

Taxcast Extra: Keynote speech from Professor Dorothy Brown, author of *The Whiteness of Wealth*, 15/07/21 at the Tax Justice Network conference: Human rights and the 4 'R's of tax justice

Naomi: "Hello and welcome to this Taxcast Extra from the Tax Justice Network. I'm Naomi Fowler, I'm the host and producer of the Tax Justice Network's podcast the Taxcast. You'll find it on your podcast app. Please do subscribe as well, make sure you never miss an episode. You can just ping me an email on naomi@taxjustice.net or subscribe through our website on www.thetaxcast.com

We've had the honour before of speaking on the Taxcast with law Professor Dorothy Brown. She's been doing trailblazing work on systemic racism and tax justice in the United States for many years. She's author of the book *'The Whiteness of Wealth: how the US tax system impoverishes black Americans – and how we can fix it'*. You'll find a link to the book in the show notes along with some other further listening and reading.

In this Taxcast Extra you can hear Professor Brown's key note speech which she gave to the Tax Justice Network's annual conference. Here's Professor Brown:"

Professor Brown: I'm going to talk a little bit about my research, the reaction that, I should say, the *negative* reaction that I've received from some of the research, as well as what might be possible in moving forward in the US with respect to tax reform. So my book, the Whiteness of Wealth is, uh, broken up into several chapters. And I'm just going to talk briefly about the research in each of the chapters. There is a marriage chapter, a home ownership chapter, a college chapter, a jobs chapter, a legacy chapter, and what potential tax reform plans going forward might be worth considering if what we want is a tax system that doesn't enhance white wealth, um, but instead enhances black wealth building.

So let's start with marriage, which really is the first thing I ever wrote about, uh, race and taxation. And I'm going to start with saying the US IRS system, internal revenue system, that is the mechanism in the government for collecting tax returns and processing them - they don't publish statistics by race.

Why the IRS doesn't publish statistics by race is a question that I can't answer because they've never said why, right? They have published statistics on gender, they've published statistics on age, but they've never published statistics on race. And the IRS commissioner has testified recently, like in the last month or so that that's not the IRS's job, that that's Treasury's job, so it's a lot of finger pointing, but I think now is the moment where people are going to be holding the IRS commissioner, as well as the Secretary of Treasury accountable.

So when I decided to write about race and tax, I didn't even realise that the IRS did not publish statistics by race, so how on earth was I ever going to publish anything? Well, I had to become a detective and I would read material on race that had nothing to do with tax, but bring my tax lens into it. And I came across a report on the status, the economic status of black women and there was a line in there that said 'married black women contribute

roughly 41% to household income and married white women contribute 29%.' Now, to someone who's not a tax geek, it wouldn't mean anything. But to me, I was basically jumping out of my seat because I knew that the joint return, which is a filing mechanism, right, for married couples, the joint return disadvantages two equal wage earner households. If two spouses earn roughly equal amounts, the tax laws in America don't help them. If one spouse earns a hundred percent of the income, or close to a hundred percent of the income, the tax laws benefit them. So that statistic that said married black wives contribute 41% to household income told me that the penalty for marriage was going to be disproportionately received by black married couples, like my parents. So that sentence was nice, but it wasn't necessarily going to hold up an entire article! So what I did was, um, worked with an institute at the University of Cincinnati, where I was teaching at the time that looked at census bureau data for the entire United States of America, pulled out married couples and pulled out white married couples and pulled out black married couples. And lo and behold, the research in the census bureau proved what I thought it would, which is mainly at all income levels, married black couples are more likely to be in 50:50 or 40:60 households, which means they're going to pay a penalty. But married white couples are more likely to be in single wage earner households where it's a hundred, zero or 90:10 split. They get a tax cut when they get married.

So here we have just one provision, the joint return that as I did research for the book, I found out, came into existence because of a rich white couple named Charlotte and Henry Seaborn. At the very beginning of our modern US income tax system, the only people who paid taxes were rich Americans. Everybody else didn't pay taxes because they didn't earn enough money. Well, the rich Americans were white Americans and they didn't like the fact that they were the only ones paying taxes and they had wealth, so they would then engage in schemes or ideas to decrease the amount of taxes that they paid. And one of their schemes was Henry Seaborn deciding to just treat his wife as if she got half of his income. And because when a progressive tax system splitting the income between those two cut their tax bill. Well, there was one problem. The law didn't allow it. So the IRS said you can't do it. And they fought in court and went all the way up to the Supreme Court and they said, yeah, you can do it. Fast forward to 1948, Congress decides to make what the Seaborns got applicable across the country in the joint return. And ultimately that caused married black couples to pay higher taxes. So, it's an example of tax policy in the US built on white norms, how white Americans did marriage, not how black Americans did marriage, because black wives always worked outside in the paid labour market, more than white wives.

So one point I was presenting this research at, uh, a tax professor conference, and the first comment was directed at me, and the academic said 'well, Dorothy, everybody knows your work is irrelevant because blacks are poor and don't pay a lot in taxes.' So, this was kind of the norm, right? I would often get criticised for writing about race and tax when the profession recognised class, but thought race had nothing to do with it because after all, as this person said, blacks are poor, they don't pay a lot in taxes. The problem, however, is most blacks are not poor. And even if you want to focus on the poor who are black, we have something called an earned income tax credit that has significant penalties if you're married

and as your income increases, the tax credit decreases such that the tax rate on low-income taxpayers eligible for earned income tax credit is a high marginal tax rate. So even poor people wind up getting disadvantaged with tax policy.

So, the next chapter in the book is on home ownership, and what my research showed - again, IRS doesn't publish statistics on race - so I had to go to sociology research to look at how home ownership operated on the ground between white and black Americans. And what I found out was depending on how many black Americans live in your neighbourhood determines how much your home will appreciate. If you're in an all white or virtually all white neighbourhood, that's where most of the home ownership appreciation is. And that's where most white homeowners want to live. If you live in a racially diverse, an all black neighbourhood, you don't get as much appreciation out of your home. And the research also shows that there's a different tax treatment for selling your home at a gain, versus selling your home at a loss. Selling your home at a gain, you can get up to half a million dollars of gain tax-free.

But if you sell your home at a loss, you don't get a tax break. And I know it's going to surprise you, white and black Americans don't do home ownership the same way. Most black Americans live in racially diverse or all black neighbourhoods. And in those neighbourhoods, black homeowners are more likely to sell their home for a loss. If you live in an all white neighbourhood, you're more likely to sell your home for a gain and a tax-free gain up to half a million dollars. So if you want to get equity, if you want to get wealth out of home ownership, in theory, you want to live in an all white neighbourhood and be one of the only black families in the neighbourhood. But there are problems with being the only black family in the neighbourhood. You know, there are lots of newspaper reports that tell us that white neighbours don't know what their black neighbours look like so they call the police on them when they're just trying to get into their own home. If you have a child that goes to a school, then you have teachers that will see your child engaging in the same behaviour that white peers do, but the teacher calls your child out. Suddenly, your child is in detention, or your child has to go see the principal. So there are issues that I call *racism triage* that black homeowners have to deal with if they want to be that one black family in an all white neighbourhood, so that they can have the opportunity to get up to half a million dollars of tax-free gain.

Well there's another, this is another example of how did we get this provision that gain on the sale of a home should be tax-free? Well, it dates back to the 1950s when the defence industry in the United States was gearing up and they needed workers to move from one part of the country to the other. Well, the 1940s had been a time where the federal government was helping white Americans become homeowners. So for the first time, in 1950, we have a majority of white Americans are homeowners. And if they want to sell their home and move to get a defence job, they're going to pay taxes. Well, tax policy said, no, no, no, you won't have to pay taxes. Right? So tax policy in the early 1950s helped white Americans who were homeowners. A significantly lower percentage of black Americans

were homeowners. And we know the defence industry wasn't gearing up to hire a lot of black workers! It was all about white workers who happened to be homeowners.

So this piece, my research on home ownership, I'd say got more pushback than virtually anything else I've ever written. Why? Because white law professors like to think of themselves as progressive, as liberal, as good on race. And what my piece told them is they were living in these all-white neighbourhoods - let's be clear - and they wanted to say, oh, it didn't, it wasn't about race, it was about all these other things, but, but the research showed that it really was only about race. So they didn't want to believe this wealth gap was about race, they wanted to believe it was anything else. And one, uh, academic said to me that it was actually a good thing that the house in black neighbourhoods didn't appreciate that much because it meant other first time black homeowners could buy in the neighbourhood and buy a cheap house, which was mind-numbing to me because who wants to make that much of an investment, which is what it takes to buy a house, to have very little upside? And besides, if it was such a good investment we would see lots of white homeowners doing it, and we don't. Right? So I got a lot of craziness with respect to the home ownership piece because it just made the academics lose their minds, basically because they didn't want to face the reality that they in fact were living, you know, had homes in these all white neighbourhoods.

Well, the next chapter in the book deals with college, and this was the first thing I'd written about college, so this was new for me. And the research on college was, was awfully difficult to locate. There isn't anything in one place, right? So I looked for debt loads, I looked for gifts and inheritances that pay for college. And it was an amalgamation of sources that led me to the overall conclusion, which is - black Americans who go to college are more likely to leave with higher debt load than their white peers. If their white peers leave with debt, it's lower and they pay it off quickly. And also their white peers are more likely to have parents and grandparents who pay for college so that the tax subsidy for debt load is you get an interest deduction for student loan debt, but it's capped at \$2,500. And if you look at the high debt loads of black Americans, the \$2,500, doesn't allow a lot of black student debt loan holders to deduct all of their interest. Whereas, if you look at what the typical student loan debt for white borrowers were, you see that they can amortise their debt and pay and not reach the cap of \$2,500. So what we see in tax law for higher education is limited subsidies if you pay for it yourself and unlimited subsidies, if somebody else pays for it. So gifts and inheritances that your relatives pay for your college is tax-free.

So this chapter was, I think, the most depressing for me because I came across this statistic that showed 60% of black Americans who start college don't graduate - 60%. But they often leave with debt. And the whole theory behind taking on debt to go to college is you graduate and you get that better paying job. But if you leave college with debt and no degree, you have the debt and you don't have the better paying job. So this chapter, the pushback that I've gotten from folks who have heard about it or read it is by white Americans who say, 'I didn't have anybody pay for my college. I paid for it myself,' which of course has nothing to do with my chapter, right? My chapter doesn't say every white person

has their college paid for, my chapter says that lots of white Americans have their college paid for, and it's paid for in a tax-free manner.

The other piece of the tax subsidy is not-for-profit colleges, you know, Harvard, Yale, Emory. What we see is those institutions with huge endowments that pay very little taxes and without the 2017 tax cuts, it was zero taxes but now it's a small, it's a small amount of taxes. Those colleges and universities are not welcoming places for black Americans. But they have this tax subsidy that basically goes for the benefit of their majority white student bodies. So even though these institutions would tell you, they're doing so much better, they're doing outreach, they're doing all these things, in the last 30 years, the enrolment of black students has not budged. So what we see is this tax subsidies for these very rich billion dollar endowed institutions, and those tax subsidies are not going for black students. In fact, one of the programmes that helps black students are [inaudible] grants and [inaudible] grants have not kept up with inflation and they pay for very little of college. So, one suggestion I have is we should tax endowments of very wealthy institutions and fully fund [inaudible] grants so that black students could actually, with need, could graduate college debt-free.

The next chapter is about jobs and looking at the tax-free benefits that come with good jobs. Health insurance, uh, or time in account and what the labour market shows us is there's occupational segregation. There are white jobs and there are black jobs, and it's not going to surprise you at this point, the white jobs tend to be the ones that come with tax-free benefits like health insurance and retirement accounts. The black jobs tend to not come with those. And even when you have a black worker who works for an employer that provides these benefits, black Americans are less likely to participate. Why is that? Because our money goes elsewhere. Research shows black college graduates are more likely to *send* money to their parents. White college graduates are more likely to *receive* money from their parents that they then use to build wealth. Black college graduates on the other hand are ones financially supporting extended family members who were the victim of Jim Crow, who were the victim of segregation, illegal race discrimination. Because of that, we are less likely to participate in our retirement account. But there's also research that shows equally qualified black college graduates have a harder time getting those good paying jobs. They have to send more resumes in order to get interviews. And when they're offered positions, they're offered lower paying positions, even though they are qualified and apply for higher paying positions.

So one of the solutions I've suggested is, well, if an employer is discriminating in how they pay wages, then perhaps we should not allow them to deduct their wages. I got a response to that - "You're turning the IRS into the equal employment opportunity commission and that's wrong!". And what's interesting about that comment is Congress itself passed a law that said you cannot deduct compensation unless it's reasonable. Well, why couldn't we just find reasonable as not discriminatory on the basis of race? Right? Of course we could. So, when Congress says you only get a deduction for wages if it's reasonable, it really causes us to think, well, what's reasonable? is discriminating on the basis of race reasonable? It shouldn't be!

Okay. So that's the jobs chapter. And then the legacy chapter, how do white Americans build up wealth compared with how black Americans build up wealth? A lot of inheritance, a lot of family, financial transfers, and the parents, the parents pay for their grandchildren to go to private school. Therefore the parents don't have to pay for it, therefore they can save money and invest. Whereas black Americans, I mentioned before, less likely to get an inheritance and when we do, we are less likely to be able to use the inheritance to build wealth. Why? Because we're usually using it to support extended family members. So the pushback I often get here is, 'well, I didn't get an inheritance.' And it's really interesting when white Americans push back on the notion that our tax system is designed to help build white wealth, is I know if I had a 10 minute conversation with them, I could quickly pull out where their whiteness helped build their wealth. Right? They don't see it, but if you talk with people as I've done over the years, within a few questions, I can see it. So that's usually the, 'I didn't inherit it!' And actually there are white families that I talk about in my book, they didn't necessarily inherit it, but they got a loan that enabled them to buy real estate in New York that, you know, skyrocketed in value. Or they had a friend who worked in the stock market and taught them how to invest. So there are lots of ways that whiteness helps you build wealth, that there just isn't that access for black Americans.

So I want to close with talking about what might be next in US with respect to race and tax reform. So first, when the book came out, I was approached by Congress to testify. I testified before the Senate finance committee, and I testified before a House committee. In 20-something years of doing this research, I've never been asked to testify before Congress. So I will say that the publicity that the book has gotten has caused some people in Congress to take notice and to be interested in thinking through how we might publish statistics on race and tax.

President Biden in January of this year signed a racial equity executive order, which told his government, the political appointees in each of the branches of government, each of the departments to dis-aggregate data by race. And of course the department I'm most interested in is the Treasury Department because they put out lots of statistics, none of which have anything to do with race. And I must say the Treasury Department is giving me no cause for optimism because they've done nothing so far. They've talked, but they've done actually nothing. So I'm cautiously optimistic that something could come out of Congress as well as the President could decide to make it clear to Treasury that they have to make race and tax statistics a priority. So I'm optimistic and pessimistic all at the same time.

You know, this is a systemic problem so we need a systemic solution. Now in each chapter I have, I call it small solutions. So the solution to the joint return is to just have individual filing, have marriage *not change* our tax bill. The solution to home ownership, in my opinion, is getting rid of these subsidies for home ownership that disproportionately benefit white homeowners. With college, we should start taxing these private institutions that are very wealthy and fund [inaudible] grants and other things. With respect to jobs, we should have employers required to publish statistics, do an audit, their own audit and publish statistics on racial disparities in pay and racial disparities in take-up on retirement accounts and

health insurance. And we should think about taxing gifts and inheritances that go to wealth building and not go to supporting extended family members. So, there are individual changes. And then I think there are bigger changes. So to me, the solution is a radically different tax code than we have now. It is kind of going back to basics. What we had at the beginning of the 20th century in the United States, where we had very few loopholes and deductions. And only if you made more than a living allowance would you pay taxes, so that it would basically have one rate, well, it would be a progressive tax rate, but one rate system that would apply whether you ran Amazon, or whether you worked in a warehouse. So we would tax income from Capital the same way we tax income from labour.

And there's this pushback against talking about race, period. And I think it's time for allies to step up and say, and when I say allies, white allies to step up and say one, we need to teach real history in school. If you want to talk about what's going wrong, it's talking about slavery for example as something that benefited the slaves, right? We were kind to the slaves. That's what a lot of history books in America say! So if we really want to, if we want to get real, then we can talk about yeah, our history books, they don't tell the truth. Let's talk about telling the truth. And to push back on the notion that we cannot talk about race because the IRS has not talked about race and it hasn't stopped black people from paying higher taxes. So not talking about race is a design mechanism to maintain the status quo of white supremacy.

How do you know what potential problems there are if you don't look? And when you look, then you learn and you figure out what your solution is. I think the States, for example, in the United States should take up the charge on who's paying sales taxes, who's paying excise taxes, by race. So yes, we should have more of it, not less. And in terms of how do we fix it? In my chapter on solutions I talk about black taxpayers who gave themselves a tax credit for racism, and they wound up in prison, right? So, my book, the whiteness of wealth gave lots of examples of white Americans who broke the law and got rewarded for it with a change in tax policy. But when black Americans try to take what they called a reparations credit, the IRS threw the book at them. So I believe we need to fight smart. Right? And, you know, the civil rights tradition includes going to jail, civil disobedience, right? But in terms of what the potential solutions are, I think we should think big. And we should also think small, that we should have multiple tracks and not think there's one right way to get it done, we should try lots of different things. And we should talk about a transformed tax system, so I think it's an 'and' approach as opposed to an 'or' approach.

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