Unequal Remedies: The Columbia Settlement, Black Reparations, and the American Choice of Who Gets Redress

For more than a century and a half, America has denied Black Americans—the direct descendants of enslaved people—any form of reparative justice by hiding naked racial exclusion behind a parade of transparently false, weak, and nonsensical legal excuses. Consider what slavery really was. American slavery was a state-sanctioned system of total human domination in which Black people were legally reduced to property, bred and sold like livestock, raped, tortured, mutilated, starved, worked to death, and denied every attribute of personhood—family, autonomy, bodily integrity, education, and legal existence—so that a nation could enrich itself through terror enforced as law.

Despite this horrific historical truth, courts and lawmakers have held firm in denying Black American recompense. They have invoked standing doctrines while standing on mountains of historical proof; they have called slavery and Jim Crow "too remote" while their economic and social consequences remain immediate and measurable; they have labeled reparations a "political question" precisely to avoid political accountability; they have fretted about administrability while administering far more complex remedies for others; and they have pleaded fiscal concern while authorizing vast public expenditures when Black people are not the beneficiaries. These rationales are not neutral principles faithfully applied; they are instruments of racial containment, engineered to preserve the material and symbolic fruits of slavery while denying its victims a remedy. Strip away the legal varnish and the pattern is unmistakable: when Black Americans seek redress for the foundational crimes of the republic, the law suddenly loses its imagination, its courage, and its capacity—revealing that the denial of reparations has never been about doctrine, but about race.

But when the federal government wants to protect and repair a people, they do so swiftly and decisively.

Institutional Memory and Selective Moral Urgency: Five Historical Markers at Columbia University

Any serious assessment of Columbia University's present-day posture on discrimination must be situated within its own institutional history. That history does not establish collective guilt, nor does it

diminish the reality of antisemitism today. It does, however, demonstrate a recurring pattern: Columbia has repeatedly occupied positions of intellectual authority while participating in, legitimizing, or tolerating racial hierarchies that inflicted concrete harm on Black Americans, without triggering the kind of federal intervention, monetary redress, or structural overhaul now imposed in the name of civil rights. Five historical markers are particularly instructive:

First, Columbia's early-twentieth-century role as a center of eugenics and race science is not contested history. Faculty affiliated with the university contributed to a body of scholarship that classified human beings into racial hierarchies, advocated coercive population control, and provided intellectual justification for forced sterilization laws enacted across the United States.

"Dear Members of the Teachers College Community,

The Board of Trustees of Teachers College, Columbia University unanimously voted today to remove Edward L. Thorndike's name from the building that has held his name since its dedication nearly 50 years ago. While Thorndike's work was hugely influential on modern educational ideas and practices, he was also a proponent of eugenics, and held racist, sexist, and antisemitic ideas"

July 15, 2020
Thomas Bailey
President, Teachers College

These ideas were not fringe; they were mainstreamed through elite academic channels and later disavowed without institutional reckoning. The significance for present purposes is not moral condemnation but institutional precedent: Columbia once helped launder racial domination through the language of science and law, and the victims of those ideas—disproportionately Black Americans—received no compensation, no federal monitoring, and no structural redress.

Second, the appointment and prominence of Franz Josef Kallmann at Columbia's College of Physicians and Surgeons underscores how deeply embedded these ideologies were within elite professional training. Kallmann's advocacy for forced sterilization, including of individuals deemed genetically "unfit," aligned with policies that would later devastate marginalized communities. His presence at Columbia illustrates that the university was not merely a passive observer of racialized state violence but a contributor to its intellectual infrastructure. Yet when those policies harmed Black Americans, the federal government did not intervene with funding freezes, compliance monitors, or restitutionary schemes.

Third, Madison Grant, a Columbia Law School alumnus, authored The Passing of the Great Race, one of the most influential texts in American racial theory and immigration restriction. Grant's work shaped national policy and was openly admired by authoritarian regimes abroad. The relevance here is not to relitigate Grant's ideology but to demonstrate how elite legal education intersected with racial governance. The ideas incubated in and around Columbia had consequences measured in lives, liberty, and opportunity. No remedial apparatus followed for those harmed by the policies those ideas inspired.

Fourth, the experience of Langston Hughes at Columbia in the early 1920s provides a human-scale counterpoint to institutional abstraction. Hughes, already a figure of extraordinary intellectual promise, described his time at Columbia as alienating and isolating. His account is emblematic of how Black excellence was tolerated, but not embraced, within elite academic spaces. The harm here was not episodic discomfort but systematic exclusion from full institutional belonging. Again, there was no federal enforcement campaign, no claims fund, and no structural overhaul to address that exclusion.

Lastly, the 1924 cross-burning and organized harassment directed at Frederick W. Wells, one of Columbia's first Black students, stands as an unambiguous act of racial terror on a Northern, elite campus. The incident is historically documented and involved overt intimidation intended to expel a Black student from the university. The absence of any federal response—let alone monetary compensation or institutional restructuring—illustrates the baseline against which modern interventions must be measured. When Black students were subjected to threats designed to enforce racial exclusion, the state did not mobilize its civil rights machinery.

Taken together, these five examples establish a critical point for this white paper's thesis. Columbia University has a documented history of racial harm and exclusion affecting Black Americans that unfolded over decades, involved institutional actors, and produced lasting consequences. That history did not provoke the kind of swift, expansive, and resource-intensive federal intervention now deployed under the banner of civil-rights enforcement. The contrast does not negate contemporary antisemitism claims; it exposes a deeper inconsistency in how the United States assigns urgency, deploys power, and defines which victims merit extraordinary remedies.

The July 23, 2025 Resolution Agreement between the United States and Columbia University exposes a truth that American law has long tried to obscure: the federal government does not lack the legal tools, institutional competence, or administrative imagination to remedy discrimination swiftly, forcefully, and at scale. What it lacks—selectively—is the will to deploy those tools on behalf of all victims.

Under threat of continued federal grant termination, Columbia agreed to pay $200 million directly to the United States, fund a separate $21 million Title VII claims process, submit to a three-year federal monitoring regime, restructure core academic programs, overhaul admissions and hiring practices, restrict campus protest, disclose race-disaggregated admissions data to federal auditors, and accept continuing federal oversight of its governance. This was achieved without a trial, without judicial findings of fact, and without any admission of liability.

For generations, Black Americans have been told that reparations and structural redress are impossible in law: too old, too diffuse, too complex, too political, too expensive, too difficult to administer. The Columbia Agreement proves otherwise. What has been missing is not law, but allocation—who the federal government chooses to protect, and how aggressively it chooses to act.

This paper argues that the Columbia Agreement should be understood not as an anomaly, but as evidence. It demonstrates the elasticity of executive power under civil-rights statutes and the Spending Clause, and it forces a reckoning with the double standard that has governed racial redress in the United States since Reconstruction's collapse.

I. What the Columbia Agreement Really Is

The Columbia Resolution Agreement is not a narrow civil-rights settlement. It is a global enforcement compact resolving exposure across Title VI, Title VII, Title IX, the Americans with Disabilities Act, Section 1557 of the Affordable Care Act, and even the False Claims Act. It bundles together grant terminations, compliance reviews, investigative closures, and prospective eligibility for future federal funding.

In exchange for restored and protected access to federal research dollars, Columbia paid $200 million to the United States Treasury, agreed to a multi-year compliance regime supervised by a federally approved monitor, and accepted detailed mandates governing admissions, hiring, discipline, protest, academic programming, data reporting, and institutional security.

No court entered judgment. No jury found facts. No statutory damages scheme explains the $200 million figure. This was executive power exercised through leverage, not adjudication.

This matters because for decades courts have rejected reparations claims by Black Americans on the premise that such remedies are not judicially or administratively manageable. The Columbia Agreement shows, in real time, that manageability has never been the obstacle.

II. The Fiction of "No Federal Control"

The Agreement contains a conspicuous disclaimer: that nothing in it authorizes the federal government to dictate faculty hiring, admissions, or academic speech. That sentence cannot survive contact with the document that follows.

The Agreement mandates:

- Federally supervised review and restructuring of Middle East–related academic programs, beginning with Palestine-focused studies and extending to global hubs and policy majors.
- Creation of new faculty positions tied specifically to Israel and Jewish Studies and designated disciplinary pairings.
- Prohibitions on the use of personal statements or diversity narratives in admissions where they might "introduce" race.
- Compulsory annual disclosure of race-segregated admissions data, subject to audit by a federal monitor and public release.
- Reorganization of disciplinary bodies under executive control of the Provost and President.
- Categorical restrictions on protest activity inside academic buildings, compulsory identification during demonstrations, and expanded campus policing authority.

A disclaimer cannot negate operative terms. Under settled Spending Clause doctrine, conditions attached to federal funds must be clear and voluntary. Here, the conditions are not merely clear; they are comprehensive. The question is not whether the government exercised control—it did—but whether such control is legitimate, proportional, and evenly applied.

III. The Spending Clause and Coercion by Another Name

The Supreme Court has warned that federal funding conditions can become unconstitutionally coercive when the loss threatened is so significant that the recipient has no real choice. *NFIB v. Sebelius* made clear that "pressure" can cross the line into compulsion.

Columbia faced termination and nonpayment of major federal research grants—an existential threat to a modern research university. The remedy offered was not merely compliance going forward, but retroactive payment of $200 million and acquiescence to structural reforms unrelated to any adjudicated violation.

This is not an argument that the Agreement is unlawful on its face. It is an argument that the federal government plainly possesses—and is willing to use—immense coercive capacity when it chooses. That fact cannot be reconciled with decades of judicial insistence that reparations or structural redress for Black Americans are beyond institutional reach.

IV. Speech, Protest, and the Rewriting of Campus Dissent

The Agreement's protest provisions are among its most revealing features. They recast protest inside academic buildings as inherently impermissible, mandate identification on demand, restrict face coverings, and authorize discipline, expulsion, and arrest for noncompliance.

These rules are framed as content-neutral, yet they operate in a political context where protest has been central to opposition to foreign policy, war, and racial injustice. The Agreement repeatedly promises "impartial" and "even" enforcement—language that implicitly acknowledges the risk of ideological selectivity.

Historically, Black student protest—from desegregation to anti-apartheid divestment to Black Lives Matter—has been met with discipline, surveillance, and policing, not federal rescue. The Columbia Agreement institutionalizes a security-first response to protest while simultaneously portraying it as civil rights compliance.

V. Black Reparations and the Myth of Legal Impossibility

Courts have rejected Black reparations claims not because the harms are disputed, but because the remedies are said to be unmanageable. In *Cato v. United States* and *In re African-American Slave Descendants Litigation*, plaintiffs were turned away on standing, political-question, causation, and limitations grounds. The refrain is familiar: history is tragic, but law cannot help.

The Columbia Agreement obliterates that narrative. It demonstrates that the federal government can:

- Identify a class of alleged harm.
- Quantify monetary relief without a trial.
- Impose structural reforms.
- Appoint monitors.
- Demand data.
- Enforce compliance over time.

Every argument used to deny reparations—that the task is too complex, too old, too administratively burdensome—collapses when confronted with what was accomplished here in months.

VI. Differential Treatment as a Rule-of-Law Failure

The central claim is not comparative suffering. It is comparative governance.

Civil-rights statutes are neutral on their face. Title VI does not privilege one racial or ethnic group over another. Yet enforcement reality tells a different story. When certain interests align with political urgency, federal power becomes expansive, creative, and decisive. When Black Americans seek redress for centuries of state-sanctioned harm, that same power suddenly becomes timid, constrained, and paralyzed.

This is not neutrality. It is choice.

VII. What the Columbia Agreement Demands of American Law

If the Columbia Agreement is to be defended as legitimate, it cannot remain an exception. Its architecture must become a template, not a privilege.

At minimum, the rule of law requires:

1. Transparency: Public explanation of how massive monetary figures are derived and what statutory authority supports them.
2. Parity: Equal urgency and scale in Title VI enforcement across racial groups.
3. Speech Safeguards: Clear distinctions between harassment and political expression, enforced with viewpoint neutrality.
4. Proportionality: Spending Clause conditions tied rationally to proven violations, not imposed as leverage alone.
5. Reparative Consistency: Deployment of similar administrative machinery to address entrenched anti-Black discrimination in education and beyond.

Conclusion

The Columbia Resolution Agreement is a mirror. It reflects not only how power works, but how selectively it is applied.

America can no longer credibly claim that reparative justice is impossible. The question exposed by Columbia is far more uncomfortable: for whom is justice administrable, and for whom is delay the policy?

That question is not rhetorical. It is legal, constitutional, and long overdue.

Hon. Shannon Frison, Esq., USMC
Alan X