

INTRODUCTION

The experiences that moved me to write this book are sprinkled over my seventeen years as a civil rights lawyer. First, at the NAACP Legal Defense and Educational Fund, the nation's premier civil rights law firm, and later as a law professor, I have represented communities struggling with the problem of race. As a civil rights lawyer, my job has been to translate those problems into cognizable legal claims. Early on, I discovered that this was no easy task. My clients' claims of discrimination often represented the culmination and crystallization of decades, sometimes centuries, of halting, painful, and mostly unsuccessful attempts to negotiate a place of dignity, equality, and power within their communities. And in relating this complex and painful history to me, my clients—from Oklahoma to Maryland—inevitably told me something about lynching.

Until recently, few Americans, black or white, fully realized the widespread and pervasive reality of lynching in our nation's history. Now, thanks to some excellent books published in the last few years and an exhibit of lynching photos that has toured the country since 2001, those who want to know about this dark chapter in American history know that during the first half of the twentieth century lynching was, as historian Frank Shay observed, "as American as apple pie." Even more powerful, the lynching of James Byrd in Jasper, Texas, in 1998 and that of Matthew Shepard in Laramie, Wyoming, a year later compelled blacks and whites in communities throughout the United States to recall their own history of lynching. From Utah to Minnesota to Florida, long-repressed memories of this uniquely American form of terrorism were fanned into flame.

But as the collective memory of systematic racial terrorism awoke throughout the country, communities found that no formal mechanisms existed to assist blacks and whites in coming to terms with the legacy of lynching. Some discovered that talking about lynching was a surefire way to surface long-simmering racial conflicts. President Clinton's call to have a national conversation on race in 1994 and his appointment of the One America Commission to explore the issue of race might have provided an opportunity to face this difficult history, but lynching was strangely absent

from the commission's agenda, and that body's work—some of it quite impressive—was largely unknown to most Americans.

In the course of my work, I have been amazed to discover how often and how pervasively racial violence figures into the history of small towns and cities throughout the United States. For example, I first heard about the 1921 Tulsa Race Riot, in which whites burned down the prosperous black section of town known as the Black Wall Street, from clients I represented in a voting rights case in Oklahoma and Tulsa Counties in 1991. Although I included allegations about the Tulsa Race Riot in my legal complaint in that case as evidence of the history of discrimination in Tulsa County, it was difficult at the time to find confirmation that this racial pogrom had ever happened. Because of the work of lawyers and historians, and because of the courage of elderly survivors of the Tulsa Race Riot, we now know about this act of racial terrorism and about the deliberate attempt by some whites in Tulsa to cover it up.

I learned about the Maryland lynchings in almost the same way. I was looking into the history of discrimination on Maryland's Eastern Shore—a body of land on the eastern side of the Chesapeake Bay that connects Maryland, Delaware, and Virginia. The clients I represented were African Americans who had been the victims of discrimination in state highway siting decisions in and around Wicomico County, Maryland. It took a while before I understood that there had been two lynchings, one in 1931 and another in 1933. My clients talked only about one, melding the facts of the two lynchings together in a single gruesome and terrifying story. And it took a great while longer for me to learn that in that same two-year period several other black men had narrowly averted being lynched, and that lynching had a long and powerful history on the Shore that extended back to the nineteenth century.

Two things struck me early on about the way blacks and whites talked about the lynchings. First, I was taken with how “present” the lynchings were for blacks. This should not have been surprising. As writer Ishmael Reed recently observed in the *New York Times*, “Stories of lynchings are a key feature of the black oral tradition.” Even blacks in northern states, where lynchings rarely occurred, can share vivid stories about lynching. This is largely because of the courageous reporting in black papers like the *Chicago Defender*, the *Amsterdam News*, and the *Baltimore Afro-American*

during the 1930s and 1940s, which enabled black readers nationwide to experience the horror of lynching and its violent aftermath. When Mamie Till, the mother of fifteen-year-old Emmett Till, who was lynched in Mississippi in 1955, insisted on an open casket for her son's Chicago funeral, the ten thousand blacks who streamed by his casket were overcome by the hideous reality of violent white supremacy, reflected in the mangled face of the fifteen-year-old boy. In effect, black Americans share a kind of communal memory of lynching that is not bound by region or by time.

So although the Eastern Shore lynchings had occurred more than a half century ago, for many African Americans the lynchings were a defining moment in their racial history. Blacks were particularly eloquent about the fact that hundreds, maybe thousands, of whites had watched the lynchings—some participating, some cheering, some shocked, but none intervening. It was not so much the eight or nine men who dragged twenty-three-year-old Matthew Williams from his hospital bed to hang him on the courthouse lawn in Salisbury in 1931 or the twenty who broke down the door of the jail in Princess Anne to hang, drag, and burn twenty-seven-year-old George Armwood on the street in 1933 who were fixed in the minds of the blacks I spoke with. It was the participation or presence of average whites—law students, businessmen, waiters, shopkeepers, laborers, police officers, and most of the Wicomico High School football team—that blacks remembered. For many blacks on the Shore, this was the lesson of lynching passed down from generation to generation: ordinary whites were not to be trusted.

Most blacks with whom I spoke had heard about the lynchings when they were children, eavesdropping on “grown folks’” hushed conversations. So vivid were these stories that these children, now grown up, could describe the lynching in great detail and with, I discovered, surprising accuracy. Edward Taylor, a retired school principal and later county councilman in Wicomico County, had so deeply internalized the description of the 1931 lynching of Matthew Williams he'd heard as a child that he grew up believing that he'd actually seen the lynching. It was not until he was a grown man that he realized he was not even born when the lynching occurred.

More than any other incident of racial violence, lynching evokes particularly resilient memories in African American communities. Orlando

Patterson, in his searing study of lynching, *Rituals of Blood*, has suggested that it is the memory of the smell of burning flesh that stays encoded in the memory, longer even than the visual image of the lynched body. Walter White, the great antilynching crusader and NAACP president during the 1930s and 1940s who was so fair-skinned that he was able to pass as a white man and observe the aftermath of several lynchings, said that it was the participation of white children in lynching, as torturers or as excited observers, that seared the horror of the act into his brain.

Perhaps it is the gruesome nature of the lynching ritual act itself that becomes indelibly etched onto the collective psyche of a black community for generations—the hanging, the dismembering, the burning, the dragging. In her biography of Fannie Lou Hamer, *This Little Light of Mine*, Kay Mills describes an incident in the late 1950s when northern civil rights workers tried to persuade black sharecroppers in Sunflower County, Mississippi, to register to vote. The sharecroppers were reluctant, and they described a hideous double lynching that had occurred in the county more than fifty years earlier. Their story of the lynching was so lurid and horrific that the civil rights workers thought it must have been half fantasy. But later the activists learned that the 1904 lynching of Luther Holbert and his wife was fact and not fiction. Holbert was believed to have murdered twenty-one-year-old James Eastland, the son of a prosperous plantation family in the county. While one thousand white spectators watched, the Holberts' fingers and toes were cut off and large corkscrews were bored into their flesh. After a prolonged torture, the Holberts were burned alive. Three other black field workers who reportedly looked like Holbert were also killed that day by members of the posse organized to search for Holbert. The lynching of the Holberts and its macabre details had so entered the consciousness of the black community in Sunflower County that even fifty years later its image had the power to keep many blacks from attempting to register to vote.

Given the power of one particularly brutal lynching to discourage blacks from political participation after fifty years, one can imagine how a regular pattern of lynching might have destabilized and retarded the economic, educational, and political development of a black community. When one takes into account that nearly five thousand lynchings took place in the United States between 1885 and 1960, it becomes clear that the

damage caused by lynching in black communities throughout the United States is both widespread and deep. Indeed, more than the poll tax, the grandfather clause, and Jim Crow segregation, lynching and the threat of lynching helped regulate and restrict all aspects of black advancement, independence, and citizenship in many small towns for half a century. The fact that lynching was often accompanied by a kind of racial pogrom, in which in addition to beating and murdering blacks, whites burned black businesses and homes and chased blacks out of town, suggests that the economic harm alone to black communities is staggering.

During my time on the Eastern Shore I was also struck by the very different way that whites described the Shore lynchings. Often in the vaguest terms, whites would confirm that yes, there had been a lynching—two, in fact. But where blacks had often identified a family member—grandfather, uncle, or other relative—who heard the lynching, saw the body the next day, or knew the lynched man, whites consistently professed to know very little about the lynchings. In my interviews there were disturbingly few exceptions. And almost to a person, nearly every white person insisted that the lynchers were from “out of town.” Salisbury whites claimed that those who lynched Matthew Williams in 1931 were from Princess Anne, and Princess Anne whites suggested that those who lynched George Armwood in 1933 were from Virginia.

I found this silence by whites and their detachment from the lynchings quite extraordinary when contrasted with the rich and detailed “memory” of blacks. By all accounts, between 500 and 1,000 people, predominantly white, witnessed some portion of the lynching of Matthew Williams in Salisbury in 1931. In a town that in that year had only 9,000 white residents, this means that perhaps 10 percent of the town’s white population saw the lynching. Yet sixty-eight years later, when I talked with residents, very few whites admitted that they or their families had any personal recollection of the lynching. And so this event, which had constituted a defining racial moment in the black community, had virtually no contemporary significance for whites.

I discovered that the disparate reaction of blacks and whites to the history of racial violence had international significance. It mirrored a similar phenomenon then being played out in South Africa. Whites, who had benefited over centuries from a system of legalized white supremacy in that

country, by 1998, when I visited the country, professed an astonishing level of ignorance about and detachment from apartheid. Apartheid had not been dead four years, but in 1998 it was difficult to find average white South Africans who would admit to having ever supported apartheid. And to this day most whites in South Africa on whose behalf the government committed the most hideous atrocities claim not to have realized the extent of their government's misdeeds.

In 1998, however, South Africa's Truth and Reconciliation Commission (TRC) was making the job of forgetting difficult for whites. In televised sessions, black South Africans were coming forward to tell what they had suffered. In graphic terms they described how they were tortured, how their loved ones were killed, and how their communities were dismantled. Even more revealing, some whites came forward to admit their participation in these atrocities. Seeking amnesty from prosecution for their criminal acts, members of the South African police and security forces admitted committing the most heinous acts of terror. And many of them made it clear that the orders to visit this terror upon black communities and activists came from the highest levels of the white power structure.

Even when individual whites would not come forward to give an accounting of their participation in apartheid-era crimes, the TRC held hearings that exposed the complicity of the nation's primary institutions in promoting apartheid's abuses against the majority-black population. In proceedings called "institutional hearings," the commission called the judiciary, the business community, the faith community, and the media to account for their actions during the apartheid era. The results of these hearings—on the complicity of the media in covering up human rights violations committed by security police, for example—were devastating. The hearings and the courageous testimony of white and black reporters revealed overt acts of complicity, of horrific racism and brutality, even within the corridors of media institutions, and an almost complete abdication by most media outlets of internationally recognized journalistic standards and ethics. Particularly telling were hearings in which the institutional actors refused to show up or participate. So it was with the hearings on the judiciary. The failure of the judiciary to respond to the invitation of the TRC spoke volumes and still stands as a stain on the legitimacy of judges appointed during the apartheid era, many of whom remain

on the bench. Despite the absence of the judges, the hearings on the judiciary went forward nonetheless, with devastating testimony from lawyers, academics, and legal observers. In each institutional hearing, South Africans were compelled to face the systemic nature of apartheid and the way it had infected all of the country's important institutions of civil society.

I was then, and remain still, deeply impressed by the task the South African TRC undertook. Like every process, it had its flaws, not the least of which was its failure, as Mahmood Mamdani has written, to hold to account the beneficiaries of apartheid—those average white South Africans for whom the government committed its gross atrocities against blacks. Likewise, the failure to ensure that sufficient funds were made available for meaningful financial reparation to victims represented an immense and easily anticipated structural flaw in the creation of the TRC. Nevertheless, South Africans were doing something that Americans had never done: confronting in detail the devastation caused by racial terrorism. They were naming names, identifying institutions, creating a record, and acknowledging the demand for reparation. And they were attempting to engage in a real conversation about how to move forward as victims and perpetrators, as oppressors and the formerly oppressed.

This book is an attempt to begin to imagine such a project for American communities beset by a history of racial terrorism. The project of reconciliation and reparation for lynching is urgently needed. As I discovered, and as the accounts here demonstrate, the aftereffects of lynching continue to shape and mold the communities where these acts occurred. As Archbishop Desmond Tutu, the chair of the TRC wrote, "The past refuses to lie down quietly." The terror visited upon African American communities on the Eastern Shore in the 1930s has not just disappeared into thin air. It lives in the deep wells of distrust between blacks and whites, in the sense that blacks still must keep their place and that both blacks and whites must remain silent about this history of lynching.

The lynchings made possible the maintenance of all-white political control in many counties on the Shore until the 1980s and in some cases the 1990s, decades after blacks had been elected to public office in other parts of the state. Blacks were not elected to the governing bodies in many counties on the Shore until the ACLU filed a series of voting-rights cases in the 1990s. The black community in Salisbury, where Matthew Wil-

liams was raised and later lynched, was targeted for destruction soon after the lynching to make way for a highway. The white community's perpetual fear of a black uprising after the lynchings may have made the decision to physically split the black community with the new highway an easy one. The construction of Route 13 scattered much of the existing black community and uprooted churches and a score of black businesses. Route 13 cut through the black community like a scythe, the road standing like an open wound through what had once been a vibrant black district. Over the next sixty years the town would approve the construction of two more major highways, one plowing through the remaining black community, and the other adjacent to it. The black Salisbury of Matthew Williams's day has been dissected twice over and encroached upon by twisting highways. Each time, the community has struggled to retain its cohesiveness and the integrity of its institutions. Finally, in 1993 one black neighborhood fought back, aggressively suing the town and the state. I joined the team of lawyers working on the case in 1994. But the impunity with which white local officials were able to physically dismantle parts of the black community over the course of sixty years, and the community's powerlessness to resist these plans for so long, seemed to reflect the effectiveness of enforcing white supremacy through terror.

The white community was also affected by the lynchings. The Eastern Shore, like many white communities where lynchings occurred, closed ranks to protect the lynchers and to fend off criticism from the outside. In response to vehement and prolonged criticism from the Baltimore and Washington, D.C., press over the lynchings, white residents of the Shore boycotted the sale and distribution of Baltimore newspapers and attacked trucks delivering goods from Baltimore and Washington, D.C. Shore whites developed what one scholar has called a kind of regional hyperconsciousness—a deep sensitivity to criticism, especially by outsiders, and a fierce protectiveness of their local institutions, customs, and leaders. This self-imposed economic and cultural withdrawal from the most prosperous, diverse, and progressive regions of the state helped Shore whites remain for decades among the most educationally deficient and economically depressed in the state of Maryland. According to the 2000 Census, the percentage of residents living in poverty in counties on the Western Shore stood between 2.5 and 3.6 percent, whereas in lower Eastern Shore coun-

ties like Wicomico and Somerset, the percentage of residents living in poverty stood between 8.7 percent and 15 percent respectively. High school dropout rates for whites exceeded those for blacks in some Eastern Shore communities. In Somerset County, where 41 percent of the population is African American, nearly 10 percent of those over twenty-five years of age have a less than ninth-grade education.

Whites also remain strangely caught up in a continued bond of complicity—pleading ignorance or faded memories to avoid at all cost talking about a shameful part of their history. White children, now elderly, who witnessed these lynchings experienced a unique trauma reinforced by years of silence within their families and communities. Surprisingly, few have been willing to talk about what they saw and how it affected them.

The conversation about lynching I imagine is not of the town hall variety; nor is it meant to compete with other national reparations or litigation efforts or attempts to criminally prosecute those directly responsible for the lynchings in Maryland or in other states. The TRC process I propose is meant to address the harm done to the victims of lynchings who are often forgotten: the community. The dialogue and reconciliation efforts would be intensely local, on the ground where the effects of lynching are still felt. More than just conversation, local individual and community groups and institutions would be empowered to do the work of reconciliation, identifying for themselves appropriate forms of reparation. Rather than being bound to the narrow conception of reparations that dominates discussion of this issue at the national level, local reparation initiatives might take the form of public apologies; expunging the records of or issuing pardons to black lynching victims who were accused of or convicted of crimes they did not commit; the creation of monuments or commemorative public spaces in the community; placing gravestones on the unmarked burial sites of lynching victims; mandatory school programs on the local history of lynching; reopening criminal investigations into lynchings; financial compensation for lynching victims' descendants and for those whose family homes or businesses were destroyed in the aftermath of lynching; and institutional reform focused on the legal system and the media. I discuss these forms of reparation in the second part of this book.

Truth-telling, as the experience of the South African TRC has taught us, is also a critical form of reparation. A truth and reconciliation process

for lynching would create the conditions in which for the first time blacks and whites would collaboratively retell the complex history of the communities in which they live. I like to imagine, for example, that President Clinton's call for a national conversation on race had begun in his beloved hometown of Hope, Arkansas, which in the early 1920s, as few people realize, was known by some as the lynching capital of the South. There were three lynchings in an eighteen-month period between 1920 and 1922 in Hope, a time when the former president's colorful and independent mother, Virginia, was a young woman. What, if anything, had the president heard about these devastating events from his family and neighbors in Hope? How had these acts of racial terror shaped the town and the relationships between and among blacks and whites there? Do blacks remember the town of Hope with the same dreamy sense of nostalgia as the former president, or is there another narrative about Hope, waiting to be told? What kinds of reconciliation efforts or forms of reparation might give voice and acknowledgment to another narration about Hope, Arkansas?

I use Hope, Arkansas, only as an example, just as in this book I focus on the Eastern Shore of Maryland, not because Hope or the Eastern Shore is particularly unique or because the men who were lynched and the others who were nearly lynched were extraordinary in any particular way. In fact, it is the ordinariness of the lynchings and near lynchings that makes them especially useful for this study. It is simply enough that those who were lynched on the Eastern Shore—Matthew Williams and George Armwood—and those who were nearly lynched—George Davis, Euel Lee, and Isaiah Fountain—were men, some with loving families, surrounded by a community of fellow blacks whose dreams and ambitions were undermined for decades by the threat of this most gruesome form of racial violence and that this pattern was repeated in hundreds of communities throughout the United States for seventy years.

The title of this book, *On the Courthouse Lawn*, is meant to invoke both the physical and the symbolic. It refers to the site where so many lynchings took place, both in Maryland and throughout the country. But it is also meant to belie the myth that lynching was a secret barbarity, unknown to a majority of the populace. Lynching was a public crime, in which hundreds and sometimes thousands of whites were complicit. And it is this

characteristic of lynching that should compel us to face this American form of racial terrorism and to begin to assess the long-term effects of lynching on black and white communities.

This book proceeds in two parts. I first explore the history of lynchings and near lynchings on the Shore during the 1930s. Although some of these events have been recounted in local history books, their treatment has never given substantial attention to how the lynchings were experienced by the families of lynching victims and the black communities where they lived. I regard the contribution of this perspective as critical to an understanding of the long-term effects of lynching on the relationship between blacks and whites in towns where lynchings occurred. Moreover, no account of these events has linked the history of lynching to contemporary racial conflicts and to the current condition of white and black communities on the Shore.

The second part of the book draws on the larger international conversation about racial reconciliation to imagine how communities like those on the Shore might confront the history of lynching and find ways to ameliorate the effects of these devastating events on black and white communities. Again, while I apply these techniques to the communities beset by lynching on the Eastern Shore of Maryland, I do so only to ground the discussion in a specific context. Communities throughout the United States where nearly five thousand men, women, and boys were publicly hanged, burned, and tortured must each in turn confront their own history and take up the project of truth-telling and reconciliation.

Rather than just propose the concept, I suggest in this book *how* the reconciliation process I envision might unfold, drawing on restorative justice techniques in use from Australia to Baltimore. Finally, I invite communities to think creatively and pragmatically in the development of meaningful forms of reparation that respond to the particular and lingering effects of racial violence in their individual community.

Ultimately, this book is hopeful but pragmatic. It makes the case that the history of racial terrorism continues to shape the relationship between and among blacks and whites in communities all over this country. If we are honest, we know that it is this history—not that of affirmative action or busing—that lurks in the dim, gray area of distrust, fear, and resentment between and among blacks and whites. It is there—where over-

whelming anger, insistent denial, shame, and guilt lie—there, where our reconciliation efforts must be targeted.

There is unfinished business in communities throughout this country, where the reality of lynching and racial pogroms has never been fully confronted, where the historical complicity of ordinary citizens in condoning racial terrorism continues to undermine the chance for trust and racial reconciliation, and where the participation of local institutions in upholding violent white supremacy continues to taint their legitimacy. I believe that communities can themselves take charge of the project of healing, reconciliation, and reparation. Some have already taken halting steps in this process in places like Duluth, Minnesota; Atlanta, Georgia; and Tulsa, Oklahoma. I discuss these efforts at the end of the book as well. These efforts should be supported by and shared with other communities that have yet to take the courageous and challenging step of unearthing the skeletons in their past. In this book I attempt to offer something of a road map or, maybe better, a menu of options from which communities can choose as they undertake this important task. I am aware that many communities will not accept this challenge. But others will, prodded along by activists, clergy, civic groups, and individuals—black and white—who want something more for their communities and their children than lives lived behind walls of racial silence. This book is meant for them.