Eminent Domain: Discriminatory Land Takings and the Fight for Reparations

Transcript

Kavon Ward (0:00)
Being in support of reparations is listening to the people who have been harmed and asking them about what that repair looks like listening to what repair looks like to them and moving forward to try to get justice around what that repair looks like for them.

Dora Chan (0:19)
In 1912, a Black couple named Willa and Charles Bruce bought land in Manhattan Beach in Southern California where they operated a popular lodge, cafe and dance hall.

Lias Borshan (0:26)
But the Bruces faced years of harassment from the KKK and white neighbors. The KKK set fire to a mattress under their main deck and destroyed another Black-owned home nearby.
Then, in 1924, the Manhattan Beach city council seized Willa and Charles' property by eminent domain and claimed that the land would be used for a public park.

Dora Chan (0:50)
I wish we could say that the Bruce family's story is unique, but the reality is that these kinds of land seizures have happened countless times throughout American History and continue to happen, and have disproportionately affected Black communities and other communities of color. In New York, for instance, the City Planning Commission estimated that just between 1946 and 1953, more than 250,000 people were uprooted in the city, the majority of them racial minorities.

Lias Borshan (1:20)
So, how does this happen? What is eminent domain? What rule permits the government to forcibly seize private land for so-called "public" purposes? And why has this been used primarily to the detriment of black and other racial minorities in America? What do reparations for Black communities who have had land taken from them actually look like?

Dora Chan (1:45)
To answer these questions we must take a closer look at a clause contained in the Fifth Amendment of the Constitution called the Takings Clause. My name is Dora.

Jane Spencer (1:55)
My name is Jane.

Lias Borshan (1:57)
My name is Lias. And we're students in the Critical Race Theory Seminar at Columbia Law School. On this episode of CRT2, we will be taking a look at the history of discriminatory eminent domain takings and what reparations for Black families should look like. This is a story of theft and legalized plunder by municipal, state, and federal governments. This is a story about the dark underbelly of the Takings clause.

Lias Borshan (2:29)
Later in this episode, we'll be talking to Kavon Ward about the groundbreaking campaign she led to have Bruce's Beach returned to the descendants of Willa and Charles Bruce.
But first, in starting this, I think we should get clear on what exactly an eminent domain land seizure or "taking" is. Eminent Domain is the power of the government to take private property, even if the owner of that property doesn't want to sell it and convert it to public use. Oftentimes when the government takes private property through eminent domain, it is referred to as a condemnation of the property.

Dora Chan (3:13)
What qualifies as public use is very broad, but generally it tends to mean a use that is for the public good. Throughout the history of this country, public use has included turning private land into parks, schools, military bases, highways, project housing, and many others.

Lias Borshan (3:31)
But the government can't just take any land they want for free and just use it. The Takings Clause in the Fifth Amendment of the Constitution specifies that private property cannot be taken for public use by the government without **just compensation** to the owners of that private property.

Dora Chan (3:48)
Okay but what does just compensation mean?

Lias Borshan (3:51)
Well, in principle, it's supposed to mean that if your land gets seized, you get fair compensation financially from the government for what has been taken from you. The issue is that municipal, state, and federal governments notoriously and repeatedly have failed to properly compensate property owners for takings and have used this tool specifically and disproportionately on black communities.

As the author James Baldwin famously said…

[ARCHIVAL AUDIO - recording of James Baldwin: "urban renewal which means moving the negros out. It means Negro removal . . . and the federal government is an accomplice to this fact"]

Lias Borshan (4:30)
So what was this so-called program of "urban renewal"?

Dora Chan (4:35)
Urban renewal was a government development strategy pursued mainly during the 1950s and 60s. The Federal Housing Act of 1949 facilitated urban renewal by authorizing cities to use the power of eminent domain to clear neighborhoods that they deemed to be "blighted."

Lias Borshan (4:52)
Under the Act many Black communities were destroyed as cities designated certain neighborhoods as "blighted" and then seized the land through eminent domain.

Dora Chan (5:02)
The Federal Housing Act was in force until 1973. Over that 24 year period, cities used it to carry out projects that displaced 1 million people, two thirds of them being African American.

INTERVIEW - Flores Forbes

Lias Borshan (5:16)
In this episode, we talk first to Professor Flores Forbes about Columbia's own recent reliance on eminent domain for its Manhattanville expansion in West Harlem, a neighborhood comprised primarily of Hispanic and Black people. Professor Forbes talks about the Community Benefits Agreement that Columbia entered into with the West Harlem community in 2009.

[MUSICAL TRANSITION]

Jane Spencer (5:48)
Thank you Professor Forbes for joining us today. Could you start by introducing yourself and telling us a bit about the role you held at Columbia University in relation to its Manhattanville expansion.

Flores Forbes (6:00)
I'm Flores Forbes. I am an adjunct associate professor of law at Columbia law school. My relationship to Manhattanville, the Manhattanville expansion, goes beyond even coming before coming to Columbia. I was a city planner in the city of New York in the Manhattan Borough president's office when the pre-application from Columbia University came through to further rezoning, so I was involved in that particular project. We visited along with the borough president we visited Lee Bollinger, president of a university. He had a big model and stuff on this table. You know explaining to us what was going to be happening and so I remember one of the questions that we asked was that were you going to use eminent domain.

And at that time he said no. A few years later I had left the city and I was a real estate developer and a lady named Maxine Griffith was an executive vice president at Columbia University—she was also an urban planner and I had known her previously—so she asked me, she said hey, you know, would you be interested in coming to Columbia because we're looking for I guess a few good men as she put it who knew something about urban planning and knew something about the Harlem Community. So I accept it and so this was like in 2008 and I was at Columbia for like 15 years and you know, the engagement also, as a real estate developer in Harlem, the plan was coming around, the expansion plan was coming around, Columbia was having these events, and I would attend them. I gave some testimony around the project.

Jane Spencer (7:46)
Could you tell us more about the negotiations Columbia had with the Harlem Community in relation to the expansion?

Flores Forbes (7:52)
You know you kind of got a sense of what was going on in the community. I think it was about not so much the expansion plan because you could say the leaders of the community were more interested in what were we going to get in support of the project. So there was a negotiation around what became known as the Columbia Community Benefits Agreement. That was an agreement that involved resources. It involved the university's intellectual capital. It involved scholarships and it involved, you know, creating this relationship with the community that was backed by, you know, a dollar—a number of, you know, millions of dollars and you know, it wasn't so that Columbia could move forward with the project. It was kind of a negotiation around the development of this project. The focus was West Harlem. That created tension with central Harlem and East Harlem and even you could say Washington Heights

where the medical center is, and so those are discussions that are ongoing. We weren't negotiating with the entire West Harlem community. We were we were just negotiating with the business leaders, community leaders, clergy, political leaders—that sort of thing. And so everybody wasn't in the room. But there were these special interest groups and that sort of thing, right? You could probably go to the West Harlem community and ask about the Community Benefits Agreement. They would have no idea what you're talking about.

Jane Spencer (9:40)
You mentioned eminent domain earlier. Was eminent domain used for the Manhattanville expansion?

Flores Forbes (9:46)
Yes they did. To go through that to the eminent domain process you have to do it in conjunction with the state. And that's the Empire State Development Corporation and they're the state entity that does the actual taking. It was a manufacturing zone. So there were very few housing developments in the area in terms of people living there. So part of the agreement—and this was with the state—was for Columbia to commit to building new housing in another location, that Columbia would buy on their dime, and construct on their dime, and assist with relocating the residents who were in the Manhattanville project area to this new housing and a couple of those have already been built. There's two more that still have to be built and they're delayed because the project's supposed to last for 25 years. They've only built 4 new buildings.

Jane Spencer (10:50)
Could you tell us a bit more about the Community Benefits Agreement that came out of the negotiations between Columbia and the West Harlem community?

Flores Forbes (10:58)
The community benefits agreement that Columbia did is one of a kind because you know Columbia created a non-profit entity, the West Harlem Development Corporation, that would be the receiver of the resources. And you know, there's the scholarships that were given to local people through the Thompson-Munoz Scholarships, I think is 40 scholarships for people who got accepted at Columbia who live within certain zip codes. There was also what was called advice and guidance where the community through the West Harlem Development Corporation could come to the university and say well we would like your help with doing this project or that project that kind of thing. It was a long negotiation. It was complex and like I said it's still ongoing actually, because there are so many aspects that haven't really been done to the satisfaction of certain community stakeholders.

Jane Spencer (11:58)
Who runs the West Harlem Community Development Corporation? Is it independent of Columbia?

Flores Forbes (12:03)
Yes, it's community run. Columbia does not have a board seat. So it's, you know, they have their own staff, but they do meet with Columbia personnel. Maybe once a quarter you know that kind of thing. When I was working at Columbia we met with them at least once a month because there were different things that had to happen based on a certain timeline.

Jane Spencer (12:29)
What do you think have been some of the advantages and limitations of the Community Benefits Agreement?

Flores Forbes (12:36)
Here we are fifteen years later, or over fifteen years later—was the community benefits agreement successful? Certain aspects of it was. You know, with the people getting the housing replacement of the businesses that were there, the creation of more economic development opportunities surrounding the university, but actually there are people who are so who sit on the board of the West Harlem Development Corporation today who have received the millions of dollars they say it has not been what they thought it would be, you know so it's a very you know it's a complicated operation.

[MUSICAL TRANSITION]

Dora Chan (13:26)
Columbia's expansion into Manhattanville led to one of the most significant legal battles in the modern era of Eminent Domain blight related takings. The case is called *Kaur v. New York State Urban Development Corp.*

Lias Borshan (13:38)
Beginning in 2001, Columbia, with the help of local government agencies in New York, set out to acquire approximately seventeen acres of property in Manhattanville in order to build new educational and research facilities. By 2003, it owned fifty-one percent of the land in the area. In early 2004, Columbia began meeting with the Empire State Development Corporation (The ESDC), the organization in the state of New York with the power to condemn properties using eminent domain.

In those meetings they discussed the possibility of condemning the remaining land due to its' being "blighted" so that Columbia could acquire the property and put it to a better public use: advancing higher education. In New York State, taking land for public use *requires* a showing of blight.

Dora Chan (14:26)
As a result of these meetings, the ESDC hired Columbia's own paid consultant, the environmental consulting firm Allee King Rosen & Fleming or AKRF, to conduct a "blight" study that would justify the use of eminent domain to condemn those properties that remained outside Columbia's control. In 2007, a study was completed by AKRF that, unsurprisingly, concluded that the area was "blighted." As a result, the ESDC authorized the condemnation of certain properties for Columbia's project. Columbia effectively paid to have a neighborhood which they owned 51% of be determined as blighted so that they could seize more land for a development project.

Lias Borshan (15:10)
The Appellate Court of New York in reviewing the case had this to say about Columbia's project and the blight designation: "the blight designation in the instant case is mere sophistry. It was utilized by ESDC years after the scheme was hatched to justify the employment of eminent domain, but this Project has always primarily concerned a massive capital project for Columbia. Indeed, it is nothing more than economic redevelopment wearing a different face."

Dora Chan (15:42)
But the story didn't end there. While the Appellate Court found against the Manhattanville project, the highest court in New York, The Court of Appeals, ultimately reversed the decision and allowed Columbia's project to go through. They argued that the neighborhood had been blighted since the 1960s and that this project served a pivotal public interest by promoting higher education.

Lias Borshan (16:02)
While the Community Benefits Agreement that Flores discussed helped some people and businesses, the disproportionate effects that this development had on Black and Hispanic populations in West Harlem were undeniable. In the aftermath the white population in Manhattanville saw a 234% increase, as the neighborhood began gentrifying, whereas the Black community saw a 22% decrease.

INTERVIEW - Kavon Ward

[ARCHIVAL AUDIO - news report: "A prime stretch of California beachfront has been returned to its rightful owners nearly a century after it was taken from them"]

Lias Borshan (16:26)
We return now to the story of Willa and Charles Bruce and the remarkable campaign that led to the Los Angeles County's return of Bruce's Beach to the Bruces' descendants.

Kavon Ward (16:35)
My name is Kavan Ward. I'm the founder and CEO of Where Is My Land and Justice for Bruce's Beach. Where is My Land is a national organization that focuses on reclaiming stolen land from Black people across the country. It is an outgrowth of Justice for Bruce's Beach. Justice for Bruce's Beach was a local or is a local grassroots initiative I started in June of 2020 to illuminate what had happened to Charles and Willa Bruce and that their land was stolen back in the 1920s. Recently the state of California signed a bill that would allow for the land to be transferred back to the Bruce family. It's the first time in us history that land has been returned to Black people.

[**ARCHIVAL AUDIO** - **Kavon Ward:** "Justice for Bruce's Beach! [cheering]. Power to the people. Power to my people."]

Jane Spencer (17:32)
Thank you, Kavon, for speaking with us today. How did you initially become involved in this campaign to return Bruce's beach to the Bruce family?

Kavon Ward (17:40)
I became involved in the beginning I started the movement to reclaim the land. I learned about what happened to the Bruces. Shortly after George Floyd was murdered in 2020 and it was just by chance you know a time I lived in Manhattan Beach. I was one of less than a percent of Black people who lived in Manhattan beach, and immediately after moving there I wondered why was there so little Black people living in this beautiful community, this beautiful neighborhood that was so close to the beach. And I learned shortly after moving there that it

wasn't because you know Black people didn't have the desire to live there but because they didn't have the opportunity to live there whether it be because they were priced out or there were policies put in place that prevented Black people from actually renting in that community. So when I learned about the Bruces. It was just a citizen of the Manhattan Beach Community or the South Bay Community who sent me a blog post that the Daily Breeze had written back in 2007, I believe, and this post talked about how the family had won the victory of getting the park, Bruce's Beach Park, renamed Bruce's Beach Park.

I just became enraged and I just could not believe that I had lived in that community and no one told me about that. I did not know about it. And so the more and more I read about what happened to the Bruces, the more disturbed I became and I just felt like there needed to be more, you know, attention focused on this family and what they had been through.

[MUSICAL INTERLUDE]

And from that moment on I just moved in that direction to help make it happen and the first step was to shed more light on it, more on a national level, more on a state level, more on a community level. You know I just felt like if I didn't know about it and I lived in Manhattan Beach, then certainly people within LA or LA County, and for that matter folks across the state, didn't know anything about it. And so I just did interview after interview after interview to ensure that folks knew about it and finally when the LA Times picked up the story, it became just this big thing, and I think it was because folks who were in the County Board of Supervisors said that they wanted to make it right because at that point they realized that they were the ones who owned land and not the city of Manhattan Beach.

Jane Spencer (20:34)
Could you tell us a bit more about the story of Willa and Charles Bruce that inspired you to lead this campaign?

Kavon Ward (20:41)
Absolutely. So the Bruces--Charles and Willa Bruce—were a Black couple who were essentially entrepreneurs and Charles Bruce was a cook on a train for a long time. Willa Bruce, she was an entrepreneur in her own mind, when they moved to Manhattan Beach. So at that point I don't even think it was a Manhattan Beach. I know that they actually co-founded Manhattan Beach. It wasn't even a solidified community at that point. So they bought one plot of land. Right on the strand which is right in front of the water and they sold you know bathing suits and you know, things that people could purchase and then they earned enough money to buy another plot of land, and when they bought that other plot of land, they established this community out there where Black people felt safe enough to enjoy leisure. So they had a dance hall, you know, they just had this whole beach front resort that Black people could really go to, especially because black people didn't have access to any other beachfront communities up and down the coast because of discrimination and racism. And so it wasn't as if they said you know we're just going to establish this for Black people. They were just like we're establishing a business here where we can enjoy leisure, because we have not been able to anywhere else. But they didn't discriminate against other groups that wanted to be there.

So the other members of the community—the white members of the community—were not happy about this and they harassed them. You know they got elected officials involved with harassing them. Setting up roadblocks for them to really be able to enjoy the resort. Some of those roadblocks were creating 10 minute parking meters in front of the resort and you know,

roping off access to the beach where Black people had to walk a half a mile in either direction to be able to access the water. So imagine having this 10 minute parking meter and then getting out of your car to walk to the water but not being able to get directly in the water and so you have to walk in either direction which takes away from that 10 minutes and so by the time you walk to one point back to that point the 10 minutes is gone so that was just their way of making—the City of Manhattan Beach's way of making—sure that black people did not enjoy it. But when that didn't work. You know, Black people still showed up, they still you know, were in community with one another, and they figured out ways to you know, help one another be able to still enjoy the water.

[MUSICAL INTERLUDE]

And so what the KKK decided to do, what the city of Manhattan Beach decided to do, what police officers decided to do, was just to start these like campaigns calling Willa Bruce, harassing her, threatening her, telling her to get out of town, or and threatening her life if she didn't. Meanwhile she was a single woman there at the resort most of the time because Charles Bruce was on the train as a cook. So she was just this amazing Black woman alone, not afraid of the threats. And they even went as far as burning tires and mattresses on the property but that still didn't deter Charles and Willa Bruce from staying the course and then they were sued and then ultimately when none of that worked you know the city used eminent domain to remove the Bruces from their land. And what a lot of people don't realize is that because Charles and Willa Bruce established this amazing community where Black people felt safe and where Black people felt happy, more and more Black people moved into that community and bought property and land in that community and so when they initiated the eminent domain proceedings, all of those families were removed from their land as well. The only difference between those families and Charles and Willa Bruce is that Charles and Willa Bruce owned property closer to the water.

Jane Spencer (25:44)
Thank you for sharing that awful history. I think it's really important people are aware of this story because unfortunately it's not unique is it?

Kavon Ward (25:53)
I would say it is similar and I liken it to what happens all across this country. Not just what happened in the past. But what continues to happen. You know, white people see land. They want it. They label it a blight if Black people are on it. They say they need to develop it and make it better, or they need to build a highway, or to create a park, right? Because you know folks are able to take land through eminent domain if they're using it for public purposes, and so when we think about what happened with the Bruces, you know the City lied and said they needed it to build the park even though there was a park already in the neighborhood and they never created a park on what was Charles and Willa Bruce's and. It is actually now a lifeguard training facility. You know the park is behind the lifeguard training facility where all the other Black families own land.

Jane Spencer(26:46)
Under the Takings Clause, property owners must be provided just compensation for land that is taken from them. Has the compensation provided actually been "just" for Black property owners?

Kavon Ward (26:52)
The compensation has not been just. In fact, like oftentimes Black people are paid less than what they pay for the property. So how is that "just"? How is it just when you know in communities that are predominantly Black, where land is taken through eminent domain, and there are some white people, white people are paid more to be removed from their land than Black people? It's happened in Russell City you know, I don't even know if you all know about Russell City but it's not even on the map anymore. It's now Hayward City. Russell City was a predominantly Black community in Northern California, not too far from Oakland, and those about 240 families were forced off of that land. They didn't even provide those families resources to keep up their land and despite that the families created their own fire station because there were literally fire trucks coming from out of Hayward City in Alameda who would sit and watch the Black people's property burn down because of faulty wiring and the wiring was faulty because they weren't provided with resources to even have electricity or running water and things of that nature in some of those homes so they would literally sit there in their fire trucks and wait for the land to burn down and then go over there when the land is already gone.

[MUSIC IN BACKGROUND]

You know, it's already walked down to ashes. You know? They made sure the area became a blight by denying them resources and when it became a blight they're like well we need to take it because it's not safe for people to live on. Of course not! Because you didn't provide the resources! And when the families tried to create their own resources then you know they were harmed, and so you don't provide the resources you label it a blight you take the land and then you sell it to multimillion dollar businesses even though you took it through eminent domain so that it could be used for public use. That's another thing I'm learning. These counties and these municipalities and states and cities that are taking land from black people under the guise of eminent domain they hold onto the property. Don't even use it sometimes for 30-40 years won't even sell it back to the families or return it back to the families that they took it from. Even though they're not using it for anything and then you see later on that they're selling it to million dollar companies to build on. It's ridiculous. It's ridiculous. There is no accountability for this. None whatsoever.

Jane Spencer (29:50)
On the accountability point, is that something that Where Is My Land is targeting? What has been the focus of Where Is My Land following the return of Bruce's Beach and what work are you doing to hold governments accountable?

Kavon Ward (30:02)
Absolutely. So first and foremost, we are making sure that we have accurate information surrounding these cases, right? Like, we're helping these families do deeper research to learn about what happened and to get deeds and paperwork that they no longer have access to or never had access to because it was stolen or because it was burned down in a courthouse conveniently, you know? And so we help families with their research so that we can amplify their stories and help them get news coverage to talk about what happened and to make people aware of what's happened and the battle and challenges they've had over the past thirty, forty, fifty years trying to reclaim their land. There are so many families who have had no success but they've been fighting for decades. People who have died fighting to get their land back and now their kids have to pick up the fight. It's horrible. I always say this. I say white people pass down generational wealth but Black people pass down generational trauma and the fight for justice in

so many different realms and it's sad. It's like it's sad that I know that when I pass, more likely than not my child is going to have to worry about fighting. Fighting for rights for Black people. So we work with our families and just amplifying their stories and then also you know hope we talk about holding people accountable. It takes people knowing about what happened and galvanizing communities and bringing people together to fight for policy change, for policy change that would allow for land to be returned, to put pressure on you know, government bodies who have participated in this injustice and to like really hold people accountable in the courts who allow for these injustices to live on.

Jane Spencer (31:50)
You mentioned that Where Is My Land helps Black families to obtain accurate information on land that was taken from them. Are there challenges to obtaining that data when presumably governments hold most of it?

Kavon Ward (32:02)
Absolutely. Absolutely. They have the information, they hide their information, they log it you know in government buildings under pin numbers that lead to other pin numbers that lead to other pin numbers and you don't have access to getting the information that's under that pin number unless you go into the office to get it and sometimes you are not allowed access into those government buildings or those you know institutions to get the actual information or you can just be denied, like deeds are hidden under mountains of paperwork. You know what I'm saying? Or they're not archived properly on purpose or you know, you go and you get a number you know an archive number to find a piece of information and you look for it and it's not there. Suddenly it's no longer available. What about the older people who need this information who can't travel to get it and they want to get it online? They don't even have access to it online. And I think I've made mention of the fact that in a lot of these cases, paperwork was in courthouses that was conveniently burnt down. You know, people are like, well what is your proof? And sometimes they don't have the physical proof but they have oral history and so I count that as proof but this country doesn't and so that's why it is important that a lot of our cases be fought in the court of public opinion rather than in the courts because there is no justice for Black people and the courts.

Jane Spencer (33:18)
What is the importance of Where Is My Land being a Black led organization?

Kavon Ward (33:24)
I think it is essential for any organization fighting for Black justice or for justice for Black people needs to be black lead. It needs to be Black lead. So I am not in favor for any organization that is fighting for reparations to be led by any anybody other than a Black individual. I am not in favor for it I feel like white people need to step back and take leadership from Black people because we are the ones that were harmed and we know what repair means to us and then we have this, you know, we run into this whole white savior complex right? Or you know, if we're not doing it the way you want us to do it, then there's this fragility centered around it, right? So I'm just not for it at all. I'm not for white people leading Black initiatives or initiatives that are purposeful for Black people.

Jane Spencer (34:20)
What is your vision for reparations for Black families in this country who have had land stolen from them?

Kavon Ward (34:27)
Unless you're talking about something that radical, I don't care about what you're talking about as it relates to wanting to provide reparations because true reparations is letting go of ownership of what you stole. Who are you talking to, about what that remedy is? Are you talking to the people that you stole the land from or that you've displaced? What are they saying? And what are you doing about what they're saying? You know, I'm so used to all of these performative measures put in place around reparations where folks say, Ooh we're gonna create this task force to study reparations. You don't need to study it anymore. There's ample information out there to talk that speaks to the harm these institutions and government bodies have caused.

And so if you really want to make a great first step, it's not about creating a task force to talk about what the harm did to people. It is creating a task force to talk about how we're going to repair that harm right? And in ensuring that Black people who were harmed are actually at the table discussing what remedy looks like.

Jane Spencer (35:30)
And finally, what is the scale of the work Where Is My Land does? How many families are you helping?

Kavon Ward (35:36)
You know we have about 800 claims that people have submitted to our organization asking for help. We've had to stop allowing people to submit their claims because we just didn't have the capacity to handle all of it, but we will start back again. But my point is this is just getting started. This is just getting started. The more and more we amplify these stories the more and more people are going to get involved in trying to get land back. I know that for a fact. It's happened and we have not slowed down. If anything we've sped up.

[MUSICAL TRANSITION]

CONCLUSION

[MUSIC IN BACKGROUND]

Dora Chan (36:14)
We encourage all of our listeners to support the groundbreaking work that Kavon is doing through Where Is My Land by donating to the organization or volunteering with them.

Lias Borshan (36:24)
To learn more about Where Is My Land you can go to their website: https://whereismyland.org.

Where Is My Land is also on all social media platforms.

A link to their website as well as their social media pages is provided in the description.