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Tulsa Race Massacre Symposium Keynote Speech

Suzette Malveaux

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TULSA RACE MASSACRE SYMPOSIUM KEYNOTE SPEECH

Suzette Malveaux*

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I. INTRODUCTION

We were so honored to have had Professor Suzette Malveaux—Provost Professor of Civil Rights Law and Director of the Byron R. White Center for the Study of American Constitutional Law at the University of Colorado—give the keynote address at the Tulsa Race Massacre Symposium.¹ She is one of the original attorneys who brought the federal lawsuit alleging constitutional violations by the City of Tulsa and State of Oklahoma against the victims of the Tulsa Race Massacre of 1921, one of the worst government-sanctioned racial massacres in American history.

*For six years, she provided pro bono representation for the plaintiffs in *Alexander v. Oklahoma*, seeking relief in the federal district court of the Northern District of Oklahoma, the Tenth Circuit Court of Appeals, and the United States Supreme Court. As a young lawyer, she drafted the original complaint (with Eric Miller) and authored and edited major briefs, including an amicus brief on behalf of historians John Hope Franklin, Scott Ellsworth, and others. She also represented her clients before the Inter-American Commission on Human Rights of the Organization of American States (OAS) and the United States House of Representatives.*

*Professor Malveaux wrote the seminal article on the statute of limitations in the case, *Statutes of Limitations: A Policy Analysis in the Context of Reparations Litigation*.² Her article has been cited in dozens of law review articles and received hundreds of downloads on SSRN. At the request of the Chairman of the House Judiciary Committee, at a hearing before the Subcommittee on the Constitution, Civil Rights, and Civil Liberties,*

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1. Suzette M. Malveaux, Provost Professor of Civil Rights Law and Director of the Byron R. White Center for the Study of Constitutional Law, University of Colorado Law School, Keynote Speaker at the University of Tulsa Law Review Symposium: 1921 Tulsa Race Massacre (May 21, 2021), available at <https://law.utulsa.edu/race-massacre-symposium/>.

2. Suzette M. Malveaux, *Statutes of Limitations: A Policy Analysis in the Context of Reparations Litigation*, 74 GEO. WASH. L. REV. 68 (2005).

her article was entered into the record in support of H.R. 1995, the Tulsa-Greenwood Race Riot Claims Accountability Act of 2007. Her article remains timely, having been recently cited in 2019 in support of H.R. 40, the Commission to Study and Develop Reparation Proposals for African-Americans Act, 116th Congress (2019-2020).

*She traveled around the country with her co-counsel and clients sharing the story of the Massacre and their fight for justice. She has spoken at various venues, including law schools, churches, and community events. Her pro bono legal work has been featured in the Emmy award-winning documentary, *Terror in Tulsa*, and the documentary *Before They Die*. She was interviewed with 105-year-old, Otis Clark, the oldest survivor of the Massacre in the lawsuit.*

Professor Malveaux brings a wealth of first-hand insight, legal knowledge, and passion to the table, and we were honored that she shared this as our keynote speaker.

II. TULSA RACE MASSACRE SYMPOSIUM: EDITED KEYNOTE OF SUZETTE MALVEAUX

Thank you so much. I am really honored to be here. I really appreciate the invitation. I want to start off by thanking the University of Tulsa College of Law and the *Tulsa Law Review*. I am honored to have been invited to share my experiences, and I look forward to your thoughts. I really appreciate this morning—all of the comments and information. This is an important conversation we are having, and I am learning myself from the program.

I would like to start with the University of Tulsa and give a couple shout outs. I will start with the Dean, Lyn Entzeroth, for her generous funding of this program. We so appreciate that. I want to give a shout out to a number of professors who made me feel so welcomed and who are spearheading this effort. Professors Tamara Piety, Mimi Marton, and Warigia Bowman, thank you for the invitation. I also want to thank the Law Review students who have been working hard in the background making all of this happen; so a shout out to Adam Heavin, Sage Martin, Korie Kirtley, and Mason McMillan. And, of course, I have to thank Crystal Rutherford in the background and all of the other IT folks making all this happen.

I want to say it is so good to be back here in Tulsa. I was here years ago with our team. There was a team of us who had worked on Constitutional litigation twenty years ago and our team congregated at the Oaklawn cemetery. We had a chance to think, reflect, and analyze what it was like to be involved in this work and our journey together and, just allow ourselves to cry. I do not think we had done that before. And it was such an important moment. It feels good to come back and give yourself permission to reflect on the work we did together.

I am also pleased to make the historic development of the Buck Colbert Franklin Legal Clinic, named in honor of B.C. Franklin, one of the most pre-eminent Black lawyers in Greenwood during the time of the 1921 Race Massacre. While I am here to talk about our Constitutional litigation in the federal court challenging one of the worst government-sponsored race massacres in the history of our country, our case was not the first one. This was not the first case or first effort to challenge what happened.

B.C. Franklin, the father of the renowned historian John Hope Franklin, initially

sought relief.³ It was just extraordinary. Let me share with you a picture of him.



Photograph of B.C. Franklin | Image courtesy of Tulsa Historical Society & Museum

3. *The Victory of Greenwood: B.C. Franklin*, THE VICTORY OF GREENWOOD, <https://thevictoryofgreenwood.com/2020/10/20/the-victory-of-greenwood-b-c-franklin/?v=7516fd43adaa> (last visited Sept. 10, 2021).



Photograph of B.C. Franklin, I.H. Spears, and Effie Thompson, June 6, 1921 | Image courtesy of Tulsa Historical Society & Museum

I am so humbled to think that, just days after the Massacre, he had set up shop in a tent, put together a makeshift law firm.⁴ He had nothing but his typewriter and his books.⁵ He worked side-by-side with his law partner I.H. Spears and his secretary Effie Thompson in this tent.⁶ It was June 6, 1921, literally days after the Massacre, when he was trying to bring insurance claims for property loss suffered by the Black Greenwood community.⁷

I would like to give a shout out to the clinic and the important work you are doing for the people in North Tulsa. There is so much work to be done around housing, unemployment, and small business formation. Of course, you also know that the eviction rate in Tulsa is one the highest in the country. This work is really critical work, and I thank you for promoting and carrying on that legacy.

It feels good to talk about a case that really helped shape me in many fundamental ways and inspired my career as a civil rights lawyer. I practiced civil rights for eight years. Then I left the civil rights practice and transitioned to legal academia, where I have been now for eighteen years. There is only one case that I decided to bring with me, to hold

4. *Id.*

5. *Id.*

6. *Id.*

7. Alaina E. Roberts, *B.C. Franklin and the Tulsa Massacre*, PERSPS. ON HIST. (May 26, 2021), <https://www.historians.org/perspectives/issues/2003/0303/0303>.

onto, and that was this case. And as you heard, I was able to represent the victims of the Tulsa Race Massacre for six years in a pro bono capacity. These were formative years for me, and I am so grateful to a team of people that I had the privilege of being able to work with. I do want to recognize and acknowledge those people. There are some who were in the background, who worked tirelessly for years behind the scenes. There are others who are household names and are famous. They are: Michael Hausfeld, Agnieszka Fryszman, Professor Charles Ogletree, Michele Roberts, Professor Adjoa Aiyetoro, Leslie Mansfield, James Goodwin, Joe Sellers, Johnnie Cochran, Dennis Sweet, Sharon Cole Jones, Rose Sanders, Willie Gary, Lorenzo Williams, Tricia Purks Hoffler, Jim Lloyd, Professor Al Brophy, Historian John Hope Franklin, Professor Roy Brooks, Professor Roy Brooks, Damario Soloman-Simmons, J.L. Chestnut, and Eddie Faye Gates. And I will give a super shout out to Eric Miller, now also a law professor. He and I were baby lawyers at the time. We drafted the original complaint, not knowing what we were doing! [Laughing] We were fighting in the dark at the time. And so I do want to acknowledge our team.

We are gathered here today to mark the 100th anniversary of the Tulsa Race Massacre. I was asked to give some remarks, both professional and personal, about the efforts our team made to bring relief to the victims of the Tulsa Race Massacre. I want to reflect on the larger context in which this is taking place and some lessons I have learned.

We are gathering at a time of great challenge and profound import in American history. This is a time that calls for serious reflection, critical thinking, rigorous analysis, and ultimately bold action. We are living in what feels like extraordinary times.

The country has been destabilized by a number of threats to our democratic norms and institutions, most recently and importantly the voter franchise.

The country has been in the midst of a global pandemic that has pushed people to their limits economically, socially, and mentally. This pandemic has highlighted an uncomfortable truth: the ongoing health disparities, making Black Americans three times more likely to die from COVID-19 than their white counterparts.

The country has an extreme wealth gap that has only grown. We know the richest one percent of Americans have more wealth than the bottom ninety percent.⁸ This is also reflected in our racial demographics, where the average white family has ten times more net wealth than the average Black family.⁹

The country, we know, is in the midst of a racial reckoning. There has been justifiable outrage and activism over police brutality across the country. There has been increased frustration with increased violence against marginalized groups, whether it is Black or brown people or other folks including Asians, Muslims, and transgender persons.

So while these may feel like extraordinary times, in many ways these issues are actually very familiar.

8. Christopher Ingraham, *Nation's Top 1 Percent Now Have a Greater Wealth than the Bottom 90 Percent*, SEATTLE TIMES, <https://www.seattletimes.com/business/economy/nations-top-1-percent-now-have-greater-wealth-than-the-bottom-90-percent/> (last updated Dec. 8, 2017, 6:11 AM).

9. Kriston McIntosh et al., *Examining the Black-white Wealth Gap*, BROOKINGS (Feb. 27, 2020), <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/>.

Today, the “strange fruit” that hung from trees in the 1930s lies on the ground in Ferguson for over four hours before being picked up.

IMAGE 1¹⁰IMAGE 2¹¹

Today, the “poll taxes,” and literacy exams that disenfranchised emancipated slaves post-Reconstruction are the voter I.D. laws, opposition to mail-in ballots, and other voter suppression methods.

IMAGE 3¹²IMAGE 4¹³

10. The lynching of Laura Nelson from the North Canadian River Bridge, 1911 (photographed by George Henry Farnum).

11. The body of Michael Brown lies covered with a sheet on August 9, 2014 (photographed by Tiffany Mitchell).

12. A poll tax sign in Minelo, Texas, 1939 (photographed by Russell Lee).

13. Detroit Will Breathe supporter Betsy Camaredo holds a sign that says “Count Every Vote” outside of the Detroit Department of Elections Central Counting Board of Voting (photographed by Kent Nishimura).

Today, slave labor has been replaced with a school to prison pipeline and a robust prison industrial complex.

IMAGE 5¹⁴IMAGE 6¹⁵

Today, the hooded KKK members whose terror was fed at clandestine night rallies have been replaced with proud hate groups whose tentacles reach the vulnerable worldwide on the internet and social media.

IMAGE 7¹⁶IMAGE 8¹⁷

The United States is in the midst of the largest civil rights reckoning since that of the 1960s, and calls for justice for Black and other marginalized communities are stronger than ever.

One of the main things I have learned about what it takes to be engaged in transformative justice is it requires a lot of creativity. And sometimes, when you do not reach the goal post, you move it, and claim victory. You have to be willing to redefine

14. Photograph of a shackled slave chain gang.

15. Photograph of prisoners in a recreation yard at Deuel Vocational Institution in Tracy, California (photographed by Noah Berger).

16. Photograph of hooded Klu Klux Klan members.

17. Photograph of the Unite the Right Torch Rally in Charlottesville, Virginia (photographed by Andrew Shurtleff).

success and to keep persevering. And that is really our story in terms of our efforts to seek justice for the victims of the Tulsa Massacre that was brought twenty years ago.

I would like to share with you a little bit about that story. Let us go back 100 years ago in Tulsa. We know that the City of Greenwood was one of the most thriving and prosperous African-American communities in the country at the time, so successful that it was called the “Negro Wallstreet.”¹⁸

The conflict started like so many other conflicts post-Reconstruction—not just in the South, but also here in the Midwestern states as well—where you have a young African-American male (Dick Roland) accused of assaulting a young white woman.¹⁹ Roland was just a teenager and he was going into a government building to go to the bathroom.²⁰ Back then, when you had to go to the bathroom and you were Black, you could not go to any bathroom because we were in a segregated system.²¹ So he went into that building and into the elevator.²² He was accused of assaulting a white female in the elevator but the charges against him were ultimately dropped.²³ There was no evidence of any assault.²⁴ It seems that he might have tripped and tried to brace himself, or that he was embracing his girlfriend.²⁵ There are a couple different theories in terms of what actually happened.

He was ultimately thrown into jail near the local courthouse and a white mob started to form outside the courthouse.²⁶ The rumor was that we was going to be lynched.²⁷ Now this is something that Professor Bowman had referenced earlier. This was a very serious threat at the time. The threat of lynching was a tool of terror that was used often during this time period. In fact, in 1921, fifty-nine African Americans were lynched in the southern/border states.²⁸ From 1911 to 1921, twenty-three Blacks in Oklahoma alone were lynched.²⁹ During this time period, this is what they called the lynching era, from 1880 to 1930, that fifty year time period.

This was a time of untold brutality against Black people in terms of beating, murder, rape, and lynching. Here [referring to photo], there is a mother and her son who were lynched in Oklahoma. This was the same sort of scenario. They were in a local jail accused of a crime, and a white mob dragged them out of the jail. They raped her first, then gagged and hung both of them. You can see [referring to photo] there are gawkers here. It turns

18. Tom Huddleston Jr., *'Black Wall Street': The History of the Wealthy Black Community and the Massacre Perpetrated There 100 Years Ago*, CNBC (July 4, 2020, 9:00 AM), <https://www.cnbc.com/2020/07/04/what-is-black-wall-street-history-of-the-community-and-its-massacre.html>.

19. TULSA RACE RIOT: A REPORT BY THE OKLAHOMA COMMISSION TO STUDY THE TULSA RACE RIOT OF 1921, at 56 (2001) [hereinafter A REPORT].

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.* at 57.

24. *See* A REPORT, *supra* note 19.

25. *Id.* at 57.

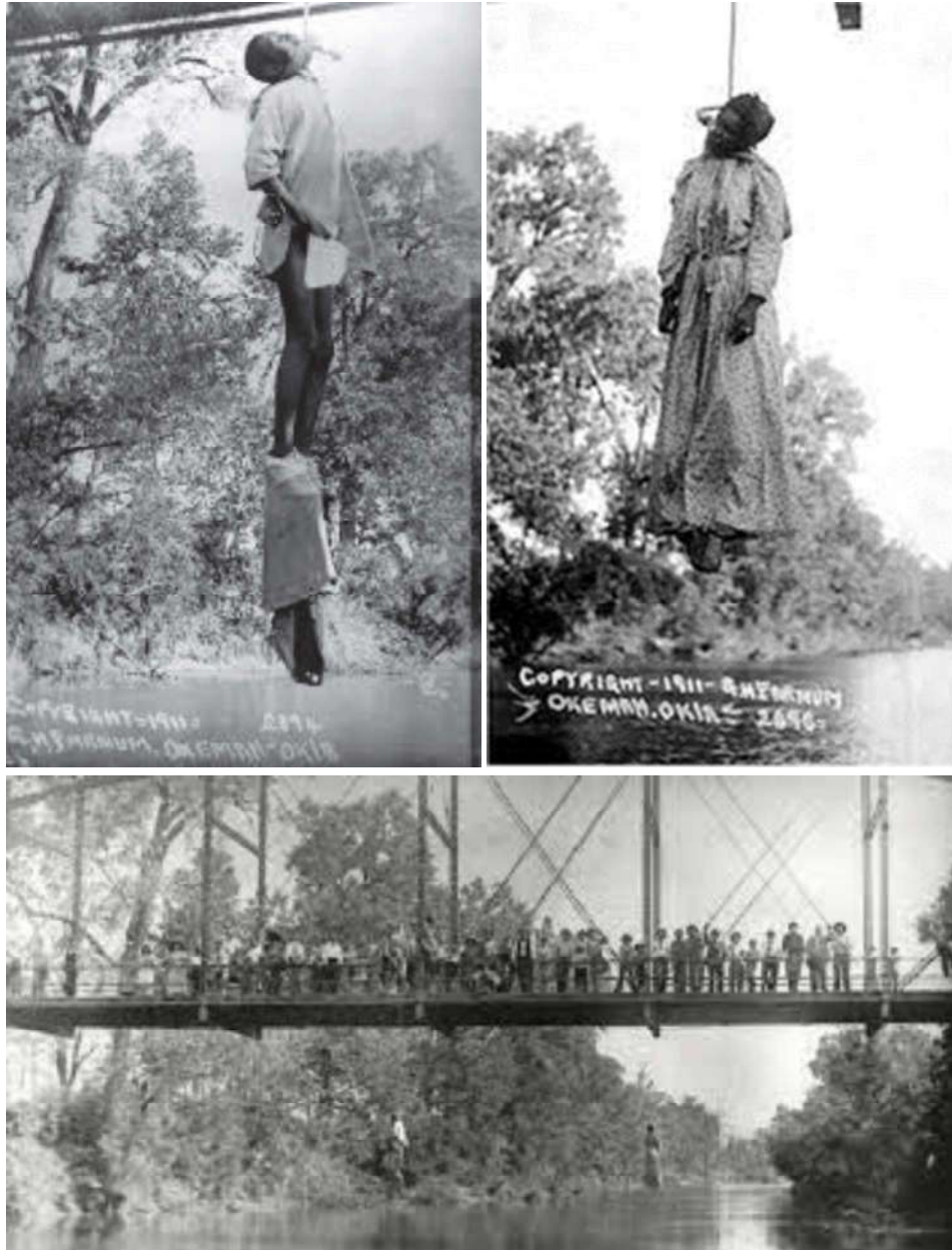
26. *Id.* at 57–58.

27. *Id.* at 59.

28. Robert L. Zangrando, *James Weldon Johnson and the Dyer Anti-Lynching Bill*, 8 LANGSTON HUGHES REV. 76, 77 (1989).

29. Natalie Chang, *The Massacre of Black Wall Street*, THE ATLANTIC, <https://www.theatlantic.com/sponsored/hbo-2019/the-massacre-of-black-wall-street/3217/> (last visited Sept. 19, 2021).

out that pictures like these were very popular postcards at the time, and a lot of people profited off of those postcards. Racial hatred and unspeakable torture was what was going on during that time period. It was a very real threat.



Photograph of Laura Nelson and her son, L.W. Nelson lynched by a white mob in Okemah, Oklahoma, on May 25, 1911 | George Henry Farnum, photographer

I think what is also interesting about what happened during those days is how Black