


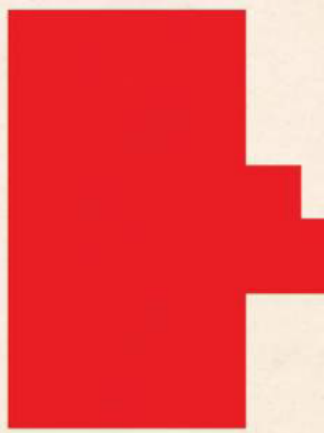
**A deeper investigation into  
the history of racial covenants  
uncovers their long shadow across  
our segregated cities and towns.**

**They contribute to an insidious  
campaign of housing apartheid  
more than a century in the making.**

**BY ANITA LITTLE**

**ILLUSTRATIONS BY CRISTIANA COUCEIRO**

# Buried Truths



37

38

39

3

2

1



4 9 3

**In Oberlin, Louisiana**, a small town of less than 2,000 people about an hour outside of Lafayette, an unassuming cemetery became the subject of national headlines after it refused a burial plot for a local resident.

That person was Darrell “Soul” Semien, and he was a Black man who had served the community for 15 years as a law enforcement

officer before dying at 55 after being diagnosed with cancer. A representative of the Oaklin Springs Cemetery told his widow, Karla Semien, that the cemetery was whites only, pointing to a clause in the burial contract that mandated “the right of burial of the remains of white human beings.”

“It was just so much a slap in the face, a punch in the gut. It was just belittling him. You know, that we can’t bury him because he’s Black,” Karla Semien would later tell reporters about the incident.

You might have assumed the above story was from a historical text, but you’d be wrong. This happened in 2021. And it’s not uncommon. The Semien case is only unique in the fact that the family spoke out about the incident, and the ACLU of Louisiana caught wind of it.

The ACLU swiftly issued a letter to the board of Oaklin Springs Cemetery demanding that it revise its unconstitutional bylaws, which dated back more than 70 years to the cemetery’s founding. In response, the business confirmed that it had removed all race-based restrictions from its burial contracts and unanimously

voted to destroy all previous copies that included the “whites only” covenant. The employee who refused a plot to the family was also relieved of her duties.

The president of the cemetery’s board apologized, stating he had been unaware of the racist language in the contracts and offered up one of his own plots to the Semien family. They refused, deciding Darrell Semien would no longer be at peace there.

“What happened here is not an isolated incident,” says Alanah Odoms, executive director of the ACLU of Louisiana, one of a dozen affiliates that make up the ACLU’s Southern Collective, an organizational effort to build Black political power in the South and dismantle structural racism in the region (see sidebar). “We suspect this is the tip of the iceberg.”

**W**ith racial restrictions tucked away in property deeds across the country, one doesn’t have to search too long to find segregationist language designed to bar Black people from white spaces. Racial covenant clauses made it against the law to sell

**“The discrimination that stunted Black economic and political progress lives with us today.”**

land or property—in this case, a burial plot—to anyone of a non-white race.

Covenants rose to popularity in the early 20th century after the Supreme Court ruled in 1917 that outright city-wide segregation ordinances violated the 14th Amendment. White property owners and real estate developers, eager to find other methods to preserve “neighborhood stability,” soon turned to racial covenants. Included in private deeds that homeowners contractually agreed to, they were out of reach from federal and local laws.

As racial covenants proliferated across the country, white neighborhoods were kept white and integrated areas slowly became segregated again as people of color were systemically pushed out of homeownership. It in many ways cleared the path for the redlining that would come later when mortgage lenders would deny loans or offer only high-interest loans to applicants based on the racial demographics of where they lived.

The 1948 Supreme Court case *Shelley v. Kraemer* involved a lawsuit a white family brought against a Black family that purchased a home in a St. Louis neighborhood that had a restrictive covenant barring Black people and Asian Americans from occupying the property. A lower court enforced the covenant, determining that it covered a private action and didn’t violate the equal protection clause of the 14th Amendment. The ACLU’s amicus brief in *Shelley* argued that the lower court enforcing the covenant turned the issue into a state

## Investing in the South

As part of a multiyear racial justice agenda, the ACLU is investing in the people and region most impacted by centuries of regressive policies: the South.

The Southern Collective is a collaborative effort of 12 ACLU affiliates in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North

Carolina, South Carolina, Tennessee, Virginia, and West Virginia—states with remarkable histories of civil rights battles. The collective works on three priority issues: strengthening voting rights, ensuring reproductive justice in communities of color, and building support for reparations.

“From Reconstruction to recent attacks on democracy, there is and has always been political backlash in retaliation to the advancement of marginalized people—particularly in the Deep South,” says JaTaune Bosby, executive director of the ACLU of Alabama. “Those

rooted in on-the-ground organizing and advocacy work know that investment in people who live and fight in the South will lead to results that reverberate across the nation.”

Learn more about how the ACLU is effecting change in the South at [aclu.org/southerncollective](https://www.aclu.org/southerncollective).

Vista



1878



matter, not a private one. The Supreme Court eventually agreed, stating, “[t]he framers of the Fourteenth Amendment regarded equality in property rights as ‘an essential pre-condition to the realization of other basic civil rights and liberties which the Amendment was intended to guarantee.’” Covenants still remain on the books in many places, but this decision made covenants unenforceable.

Someone in 2021 then might ask: Why are these toothless covenants, relics from a bygone era, of so much concern?

“Our society is still very much segregated by race in our communities, our churches, our jobs, our schools, and even our cemeteries,” says Nora Ahmed, the ACLU of Louisiana’s legal director. “And we’ve been led to believe that it’s just because like goes with like. We don’t realize that it’s been deliberately structured that way, and that it emanated from these racially discriminatory covenants.”

That this language exists in so many places, even if it’s not enforced, also acts as a signal, a reminder that this country and its promises were meant for only a select few. Removing these covenants from documents would be simple, and the lack of organized effort

to do so communicates the racism that vigorously thrives beneath the veneer of changed laws.

And the impact of these covenants goes far beyond just the creation of white neighborhoods and Black neighborhoods. There was and still is a very material cost to racially restrictive covenants. One of the most common forms of intergenerational wealth transfer is through the passing down of homes. This is how wealth begets more wealth as home values incrementally increase. For the majority of American families, home equity makes up the lion’s share of their wealth.

But covenants effectively shut Black and other families of color out of that dream. Inequities in homeownership rates are now a major driver of the racial wealth gap.

And it’s a disparity that’s hardly progressed with the passage of time. Soon before COVID-19 would ravage the globe, Black homeownership was already at its lowest level since 1970, only 40.6 percent. And the fallout of the pandemic set Black and Latinx communities even further back, erasing gains that took years to build.

**T**he economic consequences of covenants and other forms of housing discrimination have been both staggering and persistent. According to a Federal Reserve Board 2019 survey, the median white household has \$188,200 in wealth, while the median Black family only has \$24,100 and the median Latinx family has just \$36,100.

“The discrimination that stunted Black economic and political progress lives with us today in the racial wealth gap,” says Rakim Brooks, senior campaign strategist at the ACLU. Brooks is leading the ACLU’s Systemic Equality agenda, which includes specific policy requests of Congress and the Biden-Harris administration. The agenda’s priorities include closing the racial wealth gap and seeking reconciliation for our country’s discriminatory history in housing and other aspects of public life (see sidebar).

“We know that white households are much more likely to inherit wealth from their parents, while Black households are more likely to have to financially support their parents,” says Jacob Faber, associate professor of sociology and public service at New York University, who has done extensive research on restrictive covenants. “That’s directly tied to the ways that we excluded Blacks from accumulating home equity through housing policies, including the encouragement of racial covenants.”

Faber’s work builds off seminal books by Melvin Oliver, *Black Wealth/White Wealth: A New Perspective on Racial Inequality*, and by Mehrsa Baradaran, *The Color of Money: Black Banks and the Racial Wealth Gap*. The growing scholarship on the racial wealth gap has created a new push to find strategies to alter centuries of systemic discrimination.

“The connection is just so clear when you look at history,” says Odoms. “The past is very much present.” So present that you can draw a map of it.

Since 2016, a team of researchers, geographers, and designers at the University of Minnesota’s Mapping Prejudice Project have been working to unearth a willingly forgotten history and provide factual support to what Black



# Achieving Systemic Equality

The ways in which racism and discrimination enter the lives of Black people, Indigenous people, and people of color have systemic roots. Therefore, our solution must be systemic as well.

The ACLU's Systemic Equality agenda, a multiyear racial justice campaign, is

building on a century of civil rights advocacy to dismantle America's legacy of white supremacy through new legislation and policy reform.

One of its most urgent pillars? Closing the racial wealth gap and eliminating the differences in opportunity that got us here.

Policy analysts at the ACLU have built a road map for change that includes canceling up to \$50,000 of student debt for eligible borrowers, decreasing the dependency on costly payday loans and check-cashing services through access to postal banking,

and lifting half of Black and Latinx children out of poverty by making the child tax credit permanent.

A more equitable society is possible, but only if we fight on every front.

To find out more about our vision and how you can help, visit [aclu.org/equalitynow](https://aclu.org/equalitynow).

and Brown communities have known for generations. They use digital mapping software and interactive visualization tools to show how covenants shaped the racial landscape of Minneapolis.

"Our job is to make it clear that this didn't happen accidentally. We're building that base map of dispossession to show that everything since then has compounded upon that pattern," says Kirsten Deleard, a co-founder of the Mapping Prejudice Project and a public historian.

"Now that we can use big data, we can really quantify what the impact of racial covenants has been on intergenerational wealth, residential housing patterns, and property values. It allows us to understand much more than if we just looked at them as a piece of isolated text in this one deed."

In Minneapolis, where Mapping Prejudice is based and where widespread civil unrest occurred after the murder of George Floyd, the homeownership gap between white and Black residents is more than 50 percent. Only 25 percent of Black families own their homes compared to 75 percent of white families.

A common hurdle researchers face in gathering this important property data is access to public records, a roadblock Deleard has encountered repeatedly.

"We are running up on a reluctance by some public officials around the country to allow us access to public records,"

she says. "That has emerged as the biggest barrier to expanding this work, not staffing, not the technology, not even the funding."

The ACLU has also received pushback to the work it's doing in Louisiana and throughout the South to uproot racial covenants and their negative effects. Shortly after the ACLU of Louisiana's letter successfully resulted in Oaklin Springs Cemetery confirming that it had revised its whites-only bylaws, the affiliate was a recipient of a letter itself.

A white individual who owns a burial plot in the cemetery threatened to file a legal complaint stating that with its actions, the ACLU was violating his right to be interred in a whites-only cemetery as per the burial contract he signed. The plaintiff claims he is not racist, but that he has "preferences" that include being "laid to rest in a white cemetery."

To that, Odoms says, "Bring it on. We'd be very happy to litigate that case."

Knowing the Semien case is not an outlier, the ACLU of Louisiana is urging all local institutions to review their own founding documents and void any racist policies or clauses that may still be lingering in the text. They're also expanding their staff this summer, bringing on a lawyer whose role will focus specifically on conducting an analysis of restrictive covenants in the state.

"But we're not studying restrictive covenants for the sake of studying restrictive covenants, as fascinating of an exercise that is," says Ahmed.

Ultimately, the data collected will be used to better lobby against discriminatory policies that keep people of color from purchasing homes. Fair housing

is a core tenet of the ACLU's Systemic Equality agenda, and last year, the organization mounted a federal lawsuit against the U.S. Department of Housing and Urban Development for its Trump-era rollbacks of housing protections.

This work also supports the case for reparations for economic injustices enacted against Black Americans since the end of slavery. H.R. 40, a bill that the ACLU supports, would create a commission to analyze the lasting impacts of slavery and make recommendations to Congress for reparations. Introduced in every congressional session since 1989, the bill made it past a committee vote for the first time in its history this year.

"We cannot repair harms that we have not fully diagnosed," says Brooks. "Our history has shown us that it's not enough to take racist policies off the books if we are going to achieve true justice. We need systemic solutions."

*Imagination* is a word that often comes up when talking about progress and reform. That it takes imagination to dream up a better society, a country that's fair and livable for everyone. But Odoms believes that we actually don't have to imagine too hard.

"I think we sometimes feel we have to imagine something that doesn't currently exist in order for Black and Brown people to have good lives. But we already know what that looks like," says Odoms. "Well-heeled white communities have good schools, grocery stores with healthy food, and jobs where they can afford to buy that food. The model we want exists; it just exists for one segment of society. We need to expand it to those who have been left out from it." ■

**"We cannot repair harms that we have not fully diagnosed."**