type and income level, African Americans are more likely than European Americans to receive high priced loans. We argue that these racial differences in access to quality loans that allow for the acquisition of assets through home ownership are part of a historical trend of whiteness as property and undeserved enrichment and unjust impoverishment.

Keywords
housing, predatory lending, racial inequality, sub-prime lending, whiteness as property

Introduction

Open the newspapers or turn on the television, and you will undoubtedly hear much about a crisis of 'subprime lending'. Often what is not discussed in these news stories is how subprime lending, a component of predatory lending, is part of a continuing legacy of systemic racism in the USA. In this article, we engage such a discussion by examining the relationship between 'race'[1] and sub-prime lending. Using 2004 data from the Home Mortgage Disclosure Act (HMDA) database for five different cities, we find that African Americans are less likely than European Americans to receive loans from regulated lenders. We also find that African Americans are more likely than

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European Americans to receive high priced loans and be served by lenders specializing in high priced credit, regardless of income level. We argue that these findings are evidence for the continuing significance of racism. Specifically, we contend that the data illustrate a continuing legacy of the 'wages of whiteness', which result in 'undeserved enrichment' for European Americans and 'unjust impoverishment' for people of color. These patterns ascribe a value to whiteness – what Cheryl Harris (1993) calls 'whiteness as property'. In this study, we argue that whiteness as property is evident in unfair lending practices that target African Americans. Therefore, we see whiteness as a form of property in the 21st century not only due to its symbolic and psychological benefits, but also because 'white' skin allows European Americans greater advantages for accumulating actual property and wealth by way of home ownership.

Past studies have documented lending disparities between African Americans and European Americans and have shown that subprime lending is growing among low-income and African American communities (De Leeuw et al. 2007; HUD 2000; Wyly and Holloway 1999). For example, a study entitled *Unequal Burden*, published by the US Department of Housing and Urban Development (HUD), found that low-income and 'minority' neighborhoods were becoming increasingly vulnerable to predatory lending (HUD 2000). However, these studies do not examine how lending disparities have helped to maintain whiteness as a form of property. Past studies do not examine, as we do, the historical transition from the creation of 'race' to the wages of whiteness to whiteness as property and how this historical legacy perpetuates lending disparities in the present day. Institutionalized racism as expressed through redlining, segregation, etc. is only part of the explanation. Our argument is that these racist practices became institutionalized in the first place to protect whiteness.

In what follows, we will distinguish between subprime lending and predatory lending as well as income and wealth. We will then outline the historical legacy of undeserved enrichment and impoverishment. Within this history, we will define the concepts 'wages of whiteness' and 'whiteness as property' and the events that have created persisting racial inequality in the present day. Finally, we will present our data and findings and conclude with a discussion of study limitations and possible avenues for future research.

Subprime Lending vs Predatory Lending

While observers often use the term 'predatory lending', the concept has not been clearly defined or distinguished from the more general 'subprime' lending. In general, predatory lending involves practices of extending credit that injures the borrower, usually by depleting equity the borrower has previously amassed in home ownership (Bradley 2000; Goldstein 1999). These practices may involve one or more of several techniques of subprime lending. Prime-rate lending is credit extended only to the lowest-risk borrowers. Prime markets typically serve individuals with excellent credit, some asset accumulation and a number of other factors which influence a high credit score. According to the Department of Housing and Urban Development, the prime market typically serves 'A' borrowers whose credit scores are above 650 (Renaurt 2004). Subprime lending is credit extended at rates higher than the prime rate. The subprime market provides credit to borrowers with an A- to D rating, which includes credit scores below 650.[2] Typically, these products have higher interest rates and less favorable terms than products serving the larger mainstream market. Almost everyone who borrows money accesses credit at interest rates above the prime rate, or subprime loans (Immergluck 2004; Ross and Yinger 2002).

Not all subprime lending is predatory. Subprime lending extends credit to borrowers with risk factors such as poor credit ratings, and as such carries higher interest rates to offset the higher risk

such loans pose. Its purpose, as Bradley (2000: 160) states, is to 'reward consumers trying to get out of debt and improve their credit by allowing them to build equity in their homes and to transition into prime loans as their credit improves'. The key to subprime lending is that the higher interest rates charged are justified by the level of risk posed by the loan, are applied to all borrowers without discrimination, and carry terms and conditions similar to those applied to prime lending. In contrast, *predatory* lending is a sub-category of subprime lending, in that it harms rather than helps the borrower with interest rates well beyond the risk posed, carries terms far more punitive than those applied to prime lending, and in general attacks and erodes the equity position of the borrower rather than helps to build it. Since African Americans and predominantly African American neighborhoods have had a history of being denied access to mortgage lending, they become prime targets for predatory lending in that such loans appear to the borrower, at least initially, as a way into the mortgage market. For lenders, it becomes a way to appear in compliance with the requirement of the Community Reinvestment Act (CRA) to provide mortgages in historically underserved neighborhoods, and a way to make a loan and recover its interest in that loan after quickly selling it to a secondary mortgage bank. Furthermore, not all lenders, particularly those specializing in subprime credit, are subject to CRA. This also makes African Americans more vulnerable to predatory lending, since they are more often served by these non-regulated institutions.

That income provides no advantage to African Americans in securing prime or at least better-than-predatory conditions and terms for their mortgages (or any mortgage at all) suggests that subprime lending at its most predatory operates to deprive African Americans of the main source of equity and wealth acquisition: home ownership (Bond and Williams 2007; Coffey and Gocker 1998; De Leeuw et al. 2007; National Fair Housing Alliance 2008; Squires and O'Connor 2001). Whiteness itself, then, becomes a source of property and a key multiplier of wealth acquisition over generations. In evaluating the differential effects subprime and predatory lending have on European Americans and African Americans, it is first necessary to understand the difference between income and wealth.

Racialized Inequality: Income versus Wealth

Income is the amount of money (usually in wages or salaries) that an individual receives for work performed. Wealth, on the other hand, is *accumulated* over time, and includes such things as property, stocks and bonds, and capital gains. Each generation does not begin from the same place with 'clean economic slates', since each generation's opportunities for individual investments in human capital are predicated on the abilities of the previous generations to accumulate wealth to pay for such opportunities (see e.g. Avery and Rendall 2002). That accumulation of material resources can translate into greater life chances because of the owner's ability to transfer equity into opportunity such as tuition for higher education and training for oneself as well as for others (for example, offspring). Inheritance is extremely important, because it ensures that inequality of the past is reproduced in the present. Past overt discrimination ensured a greater ability for European Americans to pass on their wealth (Oliver and Shapiro 1997; Shapiro 2001). As Oliver and Shapiro (1997: 111) state, 'Inheritance helps whites secure unearned advantages in the form of transformative assets that increase the wealth gap between the races.' Historically, European Americans have had greater ability to secure property than African Americans. In what follows, we will expound upon the historical roots of racialized wealth inequality in order to illustrate how lending practices perpetuate undeserved enrichment and unjust impoverishment, sustaining whiteness as a form of property.

The Legacy of Undeserved Enrichment and Unjust Impoverishment

The wages of whiteness in conjunction with other forms of institutionalized racism allowed those who identified as 'white' to accumulate greater economic and psychological advantages than those constructed as 'black'. This has been the process of *undeserved enrichment and unjust impoverishment*. Feagin (2000) develops these concepts drawing on the legal term 'unjust enrichment', which refers to 'circumstances which give rise to the obligation of restitution, that is the receiving and retention of property, money, or benefits which in justice and equity belong to another' (cited in Feagin 2000: 18). Likewise, Oliver and Shapiro (1997: 5–6) state:

> What is often not acknowledged is that the same social system that fosters the accumulation of private wealth for many whites denies it to blacks, thus forging an intimate connection between white wealth accumulation and black poverty. Just as blacks have had 'cumulative disadvantages', many whites have had 'cumulative advantages'.

In other words, the lives of European Americans have been unjustly enriched while African Americans have continued to suffer unjust impoverishment due to centuries of slavery, legalized and de facto segregation, as well as persisting institutionalized racism. Whiteness as property set in motion by the creation of 'race' and the wages of whiteness has been reproduced in each of these historical periods.

The Creation of 'Race' and the Wages of Whiteness

Historically, property and wealth became racialized through the creation of separate 'white' and 'black' 'races'. Prior to the 1800s the concepts of 'black' and 'white' were not completely established as a means of stratifying people within the USA. 'Race' was created over the course of a hundred years to divide poor, English servants from African slaves, the unification of which threatened the power and control of the ruling class (Allen 1997; Roediger 1991; Smedley 2007). Beginning in the early to mid-1600s, slave codes were implemented in order to prevent interactions between slaves and those who would be deemed 'white' persons (Allen 1997; Harris 1993). These slave codes can be seen as one form of the wages of whiteness.

The *wages of whiteness* was a phrase coined in 1935 by W.E.B. Dubois in his famous work *Black Reconstruction in America*. By 'wages of whiteness' Dubois was referring to the public and psychological benefits that European American workers were given over their African American counterparts (Dubois 1935). Dubois stated:

> It must be remembered that the white group of laborers, while they received a low wage, were compensated in part by a sort of public and psychological wage. They were given public deference and titles of courtesy because they were white. They were admitted freely with all classes of white people to public functions, public parks, and the best schools. The police were drawn from their ranks, and the courts, dependent upon their votes, treated them with such leniency as to encourage lawlessness. Their vote selected public officials, and while this had a small effect upon the economic situation, it had great effect upon their personal treatment and the deference shown them. (1935: 700–701)

Consequently, the wages of whiteness created a split labor market in which ethnic antagonisms easily developed (Bonacich 1972). According to Bonacich, the labor market is split between three classes – the employers, higher paid labor, and cheaper labor. During slavery, English servants represented the higher paid labor and slaves represented cheaper labor. However, Dubois discusses the wages of whiteness as a means to divide English servants and African slaves, who often engaged

in interracial rebellions. Ethnic antagonism did not result only from competition over jobs, but largely from the creation of separate 'white' and 'black' categories of people.

Public and psychological wages were implemented to encourage poor, English indentured servants to separate themselves from African slaves. In 1705, laws were passed to ensure the status of Christian 'white' persons over 'black' slaves. Unlike slaves, 'white' indentured servants could not be whipped naked in public and their masters were required to provide freedom dues. For men, these dues included 10 bushels of corn, 30 shillings, and a gun. Women received 15 bushels of corn and 40 shillings, and some newly freed servants were guaranteed 40 acres of land (Allen 1997). What is more, 'white' indentured servants were given more days off than 'black' slaves, allowed to attend nicer churches, and to testify in court. Poor 'white' people were also made into overseers and given public deference over African Americans (Dubois 1935).

Hence, the interests of 'white' indentured servants and 'black' slaves diverged with the introduction of freedom dues and other wages of whiteness, dramatically reducing the number of interracial revolts (Allen 1997). It did not take long for later European immigrants, such as the Irish and Italians to realize that subscribing to a 'white' racial identity rather than a European ethnic identity was crucial in distinguishing themselves from blackness; and therefore, increasing their chances for upward mobility in the USA (Ignatiev 1995; Roediger 1991, 2005). The wages of whiteness provided the foundation upon which 'whiteness as property' was built.

Whiteness as Property

Some historians note that prior to the invention of 'race', property was fairly equally distributed among European and African Americans. Interestingly, it was not until after implementation of slave codes and the creation of separate 'white' and 'black' categories of people that property ownership for European and African Americans began to diverge drastically.

It should be noted, however, that most European Americans had occupations (e.g. as white-collar clerks, sailors on slave ships, and slave catchers) that were linked directly or indirectly to the system of slavery and therefore most, regardless of class position, benefitted economically from slavery (Feagin for thcoming). So while the racial wealth gap may have increased after the invention of 'race', African Americans were never able to secure nearly as much wealth through property or other assets as were European Americans. Still, the creation of 'race' through slave codes and other legal actions played a crucial role in establishing whiteness as property.

Whiteness as a form of property has historically been protected by government policies and laws that have directly and indirectly excluded African Americans. During slavery, laws were written to ensure the property of European slave masters while stripping African Americans of their property. The Supreme Court case of Johnson and Graham's Lessee v. M'Intosh in 1823 more directly established whiteness as property by ruling that *whiteness was a prerequisite for*

Table 1. Landownership and race, 1666 and 1860

	1666*	1860*
Landowners as a percentage of		
African American rural pop.	10.9%	0.3%
European American rural pop.	17.6%	9.5%

Adapted from Allen (1997: 185).
* 1666 is for Northampton County, Virginia Colony and 1860 for whole state of Virginia.

ownership of property. This set the stage for the numerous court cases that would follow in which immigrants petitioned the courts for the right to be defined as 'white' (Lopez 1996). Therefore, Harris (1993: 1736) argues:

> whiteness became an exclusive club whose membership was closely and grudgingly guarded. The courts played an active role in enforcing this right to exclude – determining who was or was not white enough to enjoy the privileges accompanying whiteness. In that sense, the courts protected whiteness as any other form of property.

The wages of whiteness inscribed a value in 'white' skin that has been reproduced from slavery to the present day. The legacy of undeserved enrichment and unjust impoverishment carried out through the periods of slavery, reconstruction, and segregation created the foundation upon which present day racial disparities in wealth are built, and reproduced whiteness as property. The most significant factor in creating wealth is home ownership. This property and wealth has been systematically denied African Americans since the time of slavery. During slavery, African Americans could not own property but were rather the object of property.

Slavery

Economists, historians, and sociologists have documented how slavery as an institution created persisting wealth inequality, which is reproduced with each generation (America 1990; Feagin 2000). Ransom and Sutch (1990) indicate that European Americans gained a significant portion of their wealth from the ownership of slaves. They calculate that prior to the onset of the Civil War, slave property made up almost 15 percent of total private assets in the USA. By 1860, these scholars estimate that the wealth of Southern planters by way of slave property amounted to more than $3bn. Slave owners, such as James Madison, also frequently noted the tremendous profit they could make from slavery. Shortly after the American Revolution, Madison explained to a British visitor that he could make about $257 per year on each slaves' labor and that the cost of maintenance was about $12–13 per year (Zinn 1980). These figures are tangible evidence of 'undeserved enrichment and unjust impoverishment'. Slavery also clearly marked whiteness as a form of property. As Cheryl Harris (1993: 1721) states:

> Because whites could not be enslaved or held as slaves, the racial line between white and Black was extremely critical; it became a line of protection and demarcation from the potential threat of commodification, and it determined the allocation of the benefits and burdens of this form of property. White identity and whiteness were sources of privilege and protection; their absence meant being the object of property.

State policies from the time of slavery to the present day are also key components of undeserved enrichment and unjust impoverishment and whiteness as property. Oliver and Shapiro (1997) refer to this process as the 'racialization of state policy'. They argue that:

> Historically, policies and actions of the United States government have promoted home-steading, land acquisition, home ownership, retirement, pensions, education, and asset accumulation for some sectors of the population and not for others. (Oliver and Shapiro 1997: 4)

For example, the Headright System, which began in the mid-1600s, offered European men incentives to immigrate to the USA. Men were given 150 acres of land upon arrival and 100 more acres for each man they brought with them as well as 100 additional acres for each female servant

or person under age 16. The Land Act of 1820 reduced the price of land for German farmers and allowed them to buy land on credit. These opportunities were not made available to African Americans. In fact, the reason such land was available for European immigrants, was because it was taken from Native Americans. The 1830 Indian Removal Act, which forcibly relocated Cherokee, Creeks, and other Eastern Native Americans made available 270 million acres of land that was given to European Americans in accordance with the 1862 Homestead Act (Feagin and Feagin 1999). Native Americans were placed on reservations and African Americans would not be able to apply for land until after slavery.

Reconstruction

Following slavery, the period of reconstruction beginning in the 1860s showed some initial promise for the possibility of African Americans to acquire land. The Southern Homestead Act of 1866 allowed African Americans to apply for land previously denied them in the Act of 1862. However, 77 percent of the applicants were European American, since those who had taken up arms against the Union were not eligible (Oliver and Shapiro 1997). Hence, while African Americans made some gains during the period of reconstruction, it was not enough to close the racial gap in landownership and wealth. As Feagin (2000: 59) argues:

> The end of slavery did not bring an end to the badges, burdens, or disabilities of slavery. Black men, women, and children were effectively reenslaved through the laws and informal practices of the southern and border states.

Black Codes, which were essentially a reinstatement of slave codes, limited the rights of African Americans. After the period of reconstruction, segregation laws were developed that took the place of these Black Codes.

Legalized Segregation and Suburbanization

The Supreme Court's decision in Plessy v. Ferguson (1896) legalized racial segregation, which blocked the ability of African Americans to accumulate wealth. Policies during the period of legal segregation to the present day created what Oliver and Shapiro (1997) call an 'economic detour' for African Americans. By this they mean that African Americans were deterred from creating their own businesses and from gaining access to mainstream markets. Specifically, government policies in the 1930s, which assigned value to certain neighborhoods and properties, led the way to creating racial discrimination in lending. According to this appraisal system, neighborhoods that were predominantly African American were coded in the color red and were deemed less valuable than predominantly 'white' areas (Feagin and Sikes 1994; Lipsitz 2006; National Fair Housing Alliance 2008; Oliver and Shapiro 1997). This practice became known as 'redlining' and was used by the Federal Housing Authority (FHA) to determine the kinds of loans they would make. Redlined neighborhoods were places where the FHA typically would not invest. This practice, along with taxation policies that favored business development in the suburbs and restrictive covenants that explicitly promoted racial segregation, allowed European Americans to accumulate wealth in home ownership, while locking African Americans out of the housing market (National Fair Housing Alliance 2008; Oliver and Shapiro 1997). Because of these discriminatory practices, African Americans were denied entrance into housing developments, such as Levittown, which made housing affordable for many European Americans. Oliver and Shapiro (1997) cite that as late as 1960, none of Long Island's 82,000 Levittown residents were African American. Many European

American families taking advantage of such suburban developments benefitted from the G.I. Bill (Feagin and Sikes 1994).

Following World War II, part of the federal effort to economically aid returning soldiers included a program to give them access to affordable mortgage loans, administered through the Federal Housing Act. African Americans were routinely denied such loans (Brown et al. 2003; Feagin and Sikes 1994; Lipsitz 2006). The FHA program also strongly favored European American suburban neighborhoods to the exclusion of granting mortgages for homes in the inner cities. Eventually the low-interest mortgages European Americans accessed through the FHA were paid off leaving the homeowners with accumulated equity in their property, an element of wealth denied African Americans. That equity could then be translated into material resources to invest in upward mobility opportunities for the homeowners as well as their children. Moreover, the 'white' homeowners' properties had appreciated considerably in value over the years, so that the amount of equity they accumulated was substantially greater than the price of the property initially (Goering and Wienk 1996; Hirsch 2000).

During this period, urban renewal also helped to create a new 'white' identity by worsening racial segregation (Lipsitz 2006). European Americans became concentrated within suburbs and ethnic divisions among them became less and less important. What was more important was the separation of these European Americans, now absorbed under a 'white' identity, from African Americans. Lipsitz (2006) argues that the possessive investment in whiteness has only increased since the time of urban renewal. This investment in whiteness is expressed through 'white flight', when 'white' homeowners move out of their neighborhoods into which African Americans are moving. The Civil Rights Movement created some positive changes toward equality; however, racial segregation and discrimination persist in contemporary society.

Persisting Inequality in the Post-Civil Rights Era

The FHA continued to honor restrictive covenants until 1949. The Supreme Court outlawed such practices in Shelley v. Kraemer (1948) and The Fair Housing Act of 1968 prohibited 'race' based redlining (Oliver and Shapiro 1997). What is more, the knowledge that access to mortgage lending and property acquisition was systematically denied to African Americans and that neighborhoods with high concentrations of African Americans were routinely redlined motivated Congress in 1977 to pass the Community Reinvestment Act. The CRA forced banks to provide mortgages to severely underserved communities. In addition to the CRA, The National Fair Housing Alliance (NFHA) was founded in 1988 to promote equal access to housing and loans (National Fair Housing Alliance 2008; Oliver and Shapiro 1997).

While these changes had some positive impact in reducing inequality, redlining and other discriminatory practices continued. The effects of this discrimination are still felt by African Americans in the present day (Immergluck 2004; Oliver and Shapiro 1997). In 1988, the *Atlanta Journal Constitution* published a Pulitzer-Prize winning series entitled 'The Color of Money', which revealed persisting discrimination against African American and European American applicants of similar income levels (Dedman 1988). This publication prompted a number of subsequent studies on mortgage and lending discrimination. Most of these studies have found persisting racial discrimination in lending (Bradbury et al. 1989; Coffey and Gocker 1998; Ross and Yinger 2002; Schill and Wachter 1993; Squires and O'Connor 2001; Squires and Velez 1996). In 1991, a national study of 6.4 million home mortgage applications found that African Americans were rejected by commercial banks twice as often as European Americans (Oliver and Shapiro 1997). Using HMDA data to study lending patterns in urban Ohio, Coffey and Gocker (1998) found that in the 20 years since the passage of CRA, lending disparities between African Americans and European Americans

persisted. They argued that these disparities were due to continuing discrimination against African Americans and that this discrimination was a key factor that prevented African Americans from accumulating wealth.

In 1999, Wyly and Holloway revisited the findings of 'The Color of Money' and discovered that while the situation in Atlanta had improved somewhat, lenders still made 4.2 times (compared to 5.2 in 1988) as many conventional loans to 'white' middle income neighborhoods as to 'black' middle income neighborhoods. Hence, while there has been some improvement due to the CRA and other measures taken to reduce inequality, discrimination is still a problem. The racialization of state policy throughout the period of slavery, reconstruction, and de jure and de facto segregation sustained a pattern of undeserved enrichment and unjust impoverishment, such that 'white' skin ensured greater chances for gaining wealth and owning property. The average African American family holds about 15.7 percent of the wealth of the average 'white' family (Aizcorbe et al. 2003). In 2000, 73 percent of 'white', non-Hispanic households had home equity compared to 47 percent of African Americans. In 2002, the rate of home ownership for 'white' Americans was 74.7 percent but only 48.9 percent for African Americans. These racial disparities hold even after accounting for income, education, and location (Avery and Rendall 2002; Nembhard and Chiteji 2006; Oliver and Shapiro 1997).

Scholars of 'race' and racism argue that these disparities persist because progressive changes put forth during the 1960s to rectify inequality were stifled by backlash to civil rights policies (Brown et al. 2003; Lipsitz 2006; Smith 1995; Wilson 1996). In the 1980s, the Reagan administration attempted to reverse many of the gains made by the Civil Rights Movement, leaving most civil rights organizations underfunded (Lipsitz 2006). This backlash was fueled by a more covert form of racism and color-blind ideology – the notion that racial discrimination no longer existed and therefore policies meant to combat discrimination were no longer necessary (Bonilla-Silva 2001; Carr 1997).

Because racism is more covert in contemporary society, whiteness as property is sustained in more subtle ways. Black codes that overtly state the value of whiteness over blackness no longer exist, but whiteness continues to be valued as a form of property because being 'white' allows one a greater ability to accumulate property and whiteness continues to be valued in the housing market. Lipsitz (2006: 107) argues that 'members of aggrieved racial groups experience their racial identities through impediments to accumulation of assets that appreciate in value'. Likewise members of the dominant racial group (i.e. 'white' people) experience their racial identities through the ability to accumulate assets that do appreciate in value. Hence there remains a value to the racial identity of whiteness. Differences in income and wealth, home ownership, the greater value of 'white' neighborhoods over 'black' neighborhoods, all of these circumstances inscribe a value into the 'white' racial identity. Whiteness continues to have value because those located in 'white' areas, those defined as 'white', continue to be valued more (either overtly or covertly) by lenders and to have more value through property and other assets. One need only compare the conditions of predominantly 'black' to predominantly 'white' neighborhoods to find the value placed in whiteness in contemporary society. Those living in predominantly 'black' areas are more likely to live near dumps and toxic waste, be exposed to air pollution, and have greater rates of illness, such as asthma and lead poisoning (Lipsitz 2006). Furthermore, the NFHA finds that real estate agents continue to discriminate against African Americans by refusing to meet with them for appointments, steering them away from 'white' neighborhoods and quoting them higher interest rates than their 'white' counterparts (National Fair Housing Alliance 2006).

The historical legacy of protecting whiteness as property carries with it enormous economic consequences for European Americans and African Americans. We see these consequences in the persisting racialized wealth gap discussed above. Mortgage and lending practices play a large role in this gap by institutionalizing whiteness as property, which ensures undeserved enrichment for

European Americans and impoverishment for African Americans. In what follows, we will present our data and analysis of how these lending practices unjustly target African Americans.

Data and Methods

Cross-sectional data were collected on first lien home mortgage loan originations from a subset of census tracts in urban areas. Specifically, data were obtained for all mortgage loan originations in census tracts located within the place boundaries of the cities of Chicago, Indianapolis, St. Louis, and Cleveland from 2004. Place boundaries were based on 2000 Census Bureau definitions. Cities in the Midwest were chosen for two reasons. First, the economic opportunities available to residents in cities in the Midwest and Northeast were largely influenced by deindustrialization. In these cities, deindustrialization led to economic restructuring, which changed the nature of work, the availability of work, and the location of work (Self and Sugrue 2002; Sugrue 1996). Secondly, the effects of deindustrialization were compounded given the racial composition of these cities. The racial composition of these older, industrial cities was shaped by two significant migration patterns – one of the southern African Americans northward, and the second by the mass exodus of European Americans out of the city into the suburbs (Self and Sugrue 2002). The effects of which left African Americans concentrated in these urban areas, and therefore, more likely to suffer the economic effects of deindustrialization.

Data were obtained from the Home Mortgage Disclosure Act database, which is the most comprehensive public database on mortgage loans and lenders. In the current sample, there are 44,141 loans, 26,874 of which were made to European Americans and 8120 of which were made to people of color. The HMDA database resulted from the Home Mortgage Disclosure Act of 1975, which was enacted to require lenders to publicly disclose information on their lending patterns. Over the years, the information lenders are required to report has changed but commonly used features include borrower's income and 'race', loan amount and loan purpose, and the geographic location of the loan.

Although there are two ways African Americans can be unjustly treated in mortgage markets from racial profiling, blockbusting and other practices, our attention focuses upon the racial disparities that exist among loan outcomes. Therefore, in the context of the current lending environment and the emergence of concerns that lack of access to credit has been replaced with worries over the cost of credit, we identify two outcomes that may seek to reproduce inequality among African Americans. First, African Americans may receive a larger percentage of high priced loans, meaning their ability to generate more wealth and equity is eroded. Secondly, African Americans may be more likely served by non-regulated lenders, not subject to many of the regulations that are in existence to protect borrowers that have been traditionally underserved. Therefore, we ask two questions in this analysis. First, do African Americans receive a greater percentage of high priced loans? And, second, do African Americans receive a greater percentage of loans from non-regulated lenders? We use a simple cross-tabs analysis to answer these questions, controlling for any potential effects income may have on the outcomes.

Variable Definitions

Type of Lending Institution

For the purposes of this study, a regulated institution is defined as a depository institution regulated by one of the four federal agencies, the Federal Deposit Insurance Company (FDIC), Federal Reserve Bank (FRB), the Office of Comptroller of Currency (OCC), or the Office of Thrift

Supervision (OTS). Regulated depository institutions are subject to the Community Reinvestment Act of 1977. CRA has fostered the creation of outreach programs and of community reinvestment divisions within lending institutions to facilitate greater access to mortgage lending in underserved communities. CRA also encouraged greater connections between lenders and community groups through negotiated agreements. Therefore, it is expected that regulated institutions will be more likely to originate prime loans to African American borrowers. A non-regulated institution is defined as a non-depository institution regulated by the Department of Housing and Urban Development. Non-depository institutions are for-profit lending institutions, other than banks, savings associations, and credit unions. Non-depository institutions are subject to some regulation; notably the Home Mortgage Data Act; however, non-regulated institutions are not subject to the Community Reinvestment Act of 1977.

Racial and Ethnic Identification

Racial and ethnic identification is operationalized as a categorical variable with the values between one and six. Under HMDA, lenders are asked to report the racial and ethnic identity of the borrowers; however, in certain circumstances ethnic data is not collected, leaving a large amount of missing data. For the purposes of this analysis, any borrowers for which racial or ethnic data were missing were excluded from the analysis. HMDA allows borrowers to identify with the following racial and ethnic categories: African American, American Indian or Alaska Native, Asian, Native Hawaiian or Other Pacific Islander, or White. Borrowers can also identify whether or not they are of Hispanic ethnicity. For the purposes of this analysis, the data were collapsed into six mutually exclusive categories (value indicated in parenthesis) based on ethnic and racial identification, which included the following: Hispanic (1), American Indian or Alaska Native (2), Asian (3), African American (4), Native Hawaiian or Other Pacific Islanders (5) or White (6). Borrowers, regardless of racial identification, indicating Hispanic ethnicity were only included in the Hispanic category. Although the analysis was conducted using all of the racial and ethnic categories, only the results for African Americans and those identifying as ‘white’ are presented given the theoretical framework of the article, which rests on the historical creation of ‘black’ and ‘white’ as well as the undeserved enrichment and unjust impoverishment that impact these groups.

Borrower Income

Income is measured as an interval level of measurement. Data on borrower income were collected from the HMDA Database. HMDA data provide specific information on the borrower’s income. The individual borrower’s incomes were then collapsed into five $30,000 intervals (value for the analysis is included in parenthesis): Less than $30,000 (1), $30,001–60,000 (2), $60,001–90,000 (3), $90,000–120,000 (4), and greater than $120,000 (5). The cut points were based on a preliminary analysis of the data to ensure relatively equal distributions of the loans across the categories based on their proportions in the sample.

Type of Loan

Prime loan origination is a dichotomous variable. For the purposes of this study, a prime loan is defined as a first lien home loan origination that does not exceed the price triggers established by the Federal Reserve Board in 2004. The trigger points (one for first lien originations and one for subordinate liens) were established by the Federal Reserve Board in 2004 to provide an indicator

Table 2. Racial/ethnic identification and type of loan

Loan Type	European American Borrowers (0)	African American Borrowers (1)
High priced loans (15%) N = 6643	8.3%	34.2%
Prime loans (85%) N = 37,498	91.7%	65.8%
N = 44,141	N = 26,874	N = 8120

of whether a loan is prime or subprime. Lenders are required to report the difference between the loan's annual percentage rate (APR) and the yield on Treasury securities with comparable periods of maturity. If the difference in the spread is equal to or greater than three percentage points for loans secured by a first lien or five percentage points for loans secured by a subordinate lien, the spread is captured in the HMDA data. The purpose of the analysis is to determine if an association exists between racial and ethnic identification and type of loan.

Results

As presented in Table 2, within racial and ethnic categories and before controlling for income, 91.7 percent of European American borrowers received prime loans compared to 65.8 percent of African Americans.

This disparity is perhaps more powerful when considering the comparison between groups and subprime loan originations – only 8.3 percent of European Americans received subprime loans compared to 34.2 percent of African Americans, χ^2 (5, N = 44,141) 3742.00, $p < .001$. The disparity is also present when considering the percentage of African Americans receiving loans from non-regulated lenders.

As presented in Table 3, within racial/ethnic categories, regulated lenders originated 68.3 percent of loans to European Americans, compared to 44.4 percent to African Americans, χ^2 (5, N = 44,141) 1821.00, $p < .001$. Thus, among African American borrowers, non-regulated lenders served a greater percentage of their credit needs (55.6%).

Although the analysis suggests thus far that African American borrowers are more likely to receive subprime loans and be served by non-regulated lenders, additional questions remain as to whether or not this pattern is mediated by the income of a borrower. As Figure 1 illustrates, overall, the percentage of prime loans increases as a borrower's income increases. However, African American borrowers across every income category receive a smaller percentage of prime loans than do their European American counterparts and the relationship is statistically significant at each interval.[3]

Among borrowers with incomes less than $30,000, prime loan originations accounted for 63.6 percent among African Americans compared to 82.3 percent for European Americans, χ^2 (5, N = 44,141) 199.78, $p < .001$. Among borrowers with incomes between $30,001 and $60,000, prime loan originations accounted for 63.5 percent of loans to African Americans, compared to 89.9 percent of loans to European Americans, χ^2 (5, N = 44,141) 1501.00, $p < .001$. Among borrowers with incomes between $60,001 and $90,000, prime loans accounted for 68.3 percent of the loans to African Americans versus 92.8 percent of the loans to European Americans, χ^2 (5, N = 44,141) 899.57, $p < .001$. Among borrowers with incomes between $90,001 and $120,000, prime loans accounted for 70.7 percent of the originations to African Americans compared to 94.3 percent to European

Table 3. Racial/ethnic identification and lender type

	European Americans	African Americans
Regulated lender (61.9%) N = 27,303	68.3%	44.4%
Non-regulated lender (38.1%) N = 16,838	31.7%	55.6%
N = 44.141	N = 26,874	N = 8120

Americans, χ^2 (5, N = 44,141) 372.74, $p < .001$. Even at the highest income level, significant differences were found. Among borrowers with incomes greater than $120,000, prime loans accounted for 82.4 percent of the originations to African Americans versus 97.0 percent to European Americans, χ^2 (5, N = 44,141) 248.47, $p < .001$.

A similar pattern emerges when considering the relationship between 'race', income, and lender type. Figure 2 depicts the relationship between regulated lenders and the racial and income characteristics of borrowers. As the figure indicates, overall, borrowers with higher incomes receive a greater percentage of loan originations from regulated lenders.

This pattern persists when considering the racial characteristics of the borrower; however, borrowers identifying as African American receive a lower percentage of loan originations from regulated lenders than do their European American income counterparts.[4] Among borrowers with incomes less than $30,000, non-regulated lenders originated 50.7 percent of the loans to African Americans compared to 33.7 percent to European Americans, χ^2 (5, N = 44,141) 159.80, $p < .001$. Among borrowers with incomes between $30,001 and $60,000, non-regulated lenders originated 57.8 percent of the loans to African Americans, compared to 33.7 percent to European Americans, χ^2 (5, N = 44,141) 891.80, $p < .001$. Among borrowers with incomes between $60,001 and $90,000, non-regulated lenders originated 57.3 percent of the loans to African Americans versus 33.2 percent of the loans to European Americans, χ^2 (5, N = 44,141) 520.30, $p < .001$. Among

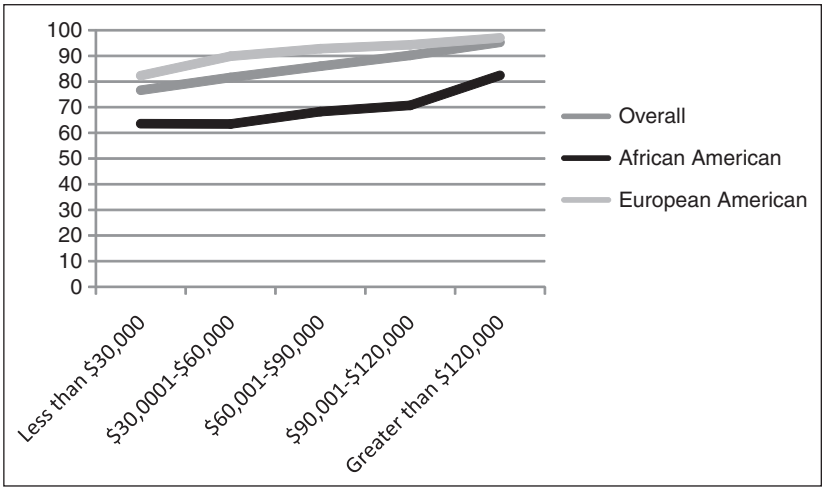


Figure 1. Percent prime loans by income, comparing Overall to European American and African American borrowers

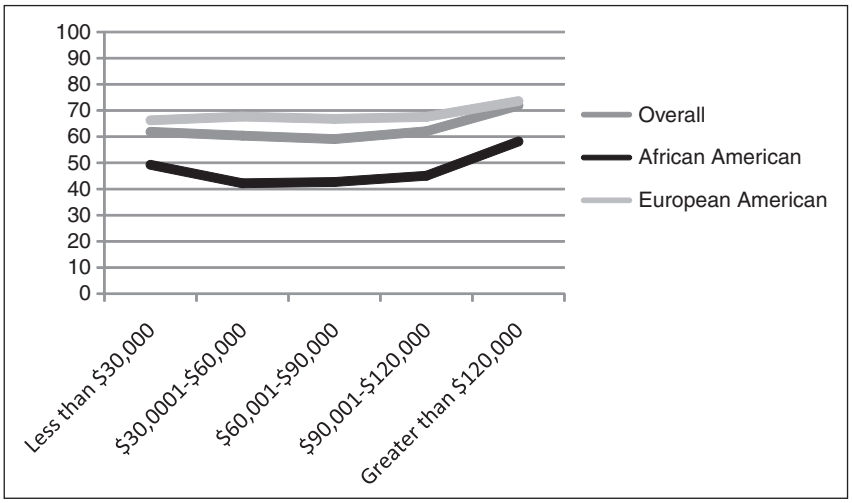


Figure 2. Percent loan originations by regulated lenders by income, comparing Overall to European American and African American borrowers

borrowers with incomes between $90,001 and $120,000, non-regulated lenders originated 54.9 percent of the loans to African Americans compared to 32.4 percent of the loans to European Americans, χ^2 (5, N = 44,141) 216.50, $p < .001$. Finally, among borrowers with incomes greater than $120,000, non-regulated lenders originated 41.8 percent of the loans to African Americans and 26.4 percent of the loans to European Americans, χ^2 (5, N = 44,141) 62.481, $p < .001$.

Discussion

Mortgage and lending practices play an important role in the racialized gap in wealth by institutionalizing differential access to mortgages at affordable, stable rates through institutions regulated by CRA. The data suggest that African Americans are more likely than European Americans to receive subprime mortgages from non-regulated institutions, regardless of income. Thus, being poor makes one vulnerable to subprime lending from non-regulated institutions; being African American, regardless of income, makes one vulnerable as well. While a case may be made for higher risks associated with lending to someone of limited income, it is difficult to imagine a similar justification for assigning risk to someone on the basis of their racialized group membership.

Case studies cited earlier here indicate that reliance on subprime lending from non-regulated institutions makes African Americans more vulnerable to loss of their property, which is a significant source of wealth. Thus, the racialized practices of subprime lending reinforce the growing wealth gap defined by enrichment for European Americans and impoverishment for African Americans (Feagin 2000). This occurs in at least two ways. First, since banks are charging African Americans higher interests rates, they are maintaining a cash flow from African Americans into white owned banks. Lipsitz (2006) suggests as much. He argues that money is channeled away from African American communities toward 'white' investors, because 'white' owned financial institutions receive more money from African American neighborhoods than they invest in them. Second, the probability of African Americans defaulting on loans multiplies their chances of losing their homes. These homes can then be re-sold with high priced loans to other African Americans, thus

creating a cycle of undeserved enrichment and unjust impoverishment, which maintains the value of whiteness as property. Future research into the ownership and employment patterns of regulated versus non-regulated institutions could lend insight into this process. Other avenues for future research and limitations of the study will now be addressed.

Limitations and Future Research

One of the limitations of our work is that we only compare those identifying as 'black' and 'white'. Much of the literature on the historical creation of 'race' rests on this comparison. Scholars have also debated the effect that recent immigration has had on the 'black/white' dichotomy and whether or not other people of color are becoming 'white' (Bonilla Silva 2004; Yancey 2003; Zhou 2004). Asian Americans, for example, have often been referred to as 'honorary whites' (Bonilla-Silva 2004; Zhou 2004). Future studies on predatory lending and whiteness as property could further analyze the history of these groups with regard to the creation of 'race'.

Another limitation of our study is that we did not control for credit scores. In the mid-1990s, credit scores were touted as a fairer way to assess creditworthiness. However, the National Fair Housing Alliance (2008: 15) argues that since bank holding companies have become more complex they have more channels through which to discriminate against borrowers:

> For example, the bank and mortgage company might offer prime mortgage loans in upper income, largely White communities, while the finance company might offer subprime loans in lower income communities and communities of color. Thus, the type of loan product a borrower ended up with could have less to do with his or her creditworthiness than with which of the lender's channels was operating in his or her neighborhood.

So, while credit does play a role in the type of loan borrowers receive, it may not play enough of a role to account for racial disparities. Nevertheless, future research controlling for credit scores is needed to address these issues. If racial disparities persist after credit scores are controlled for, it would add strength to the argument that whiteness continues to have value in the contemporary housing market.

Another alternative explanation to our findings may be that the reason why African Americans are more likely to receive subprime loans is not due to their ethnicity but due to their low net worth. However, the lower net worth African Americans have on average compared to European Americans is due to a long history of discrimination. Lipsitz (2006: 14) argues that when lenders claim to make decisions based on the low net worth of African American clients, they are essentially stating, 'We can't give you a loan today because we've discriminated against members of your race so effectively in the past that you have not been able to accumulate any equity from housing to pass down from the generations.' These sorts of arguments deny a form of past-in-present discrimination (Feagin and Eckberg 1980) that has at least as much to do with ethnicity as it has to do with other factors, such as net worth.

This past-in-present discrimination also applies to loans that are made over the phone or internet. While it can be argued that lenders cannot knowingly discriminate against African Americans, since they cannot see them over the phone or internet, past-in-present racial segregation ensures that prime loans are more likely to be made to European Americans than to African Americans. Past studies have found that borrowers living in zip codes with high concentrations of African Americans are more likely to receive loans with prepayment penalties and that high income African Americans living in predominantly 'black' neighborhoods are more likely to receive

subprime loans than are low-income European American borrowers (National Fair Housing Alliance 2008). During a federal lawsuit brought against Wells Fargo in 2008, it was found that two-thirds of Wells Fargo's foreclosures were in census tracts that were more than 60 percent African American (National Fair Housing Alliance 2008).

What is more, the National Fair Housing Alliance (2008: 50) argues that discrimination can occur over the phone through linguistic profiling, 'whereby a person is treated differently based on a racially or ethnically identifiable voice'. When African Americans call agents for information on a loan, their calls are often not returned (Feagin and Sikes 1994; National Fair Housing Alliance 2008). Feagin and Sikes (1994) find that African Americans ask their 'white' friends to make such phone calls to avoid this discrimination. The historical legacy of undeserved enrichment and unjust impoverishment has set up conditions in contemporary society in which whiteness as property can be reproduced in subtle ways. Racist judgments can easily be made over the phone or internet based on place of residence, credit scores, styles of speech, etc.

Finally, our study does not address the role of second mortgages or the housing refinance market. Given the current economic crisis, there may be an intensification of predatory lending. With rising rates of unemployment, those desperate for cash may resort to second mortgages, making them vulnerable to predatory lending. More research should be conducted on racial disparities in second mortgages and the housing refinance market, since the 2008 recession.

Conclusion

Our analysis here highlights that a long history of federal and state policies, as well as institutional and cultural practices, have together institutionalized racialized inequality. This is especially the case concerning the legal and social constructions of eligibility for acquisition and protection of property as a function of whiteness. Over time, racialized inequality of eligibility for property ownership has institutionally established whiteness itself as a form of property. It does not require overt and conscious racism on the part of mortgage lenders or property sellers to deny property acquisition and access to the American dream of home ownership to African Americans. Since such overt racist policies and practices went unchallenged for so long, with little or no affirmative interruption, unearned 'white' skin advantage and undeserved skin color disadvantage has compounded over generations. The accumulated advantages of previous generations' wealth gained by the advantage of simply having 'white' skin means current generations may invest in education, more property, and multiplied wealth. Similarly, the accumulated disadvantage of denial of previous generations' access to opportunities to gain wealth from property, based simply on having dark skin, means undeserved disproportionate difficulty of current generations of African Americans to invest in education, property, and wealth in the 21st century. Simply put, whiteness itself is property that has been and can continue to be traded for further advantage because wealth is accumulated over generations. To alter that cumulative undeserved disadvantage will require conscious, legal affirmative steps that address the institutionalized embedment of unearned 'white' skin privilege as property.

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Notes

1 We problematize the concepts of 'race', 'black', and 'white' by placing them in quotation marks. It has been well established that racial categories are social and political constructions that have no basis in biology (Lopez 1996; Roediger 1991; Smedley 2007). These categories were created in order to dehumanize and subordinate people of color. The concept of 'race' forms the basis of racism. Therefore, we contribute to racial oppression by not problematizing it. As Noel Cazenave (2004: 5) states '"race" should be problematized – and ultimately relinquished – not only because it is confusing … but because it is erroneous, and most importantly because it is injurious'. It is generally not acceptable to refer to Asians as 'yellow' or to Native Americans as 'red'. The categories of 'black' and 'white' are equally problematic.

2 There is not a definite line between credit scores that predict subprime or prime credit. Because credit scores are considered along with other factors, there are discrepancies between credit scores and access to prime credit. For example, some borrowers with a credit score of 660 will receive a prime loan and others may receive a subprime loan. Generally, though, the division between prime and subprime lies in the mid 600s.

3 To address concerns regarding the effects of higher housing prices in Chicago, an analysis was conducted excluding the data from Chicago (N = 15,618). The results exhibited the same pattern, and the relationships were significant at each income interval: less than \$30,000: χ^2 (5, N = 15,618) 122.10, $p < .001$; \$30,001–60,000: χ^2 (5, N = 15,618) 543.30, $p < .001$; \$60,001–90,000: χ^2 (5, N = 15,618) 129.80, $p < .001$; \$90,001–120,000 χ^2 (4, N = 15,618) 54.09, $p < .001$; greater than \$120,000: χ^2 (5, N = 15,618) 32.69, $p < .001$.

4 To address concerns regarding the effects of higher housing prices in Chicago, an analysis was conducted excluding the data from Chicago (N = 15,618). The results exhibited the same pattern, and the relationships were significant at each income interval [less than \$30,000: χ^2 (5, N = 15,618) 98.58, $p < .001$; \$30,001–60,000: χ^2 (5, N = 15,618) 304.50, $p < .001$; \$60,001–90,000: χ^2 (5, N = 15,618) 54.54, $p < .001$; \$90,001–120,000 χ^2 (4, N = 15,618) 14.05, $p = .01$; greater than \$120,000: χ^2 (5, N = 15,618) 10.93, $p = .05$].

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